Federal Court  Cour fédérale

Date: 20210823

Docket: T-938-20

Citation: 2021 FC 860

Toronto, Ontario, August 23, 2021

PRESENT: Justice Andrew D. Little

BETWEEN:

ALLIANCE FOR EQUALITY OF BLIND CANADIANS

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

[1] In this judicial review application, the Alliance for Equality of Blind Canadians (the "AEBC") seeks to set aside a decision of the Canadian Human Rights Commission (the "Commission") dated July 8, 2020. The Commission decided not to deal with a human rights complaint filed on behalf of AEBC against Employment and Social Development Canada ("ESDC").

[2] Despite the seriousness of the issues raised in the complaint, the Commission concluded that it was beyond the jurisdiction of the Commission under paragraph 41(1)(*c*) of the *Canadian Human Rights Act*, RSC 1985, c H-6 (as amended) (the "CHRA").

[3] In this Court, the applicant submitted that the Commission's decision should be set aside as unreasonable under the principles set out in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65.

[4] For the reasons that follow, the application is dismissed. The Court's role on this application is not to determine whether the Commission's decision was correct or to decide the matter itself. The question is whether the decision was reasonable, in that it exhibited the required elements of transparency, intelligibility and justification required by *Vavilov*. In my view, the decision was reasonable. It respected the legal and factual constraints bearing on it. Specifically, the Commission's characterization of AEBC's complaint was not untenable and did not fundamentally misconstrue the facts alleged in it, taking them as true. In addition, the Commission's analysis of relevant Federal Court case law did not contain a material error of law.

I. **Events Leading to this Application**

[5] The following facts are taken from the complaint to the Commission or are otherwise uncontested for the purposes of this application.

(1) The Funding Application

[6] AEBC is a national non-profit organization and registered charity that is run by and for blind, deafblind and partially sighted Canadians. Seven individuals are members of its Board of Directors. Volunteers run it. Its mission and mandate as an organization is to advocate for and increase awareness of the challenges faced by blind, deafblind and partially sighted Canadians.

[7] In early 2018, the AEBC filed an application for a Social Development Partnerships Program ("SDPP") Disability funding grant at ESDC. The purpose of the SDPP Disability funding was to support projects intended to "improve participation and increase the social inclusion of persons with disabilities in all aspects of Canadian society". AEBC's *CHRA* complaint stated that the SDPP funding would have allowed it to increase its organizational capacity to provide leadership in advocating for blind, deafblind and partially sighted Canadians.

[8] AEBC had difficulties filing the grant application. The application was only available online and ESDC's website was not screen reader accessible. AEBC volunteers struggled to fill out the digital forms. Eventually, instead of failing to submit a completed application by the deadline, AEBC resorted to submitting several components of the grant funding application directly to ESDC by email.

[9] AEBC's grant application was not successful. AEBC believes it failed because its supporting materials sent by email were not read.

(2) Complaint to the Commission

[10] On June 27, 2019, an individual member of the AEBC Board of Directors, Ms Chantal Oakes, submitted a complaint "on behalf of AEBC" to the Commission, alleging a breach of s. 5 of the *CHRA*. That provision reads:

Discriminatory Practices	**Actes discriminatoires**
Denial of good, service, facility or accommodation	**Refus de biens, de services, d'installations ou d'hébergement**
5 It is a discriminatory practice in the provision of goods, services, facilities or accommodation customarily available to the general public	5 Constitue un acte discriminatoire, s'il est fondé sur un motif de distinction illicite, le fait, pour le fournisseur de biens, de services, d'installations ou de moyens d'hébergement destinés au public :
(a) to deny, or to deny access to, any such good, service, facility or accommodation to any individual, or	a) d'en priver un individu;
(b) to differentiate adversely in relation to any individual,	b) de le défavoriser à l'occasion de leur fourniture.
on a prohibited ground of discrimination.	

[11] The complaint stated that the National Board of AEBC wanted to file the complaint. It referred to ESDC's "cultural and systemic barriers that continue to marginalize blind, deafblind and partially sighted Canadians". The complaint alleged that ESDC's "failure to provide an accessible service and application process discriminated against us" under *CHRA* s. 5 and that ESDC was "pursuing a policy and or practice that discriminates against blind, deafblind and

partially sighted Canadians in its application process". The complaint stated that AEBC applied for the funding grant "but was rejected based on a discriminatory process, policy and practice that is on-going".

[12] The complaint explained AEBC's experiences as a national organization, its members' volunteer activities, and the importance of access of information and communications systems to members' quality of life in an information technology-driven society.

[13] The complaint stated:

> The ESDC's inaccessible grant process, with its inaccessible documents, with a "no appeal" closed door policy and an attitude of indifference, is blatantly discriminatory as it discriminates against the participation of blind, deaf blind and partially sighted Canadians. The grant application process did not provide screen reader accessible documents and did not provide understandable guidelines with clearly defined application parameters. Also, the grant application process did not provide sufficient time for blind, deaf blind and partially sighted participants to acquire the necessary help needed in completing and submitting the application. ESDC's failure to provide assistance to the blind, deaf blind and partially sighted community is an adverse differential treatment and shows that ESDC is pursuing a policy and or practice that directly discriminates against us. To the best of our ability, AEBC completed and submitted the application form as requested however, it is obvious that the accessibility barriers encountered during this process have gone unnoticed by the funding selection team.
>
> It appears that there is a large gap in ESDC's understanding of accessibility and our lived experiences of inclusion. As the digital revolution has evolved, blind, deaf blind and partially sighted Canadians, more than any other disability group, have been marginalized in the (ESDC) consultation processes and ESDC online documentation portals. AEBC and the blind, deaf blind and partially sighted community alleges that ESDC's application and online processes are not inclusive in and that if some segments of our community are not able to engage in ESDC's processes, this

> presents non-inclusive barriers thereby denying us the ability to participate equally in Canadian society.
>
> Since the ESDC program management is unwilling to engage in an open dialog with AEBC, we now have no other alternative but, to file the present complaint. We fail to understand why ESDC was incapable of providing accessible documents and was unwilling to remove accessibility barriers in the funding process. The lack of an appeal process or feedback channel in the ESDC funding selection approval decision process, creates an additional barrier to full participation. In conclusion, the ESDC funding process has failed to include blind, deaf blind and partially sighted individuals in its process.
>
> AEBC reiterates its position that ESDC's overall attitude during the application process left us feeling insulted, demeaned and dismissed as though we were third class citizens. We fail to understand how AEBC does not have "lived experience" when all of us struggle with vision loss and face barriers to participate equally in Canadian society on a daily basis.
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> [Emphasis added.]

(3) The Human Rights Officer's Report

[14] On April 14, 2020, a Human Rights Officer issued a "40/41 Report on Decision" (the "Report"), which was later approved by the Manager of Complaints Services at the Commission. The officer recommended that the Commission not deal with the complaint under *CHRA* s. 41.

[15] The officer identified the sole issue in the complaint as whether AEBC had standing under *CHRA* s. 40. The respondent had raised two objections to the Commission's jurisdiction over the Complaint under *CHRA* ss. 40 and 41. Both objections were based on AEBC's status as a corporation: the respondent argued that the Commission lacked jurisdiction under *CHRA* paragraph 41(1)(*c*) to deal with a complaint alleging discriminatory practices committed against AEBC as a corporation; and that the complaint had no chance of success, or was frivolous, under paragraph 41(1)(*d*) because AEBC as a corporation lacked standing to file the complaint.

[16] The Report concluded that it was plain and obvious that the alleged discrimination was against AEBC as a corporation. AEBC lacked standing to file a complaint under *CHRA* subs. 40(1). The Report made the following findings:

> • *CHRA* ss. 40 and 41 provide that the Commission can only deal with complaints filed by an "individual" or a "group of individuals." This is consistent with the wording of s. 5, which provides that it is a discriminatory practice in the provision of services (among other things) to deny, or deny access to such service to any "individual" or to differentiate adversely in relation to any individual on a prohibited ground of discrimination;
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> • Federal Court jurisprudence established that corporations are not "individuals";
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> • The SDPP Disability funding was only available to non-profit or Indigenous organizations. It was intended to be received by charitable organizations, not by individuals. Thus, the purported provision of a "service" under the *CHRA* was intended for organizations, not individuals or groups of individuals;
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> • AEBC is a charitable non-profit corporation. The individual Board member who filed the complaint on behalf of AEBC would not qualify for the SDPP Disability funding as an individual because the grant funding was only available to organizations. It was AEBC, and not the individual herself, that was the "victim" of the alleged discriminatory practice.

[17] Given the conclusion on subs. 40(1) and paragraph 41(1)(*c*) that AEBC lacked standing to bring the complaint, the officer did not examine the issues raised by the Respondent under s. 41(1)(*d*).

[18] The Report concluded with several paragraphs detailing the public interest in ensuring that programs and services provided by ESDC are accessible to all Canadians. The Report recognized legal obligations in federal and international law not to discriminate against persons with disabilities, the increased likelihood of persons with disabilities experiencing poverty and lower employment rates and educational outcomes, ESDC's mandate to build a more inclusive Canada, and the "persistent and systemic barriers" that prevent persons with disabilities from fully participating in Canadian society. The Report encouraged ESDC to remove barriers in its systems to ensure that persons with disabilities could access and participate in its programs including grant programs.

(4) AEBC's Reply to the Officer's Report

[19] AEBC's reply to the Report dated May 28, 2020 "adamantly disagreed" with the conclusion in the Report that the Commission should not deal with the complaint. AEBC reiterated that the officer acknowledged that the Complaint "raises crucial issues relating to participation and equality for persons with disabilities" and set out a number of points for the Commission to consider before rendering its final decision.

II. **The Commission's Decision**

[20] The Commission's decision had two substantive components. First, the Commission found that AEBC's complaint was beyond its jurisdiction "for the reasons" set out in the officer's Report. The Commission expressly agreed with the officer's recommendation, analysis and conclusions in the Report. The Commission also explained as follows:

> The Commission is bound by case law interpreting the term "individuals" in the *CHRA* as excluding corporations. Case law interpreting provisions in other human rights codes, such as *African Canadian Legal Clinic v Legal Aid Ontario*, 2010 HRTO 1255 on which the Complainant relies, may be distinguished if the wording of these provisions is different. Under paragraph 41(1)(c) of the *CHRA*, the Commission is not at liberty to deal with a complaint that is beyond its jurisdiction because it considers the complaint to have merits; doing so would amount to an error of law. For these reasons, the Commission is unable to deal with this complaint.
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> [Emphasis added.]

[21] The second major component of the Commission's decision was its statement that the complaint was not dismissed under paragraph 41(1)(*d*) of the *CHRA*, because it was not trivial, frivolous, vexatious, or made in bad faith. Rather, the human rights issues in the complaint were "serious" and:

> As rightly observed by the Human Rights Officer at para. 43 and following of the Report for Decision, these issues are concerning and should be promptly addressed by the Respondent.
>
> Despite the Commission's decision, the Respondent is invited to take appropriate measures to remove any barriers that may prevent Canadians from accessing its services and programs, including but not limited to providing screen reader accessible grant application documents.

> Despite the seriousness of the issues raised in this complaint, it is beyond the jurisdiction of the Commission …

III. **The Standard of Review**

The *Vavilov* Standard

[22] The parties both submitted that the standard of review is reasonableness as described in *Vavilov*. I agree.

[23] Reasonableness review entails a sensitive and respectful, but robust, evaluation of administrative decisions: *Vavilov*, at paras 12-13. In conducting a reasonableness review, a court must consider the outcome of the administrative decision in light of its underlying rationale in order to ensure that the decision as a whole bears the hallmarks of transparency, intelligibility and justification: *Vavilov*, at paras 15 and 99. Reasonableness review focuses on both the reasoning process and the outcome: *Vavilov*, at paras 83 and 86. A reasonable decision is one that is based on an internally coherent and a rational chain of analysis and is justified in relation to the facts and law that constrain the decision maker: *Vavilov*, at paras 85 and 99.

[24] The starting point is the reasons provided by the decision maker: *Vavilov*, at para 84. The reviewing court must read the reasons holistically and contextually, and in conjunction with the record that was before the decision-maker: *Vavilov*, at paras 91-96, 97, and 103; *Canada Post Corp. v Canadian Union of Postal Workers*, 2019 SCC 67, at para 31.

[25] While the court's review is robust – meaning it will be thorough and sensitive to the legal and factual circumstances in each case – it is also disciplined. Not all errors or concerns about a

decision will warrant intervention. To intervene, the reviewing court must be satisfied that there are "sufficiently serious shortcomings" in the decision such that it does not exhibit sufficient justification, intelligibility and transparency. Flaws or shortcomings must be more than superficial or peripheral to the merits of the decision, or a "minor misstep". The problem must be sufficiently central or significant to render the decision unreasonable: *Vavilov*, at para 100; *Canada (Citizenship and Immigration) v. Mason*, 2021 FCA 156, at para 36.

[26] The Supreme Court in *Vavilov*, at paragraph 101, identified two types of fundamental flaws: a failure of rationality internal to the reasoning process in the decision; and when a decision is in some respect untenable in light of the relevant factual and legal constraints that bear on it. It is the second type of fundamental flaw that is alleged in the present application.

[27] In *Vavilov*, the Supreme Court provided a non-exhaustive list of factual and legal constraints against which an administrative decision may be measured to ascertain whether it is reasonable. Those constraints included applicable statutory and common law, the evidence and the arguments made by the parties, and the impact of the decision on the affected individual(s), among others: *Vavilov*, at paras 108-128; *Canada (Attorney General) v Ennis*, 2021 FCA 95, at paras 55-56.

[28] AEBC submitted that the Commission's decision must be set aside because it relied on legal conclusions that misconstrued the law and factual findings that are not supported by the record. In the analysis below, I will return to the required approach to these issues as set out in *Vavilov*.

[29] The onus is on the applicant to demonstrate that the decision is unreasonable: *Vavilov*, at paras 75 and 100.

Judicial Review of Screening Decisions under s. 41 of the *CHRA*

[30] Section 40 of the *CHRA* provides, with certain exceptions, that "any individual or group of individuals" may file a complaint with the Commission if they have reasonable grounds for believing that a person "is engaging or has engaged in a discriminatory practice" (which, by s. 39, means any practice that is a discriminatory practice within the meaning of ss. 5-14.1 of the *CHRA*).

[31] *CHRA* s. 41 requires the Commission to deal with any complaint filed with it unless, in respect of that complaint, "it appears to the Commission" that one of the circumstances listed in paragraphs 41(1)(*a*) to (*e*) applies. In this case, the Commission concluded that "the complaint is beyond the jurisdiction of the Commission" under paragraph 41(1)(*c*).

[32] The Federal Court of Appeal has provided guidance on the required deference to screening decisions of the Commission under ss. 40 and 41 of the *CHRA*.

[33] The Commission may only dismiss complaints under *CHRA* subs. 41(1) in "plain and obvious" cases – it must be plain and obvious that the complaint will fail: *McIlvenna v Bank of Nova Scotia*, 2014 FCA 203, at para 13. For the purposes of subs. 41(1), the factual allegations in the complaint are taken as true: *Public Service Alliance of Canada v Canada (Attorney General)*, 2015 FCA 174 [*"PSAC"*], at para 49; *Keith v Canada (Correctional Service)*, 2012 FCA 117, at para 51.

[34] While the "plain and obvious" standard is a tight legal constraint on the Commission's screening decisions, the Commission does have "some discretion" owing to the phrase "it appears to the Commission" in the chapeau language in *CHRA* s. 41: *PSAC*, at para 34. The screening under subs. 41(1) is a duty imposed by law and the Commission must do its work diligently, even at this preliminary stage: *PSAC*, at para 34.

[35] In judicial review cases applying the reasonableness standard of review to Commission decisions under subs. 41(1), the Federal Court of Appeal has emphasized the deference and the latitude given to the Commission in making factually-infused and policy-based screening decisions that involve expertise: *Bergeron v Canada (Attorney General)*, 2015 FCA 160, at paras 41 and 45-47 (leave to appeal to SCC refused, SCC File 36701 (14 April 2016)); *Hood v Canada (Attorney General)*, 2019 FCA 302, at paras 26-27. Although the applicant tried to argue otherwise, expertise remains a relevant consideration in conducting reasonableness review: *Vavilov*, at paras 31, 75 and 93. See also *Mason*, at para 16.

[36] The Federal Court of Appeal has also recently referred, with apparent approval, to a decision of this Court holding that the Commission has a "great deal of discretion in determining the disposition of [sections] 40/41 Reports", discretion that "derives from judicial recognition of the Commission's expertise in performing its important screening and gate-keeping role": *Ennis*, at para 56, quoting from *Bergeron v Canada (Attorney General)*, 2017 FC 57 (Brown J.), at para 74. I recognize that *Ennis* did not concern a decision under *CHRA* s. 41 but was a case involving an investigation report under s. 44 and a decision under subparagraph 44(3)(*b*)(i) that an inquiry

into the complaint was not warranted. However, Justice Brown's decision in *Bergeron* concerned a complaint dismissed by the Commission under paragraph 41(1)(*d*).

[37] *PSAC* is the leading authority concerning Commission screening decisions on whether a complaint is beyond its jurisdiction under paragraph 41(1)(*c*). In that case, PSAC filed a complaint that the respondents had discriminated and were discriminating against female employees of NAV Canada contrary to the *CHRA*. The Federal Court of Appeal considered three arguments advanced by *PSAC* on the appeal. Two are pertinent here. The Court of Appeal (*per* Near, JA) dismissed one argument in *PSAC* because the Commission had applied a legal standard to a set of facts in an area in which the Commission had specialized expertise – an exercise that was part of the Commission's mandate under *CHRA* s. 41. "The Commission's role is to determine whether the alleged facts, taken as true, give rise to a sustainable complaint": *PSAC*, at para 49. Near JA noted that the Commission is not allowed at this stage to weigh competing evidence: *PSAC*, at paras 36, 37 and 49; *McIlvenna*, at paras 16-17. However, if the Commission locates the appropriate law, a court on judicial review must defer to the Commission's application of the legal standard to the uncontested facts before it, so long as the result is supportable on the record: *PSAC*, at para 50.

[38] The Court of Appeal in *PSAC* also allowed the appeal and granted the judicial review application on a different argument. It did so because the Commission had weighed contradictory evidence from the two parties that went to the merits of the dispute, which is not permitted at the s. 41 stage: *PSAC*, at paras 37-38 and 74-75, applying *McIlvenna*.

[39] The appellate decisions are clear that on the present application, this Court cannot come to its own opinion about whether the Commission should deal with the complaint under s. 41, either expressly or when applying the reasonableness standard of review: *Vavilov*, at paras 15, 83 and 125-126; *Hood*, at para 34; *Ennis*, at paras 36 and 48-49. In other words, the Court cannot conduct a correctness review: *Mason*, at paras 11-12 and 15-20. Instead, the Court must evaluate whether the Commission rendered a reasonable decision in deciding that the complaint was beyond its jurisdiction under *CHRA* paragraph 41(1)(*c*), applying the deferential standard of review described in *Vavilov*, *PSAC* and the other appellate cases discussed above.

IV. **Analysis**

[40] The Commission's decision adopted the recommendation, analysis and conclusion in the officer's Report. The Report expressly stated and applied the "plain and obvious" legal standard under subs. 41(1) and stated that the allegations of fact in the complaint must be taken as true. It recognized and applied the language of the *CHRA* providing that only "individuals" and "groups of individuals" can file a complaint, consistent with the description of a discriminatory practice in the provision of services in s. 5 of the *CHRA*. The Report concluded:

> 42. Taking the complaint as true, it is plain and obvious that the alleged discrimination in this complaint is against the corporate entity represented by the complainant, and not the complainant as an "individual or "group of individuals", within the meaning of section 40(1) of the Act. Therefore, the Alliance for Equality of Blind Canadians does not have standing to file a complaint, nor does Ms. Oakes as a director of the organization to file a complaint on their behalf. As a result, the Commission does not have jurisdiction to deal with the complaint.

[41] The Commission therefore applied the correct statutory language and identified and applied the proper overall legal test under subs. 41(1).

[42] AEBC made two principal arguments to support its position that the Commission's decision was unreasonable and should be set aside. First, AEBC submitted that the Commission erred in characterizing the nature and contents of the complaint, by ignoring the individual victims affected by the discriminatory funding application process. Second, AEBC contended that the Commission did not recognize that organizations can file *CHRA* complaints on behalf of members of protected groups. The arguments made to support these positions are set out in more detail below, and overlap in several respects.

[43] The respondent supported the reasonableness of the Commission's decision. The respondent submitted that the *CHRA* only prohibits discrimination against individuals and groups of individuals, not against corporations such as AEBC. A corporation is a person in law, but is not an "individual" or "group of individuals" and therefore cannot file a complaint under *CHRA* s. 40. The respondent contrasted the *CHRA* with the Ontario *Human Rights Code*, RSO 1990, c H 19 which (in its Part I) provides that every "person" has the right to be free from certain types of discriminatory treatment. In its definition of "person" in s. 46, the *Code* extends the meaning of "person" beyond an individual to include an employment agency, an employers' organization, an unincorporated association, a trade or occupational association, a trade union, a partnership, a municipality, and other entities. The same provision expressly provides that "person" includes the "extended meaning given to it in Part VI (Interpretation)" of Ontario's *Legislation Act, 2006*, SO

2006, c 21, Sched F. In that statute, s. 87 provides that a "person" includes a corporation and an "individual" "means a natural person".

[44] The respondent also submitted that the Commission was bound by two decisions of this Court that support the Commission's decision that AEBC cannot file a *CHRA* complaint alleging discrimination against itself as a corporation: *Canada (Attorney General) v Watkin*, 2007 FC 745, aff'd 2008 FCA 170 and *Hagos v Canada (Attorney General)*, 2014 FC 231. Complaints can only be filed by, or on behalf of, an individual or a group of individuals who have experienced alleged discrimination. According to the respondent, the *CHRA* and those two Federal Court decisions do not distinguish between business corporations and not-for-profit corporations. A corporation – regardless of type – cannot be a victim of discrimination under the *CHRA* and cannot file a complaint on its own behalf.

[45] The parties' submissions resolve into two possible reviewable errors under *Vavilov* principles, which I will now analyze.

A. Did the Commission Fundamentally Misunderstand the Complaint?

[46] AEBC submitted that the Commission misunderstood that the complaint was about the inaccessible grant application *process*, not the outcome of that process (the denial of funding). AEBC contended that the complaint was directed at the inaccessible websites provided by ESDC, which can only be used by individuals, not by corporations.

[47] AEBC also submitted that the Commission ignored the evidence in the complaint that there were victims of the alleged discrimination who were individuals or groups of individuals. AEBC argued that the inaccessible application process was not victimless under the *CHRA*. Rather, there were four classes of victims in its complaint: the individual AEBC Board member who filed the complaint, who filed a declaration that she had experienced discrimination; AEBC's volunteers who were involved in preparing the funding application and were directly affected by the inaccessible funding process, including the websites; AEBC's members, who are all individuals who would become beneficiaries of the funding; and AEBC itself as an "equity-seeking" organization comprised of individual members who are protected by the *CHRA* and negatively affected by the alleged discrimination.

[48] At the hearing in this Court, the applicant's counsel made forceful submissions that the complaint contained sufficient factual allegations of discrimination against individuals who volunteered for AEBC and who personally experienced the alleged discrimination during their work in preparing the funding application. Indeed, in response to the Report, the AEBC made the same arguments to the Commission in writing. Those submissions expressly argued that the Report had mischaracterized the service at issue and that that true issue, the inaccessibility of the websites, impacted individual victims as well as the organizations that employ them (or for which they volunteer). The AEBC's position was that the denial of funding was a consequence of the alleged discriminatory practice, something relevant to remedy not to whether the Commission had jurisdiction under *CHRA* paragraph 41(1)(*c*).

[49] As already noted, one type of fundamental flaw identified by the Supreme Court in *Vavilov* is if a decision is in some respect "untenable" in light of the relevant factual and legal constraints that bear on it: *Vavilov*, at para 101. With respect to factual constraints in the evidence, the Supreme Court in *Vavilov* held that absent "exceptional circumstances", a reviewing court will not interfere with the decision maker's factual findings and will not reweigh or reassess the evidence (at para 125). A reviewing court's ability to intervene arises only if the reviewing court loses confidence in the decision because it was "untenable in light of the relevant factual … constraints" or if the decision maker "fundamentally misapprehended or failed to account for the evidence before it" [underlining added]; *Vavilov*, at paras 101, 126 and 194. See also *Canada Post*, at para 61; and *Canada (Attorney General) v Honey Fashions Ltd.*, 2020 FCA 64, at para 30.

[50] While there was no evidence before the Commission in the present circumstances and it made no factual findings, there were assumed facts as alleged in the complaint that served the same function for judicial review purposes. As such, I believe the Commission's characterization of the complaint based on those assumed facts is subject to the "untenable" or "fundamentally misapprehended" analysis described in *Vavilov* (recognizing also that at the ss. 40/41 stage, the Commission is itself not permitted to weigh competing facts, an issue that does not arise in this case).

[51] The characterization of the complaint was also a factually-suffused task that involved the expertise of the Commission. It required both an understanding of the relevant provisions of the Commission's "home" statute, the *CHRA* (particularly sections 5, 40 and 41) and a close

appreciation of the facts contained in the complaint. In these circumstances, given the appellate decisions described above and the mixed issues of law and fact at stake, the Court's review of the Commission's characterization of this complaint involves considerable deference.

[52] For the following reasons, I have concluded that the Commission did not make a reviewable error in its characterization of this complaint.

[53] The Commission was well aware of the nature of the complaint and, specifically, appreciated the factual allegations concerning the grant application process. The officer's Report opened with the following paragraphs:

> 1. The complainant, Chantal Oakes on behalf of the Alliance Equality of Blind Canadians (AEBC), alleges that the respondent, Employment and Social Development Canada, discriminated against her in the provision of services on the ground of disability by treating her in an adverse differential manner and by pursuing a discriminatory policy or practice, contrary to section 5 of the *Canadian Human Rights Act* (the Act).
>
> 2. Specifically, the complainant alleges that during the application process for the Social Development Partnership Program Disability funding, the respondent failed to provide screen reader accessible grant application documents, and generally, did not give the necessary support and time in order for the complainant to complete the application. The complainant alleges that the respondent's failure to provide the necessary accommodation ultimately led to the rejection of the application.
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> [Emphasis added.]

[54] The Commission demonstrated that it understood the issues and arguments raised by the complainant, both in its own reasons and by adopting the reasons in the officer's Report. The Report set out the "Complainant's Position" in seven paragraphs, in which the officer described

that position in detail. It set out the arguments made in this application: that the Canadian Human Rights Tribunal had previously dealt with complaints lodged by charitable organizations and that this complaint had been filed by an organization in order to advocate for Canadians who are blind, deafblind or partially sighted; that the *CHRA*, including the phrase "group of individuals", must be interpreted as broadly as possible so as to allow charitable organizations to lodge complaints; that charitable organizations can be victims of discrimination; that the *Watkin* and *Hagos* decisions in this Court were distinguishable; and that access of justice and the public interest support the complainant's position.

[55] The Report expressly described the applicant's position concerning inaccessible websites and the impact on both the organization and on the individuals who tried to use them:

> 24. The complainant submits that this complaint alleges that the organization and also its members were adversely impacted by the respondent's inaccessible website given that organizations do not read websites; individuals do. Further, this complaint alleges that Chantal Oakes, AEBC's director, experienced discrimination as a failure to accommodate her. Therefore, she is a victim of discrimination. The complainant states that the Commission ought to investigate these allegations.

[56] The Report concluded under ss. 40 and 41 of the *CHRA* that it was plain and obvious that the alleged discrimination in this complaint was against the corporate entity, AEBC, and not against an individual or group of individuals. The Report characterized the contents of the complaint as follows:

> 36. The Social Development Partnership Program Disability funding supports projects intended to improve participation and increase the social inclusion of persons with disabilities in all aspects of Canadian society. <u>The funding is only available to non-profit organizations or Indigenous organizations</u>. The criteria outlining eligibility to apply for Social Development Partnership

> Program Disability funding is outlined in the respondent's website. Therefore, the purported provision of service was intended for non-profit organization or Indigenous organizations, not individuals or groups of individuals.
>
> 37. [AEBC] is a duly incorporated federal corporation under the *Canada Not-for-profit Corporations Act*. Ms. Oakes is one of seven directors, and is now the President of the corporation. Similar to *Watkin*, Ms. Oakes is making a complaint on behalf of the corporation. Ms. Oakes would not be able to make the complaint on her own because she would not qualify for the Social Development Partnership Program Disability funding as an individual. Similarly, a group of Canadians who are blind, deafblind or partially sighted would not qualify for the Social Development Partnership Program Disability funding as a group of individuals. As stated above, the purported provision of the alleged discrimination in "service" was intended for non-profit organizations or Indigenous organizations in their projects. Therefore, it is clear that the complainant's corporation, AEBC, was the "victim" of the alleged discriminatory practice of this complaint, and not Ms. Oakes nor a group of individuals.
>
> [Emphasis added.]

[57] In my view, it was open to the Commission to conclude that this complaint was fundamentally made in respect of alleged discrimination experienced by AEBC as an entity and not by an individual. While the applicant's submissions focused more on whether there were individuals in the complaint who were victims, the relevant analysis cannot be limited to the identification of potential individuals who were "victims" under ss. 5 and 40-41 of the *CHRA*. The alleged individual victims must be properly connected to an alleged discriminatory practice that the respondent is engaging in, or has engaged in – in this case in the provision of a "service" under *CHRA* s. 5 – in order to be able to file a valid complaint under *CHRA* s. 40. Here, the Commission found that the "service" was intended for non-profit organizations or Indigenous organizations to provide funding to their projects, not for individuals. That is, the Commission characterized the

impugned service as being provided to organizations. As an individual, AEBC's director who filed the complaint did not qualify for the funding.

[58] As *Vavilov* and other appellate decisions instruct, it is not the Court's role on judicial review to characterize the facts in the complaint *de novo* and compare the Court's own view with the Commission's characterization. The reviewing court focuses on the Commission's reasoning process and on the constraints bearing on its decision, on the deferential basis already described. Doing so, I am not persuaded that the Commission's characterization was untenable given the facts alleged in the complaint, or that it fundamentally misapprehended the facts, taken as true, as set out in the complaint. While the Report did not expressly define the "service" in paragraphs 36-37 (quoted above), it was clearly related to the funding. It is not disputed that the funding was not available to individuals, only to specified organizations. Whether the Commission concluded that the "service" was the outcome (i.e., the award of funding) as the applicant contended it did, or that the "service" was the application process for that funding as the applicant contended was the correct view, it was open to the Commission to characterize the "service" as being provided to organizations rather than individuals, which would take the complaint outside of *CHRA* s. 5 and s. 40. Its description of the complaint was not unreasonable under *Vavilov* principles. In the language of *PSAC*, the Commission's application of the legal standard to the uncontested facts before it was supportable on the record: *PSAC*, at para 50.

[59] I add the following additional observations to address the applicant's submissions in this Court:

- as the Commission noted, the complaint was filed by AEBC's director expressly "on behalf of AEBC";
- the complaint stated at the outset that the "National Board" of AEBC was filing the complaint. The Board of a corporation such as AEBC constitutes, or represents, that corporation;
- the language used in the complaint used "we", "us" and "our", which the applicant submitted refers to individuals and a group of individuals. That is true in some circumstances, but those words can also be used to refer to the organization represented by the writer. There are examples of the latter word usage in the present complaint (e.g. "Our Mission is to increase awareness of rights and responsibilities…" and "Our members and provincial chapters across Canada …"). In my view, the use of words such as "we", "us" and "our" may be helpful or persuasive in understanding the potential victims of discrimination. In this case, their use in the complaint was of both varieties. For judicial review purposes, the words used do not compel a substantive determination that the complaint was made by individuals affected by a discriminatory service;
- the complaint made some statements that can fairly be attributed only to individuals and not to AEBC as an entity, for example that the circumstances left AEBC's volunteers "feeling insulted, demeaned and dismissed as though we were third class citizens". These sentiments go to the question of whether there are individuals affected by the alleged discriminatory conduct but do not go to the nature of the allegedly discriminatory service under *CHRA* s. 5.

[60] In sum, the central question is whether the applicant has demonstrated that the Commission's decision was unreasonable for failure to respect the factual constraints in the

complaint when it applied the "plain and obvious" test to the complaint, recognizing the Commission's expertise and experience and its role in screening complaints, all under the statutory language in s. 41 of the *CHRA*. It is clear that the Commission understood that the funding process and inaccessible websites were at the core of the complaint. For a reviewing court to re-characterize the complaint in these circumstances would venture into the impermissible territory of correctness review. In my view, the factual contents of this complaint did not so constrain the Commission as to compel it to characterize this complaint as the applicant contended on this application. Reviewing the complaint as a whole and the Commission's reasons and conclusion, I am not persuaded that the Commission made a reviewable error, specifically in its characterization of the "service" and the affected victim(s) in the complaint under ss. 5, 40 and 41 of the *CHRA*.

B. Did the Commission Make a Reviewable Error by Concluding that AEBC, as a Corporation, Had No Standing to File a Complaint?

[61] AEBC's second submission was that the Commission erred by failing to recognize that organizations can file complaints on behalf of members of protected groups. In AEBC's submission, equality-seeking groups regularly file complaints with human rights tribunals in Canada. Consistent with the principle that human rights legislation is interpreted broadly to achieve its objectives, such groups are permitted to file complaints to ensure that issues may be adjudicated to protect vulnerable victims who might not otherwise be able to litigate their complaints (for example, due to the victims' limited financial means). This argument was also said to support access to justice.

[62] AEBC submitted that the Federal Court decisions relied upon by the Commission to find that AEBC as a corporation had no standing to complain were distinguishable. On this argument, those decisions apply only to business corporations with a profit motive and are inapplicable to equality-seeking groups (including not-for-profit corporations) that seek to advance the interests of individuals who are members of their organization.

[63] AEBC also noted that the complaint has systemic implications and related to an issue on which the Federal Court of Appeal has already recognized as a breach of constitutional equality rights under s. 15 of the *Canadian Charter of Rights and Freedoms*: see *Canada (Attorney General) v Jodhan*, 2012 FCA 161, at paras 148-161.

[64] The applicant's legal position was essentially that the Commission erred by believing that it was constrained by the *Watkin* and *Hagos* decisions, both of which concerned complaints brought by business corporations alleging that they had been subject to alleged discrimination. The applicant requested that the Court find that those decisions did not apply because the discrimination alleged here was against individuals or a group of individuals represented by the AEBC. The Court should therefore set aside the Commission's decision and free up the Commission to decide that the complaint should proceed forward.

[65] As *Vavilov* confirmed, an administrative decision maker is required to interpret a statutory provision in a manner consistent with its text, context and purpose and to demonstrate in its reasons that it was "alive to the essential elements" of proper statutory interpretation: *Vavilov*, at para 120-121; *Canada Post*, at paras 40-42; *Mason*, at paras 11 and 41-42. The

applicant in this case did not make submissions that the Commission failed to respect the constraint of these statutory interpretation requirements. The applicant instead focused on the (non-)application of the Federal Court cases.

[66] *Vavilov* also confirmed that an administrative decision maker must generally follow Court decisions interpreting a statutory provision or setting a legal standard: *Vavilov*, at para 111. Any precedents on the issue before the administrative decision maker will act as a constraint on what the decision maker can reasonably decide. A decision may be unreasonable if it departs from a binding precedent interpreting the statutory language without explanation or justification: *Vavilov*, at para 112.

[67] In most cases, as a result of the doctrine of *stare decisis*, an administrative decision-maker is bound to follow applicable precedents originating from any court: *Bank of Montreal v Li*, 2020 FCA 22, at para 37; *Tan v Canada (Attorney General)*, 2018 FCA 186, [2019] 2 FCR 648, at para 22. Decisions that ignore the constraints in settled law may be set aside: *Entertainment Software Association v Society of Composers, Authors and Music Publishers of Canada*, 2020 FCA 100, at para 33; *Canada (Attorney General) v Canadian Human Rights Commission*, 2013 FCA 75, at paras 14 and 16-17.

[68] The applicant's position in the present application is distinct from many judicial review applications in that it argues an alleged error of law that would render the decision maker unconstrained by specific court decisions. The applicant argued that *Watkin* and *Hagos* were

distinguishable, but the Commission erroneously decided to apply them in its reasons concluding that AEBC, as a corporation, had no standing to file the complaint.

[69] In my view, the applicant has not demonstrated that the Commission made a reviewable error when it determined that the complaint was beyond its jurisdiction because AEBC, as a corporation, did not have "standing" to file this complaint under the *CHRA.*

[70] It is important to recognize two closely related but conceptually distinct points. The first is *who may file* a complaint under the *CHRA.* While subs. 40(1) refers to an individual or group of individuals, it is also clear from subs. 40(2) and from prior cases cited by both parties in this Court, that another party may *file* a complaint *on behalf of* an individual or group of individuals, with their consent. The second point concerns whether the contents of a complaint allege that a respondent has *engaged in a discriminatory practice against* an individual or group of individuals. That goes to whether the complaint is, in substance, a valid complaint under (in this case) ss. 5 and 40 of the *CHRA.* It appears that both points factored into the Commission's decision on "standing" in this case.

[71] I pause to note that the applicant's post-Report submissions to the Commission focused on the arguments that the complaint contained individual victims and the AEBC could in law "lodge" a complaint. The AEBC argued that it was not trivial, frivolous, vexatious or in bad faith under *CHRA* paragraph 41(1)(*d*) for a charitable organization to lodge a complaint because its right to do so was "at best" unsettled in law. Although it had an opportunity to do so after receiving a copy of the officer's Report, AEBC did not make a focused or separate argument about jurisdiction

under paragraph 41(1)(*c*) to deal with a complaint alleging a discriminatory practice against the charitable organization. As noted already, the Commission's decision and the Report's analysis and recommendation were based on paragraph 41(1)(*c*), not paragraph 41(1)(*d*).

[72] The Commission's reasons and the Report both addressed the issue of whether AEBC had "standing" to file the complaint. The Report recognized that charitable organizations can file a human rights complaint on behalf of an individual or a group of individuals. The Report referred to cases cited by the AEBC to support that position. The Report explained that those cases were different from this complaint because the alleged discriminatory practices in the cited cases were against individuals or a group of individuals, not against the entity that filed the complaint. The complaints in the cases were filed *on behalf of* affected individuals.

[73] The Report also analyzed the *Watkin* and *Hagos* decisions at some length. The Report recognized that in *Watkin*, Tremblay-Lamer J. considered the use of "individuals" and "persons" in the *CHRA*, finding that while both a human and non-human "person" may engage in a discriminatory practice, only a human "individual" may be the victim of such a practice within the ambit of the *CHRA*. She found this conclusion to be consistent with the definition of "person" in s. 35 of the *Interpretation Act*, RSC 1985, c I-21 and with the prohibited grounds of discrimination in ss. 2 and 3 of the *CHRA*.

[74] As the Report in this proceeding noted, Justice Tremblay-Lamer concluded that the CHRA "was intended to protect individual human beings, and not corporate entities, from discrimination":

Watkin, at para 28. She held that the Commission "did not have the jurisdiction to deal with a complaint alleging discriminatory practices against a corporation …": *Watkin*, also at para 28.

[75] As the Report recognized, Justice Tremblay-Lamer concluded that the allegations in the *Watkin* complaint "fundamentally deal[t] with" actions against a business corporation and not against its individual shareholders (at para 29). I observe that Justice Tremblay-Lamer relied upon the doctrine originally articulated in *Salomon v Salomon*, [1897] 1 AC 22 (HL) to find that the business corporation and the individuals (who were all shareholders; one was also the CEO) were separate legal entities and that "from a legal standpoint the complaint at issue [did] not personally involve" the individual respondent, Mr Watkin (at paras 30-32).

[76] Justice Tremblay-Lamer concluded that Mr Watkin lacked the necessary standing to bring a complaint under s. 5 of the *CHRA*. She also held:

> Further, the Commission did not have the jurisdiction to consider a complaint where the "victim" was a corporate "person" and not an "individual". In failing to dismiss the complaint, the Commission erred in law by exceeding its jurisdiction.

[77] The Report recognized that the Federal Court of Appeal in *Watkin* made its decision on grounds different from the reasons of Tremblay-Lamer J.: see 2008 FCA 170, at paras 20 and 35.

[78] The Report then considered *Hagos*, noting that Roy J. stated (in *obiter*, at para 29) that a corporation does not have standing to complaint under the *CHRA* because s. 40 requires that a complaint be made by "any individual or group of individuals". The Report also noted that Justice Roy also stated that a "shareholder, as an individual, cannot stand in the place of the corporation

in order to fill the gap if the discriminatory practice by the government institution is against the corporation": *Hagos*, at para 23.

[79] The Report referred to additional court decisions concluding that not-for-profit corporations are not individuals under s. 15 of the *Canadian Charter of Rights and Freedoms*, namely *Church of Atheism of Central Canada v Canada (National Revenue)*, 2019 FCA 296 at para 13; *Humanics Institute v Canada (National Revenue)*, 2014 FCA 265, at para 12 (leave to appeal to SCC refused, 36253 (April 23, 2015)); *National Anti-Poverty Organization v Canada (Attorney General)*, [1989] 3 FC 684, at para 18 (leave to appeal to SCC refused (November 23, 1989)). See also *Quebec (Attorney General) v 9147-0732 Québec inc*, 2020 SCC 32 (concluding that business corporations are not protected by s. 12 of the *Charter*).

[80] Paragraph 41 of the Report referred to the public interest and access to justice:

> The Commission is not in any position to give less weight to a Federal Court decision or to deviate from the decision for public interest including access to justice. The Supreme Court of Canada held that "a liberal and purposive interpretation cannot supplant a textual and contextual analysis simply in order to give effect to a policy". Therefore, the Commission is required to follow the current law as it applies.

[81] In this passage, the Report cited *Canada (Canadian Human Rights Commission) v Canada (Attorney General)*, 2011 SCC 53 at paras 33, 62 and 64, in which LeBel and Cromwell JJ. stated for the Court (at para 62):

> … the *CHRA* has been described as quasi-constitutional and deserves a broad, liberal, and purposive interpretation befitting of this special status. However, a liberal and purposive interpretation cannot supplant a textual and contextual analysis simply in order to give effect to a policy decision different from the one made by

> Parliament: *Bell Canada v. Bell Aliant Regional Communications*, 2009 SCC 40, [2009] 2 S.C.R. 764, at paras. 49-50, *per* Abella J.
> …

[82] The Report then concluded that it was plain and obvious that the alleged discrimination in this complaint was against AEBC as represented by the individual complainant (Ms Oakes), and not Ms Oakes as an "individual" or "group of individuals", under subs. 40(1) of the *CHRA*. Therefore, the AEBC did not have standing to file a complaint, nor could Ms Oakes do so as a director of the organization on its behalf.

[83] It is apparent that the Report understood the applicant's position and considered the legal issues at some length. As already noted, the Commission's decision adopted the recommendation, analysis and conclusion in the officer's Report.

[84] Despite the applicant's thorough submissions on this application, I do not detect any material error of law in the analysis of *Watkin* and *Hagos*. While the applicant submitted that those cases could be distinguished in the present case, the applicant did not refer to any legal principle that compelled the Commission to distinguish them on the facts alleged in the complaint, or to another binding court decision on the legal issue that the Commission failed to follow. The Commission's application of the law to those facts has been addressed in part above and was transparent, intelligible and justified with detailed reasons in accordance with *Vavilov* principles.

[85] As mentioned, in its written submissions in this Court, AEBC also submitted that equality-seeking charities are "groups of individuals" under ss. 5 and 40 of the *CHRA*. AEBC contended that the Commission erred by distinguishing between the AEBC as a corporate entity and the

individuals it serves. On this argument, AEBC is "indivisible from the blind, deafblind and partially sighted persons at the core of its mandate"; to say that the alleged discrimination affects one without affecting the other is "to impose a false binary between two concepts that are fundamentally intertwined". The AEBC made a similar submission to the Commission, relying on *African Canadian Legal Clinic v Legal Aid Ontario*, 2010 HRTO 1255.

[86] Both the Commission's reasons and the Report distinguished the *African Canadian Legal Clinic* decision made under the Ontario *Human Rights Code*, owing to provisions in the *Code* noted above that enable any "person" to apply for relief (rather than "any individual or group of individuals" as required by the *CHRA*). The Report observed that it appeared that the parties in that decision had simply agreed that the Ontario Human Rights Tribunal had jurisdiction to hear the complaint under the *Code*. In my view, the Commission made no reviewable error in response to the applicant's submissions to it, and no such error when it distinguished the Ontario Human Rights Tribunal's reasons in *African Canadian Legal Clinic* based on the different wording in the Ontario *Human Rights Code* compared with the *CHRA*.

[87] To support its position that equality-seeking charities are "groups of individuals", the AEBC filed an affidavit in this Court containing some additional evidence. However, the new evidence related to this argument is not admissible on this application, as it relates to the merits of the decision being challenged: *Association of Universities and Colleges of Canada v Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22, at para 19. See also *Mason*, at para 74. Neither party made detailed submissions to the Commission or in this Court on the application (or not) of the *Salomon* principle to the facts alleged in the complaint, the attribution of individuals'

acts to incorporated entities, or on the provisions of the *Canada Not-for-profit Corporations Act*, SC 2009, c 23. Given the Commission's decision and my overall conclusion on reasonableness, it is unnecessary to comment further or reach a conclusion on the applicant's broader submission in this Court that an equality-seeking charity may be a "group of individuals" under the *CHRA*.

[88] For these reasons, I conclude that the applicant has not demonstrated that the Commission made a reviewable error in determining that this complaint was beyond its jurisdiction under paragraph 41(1)(*c*) because AEBC as a corporation could not file it under ss. 5 and 40 of the *CHRA*.

[89] Lastly, the applicant's submissions to this Court on the merits of the Commission's decision exposed a frustrating irony for the individuals it represents. Organizations (whether business, not-for-profit or charitable) can only act through individuals. If services are not provided in a way that allows those individuals to access them and carry out their work for that organization, both the individual and the organization suffer. In this case, a not-for-profit organization whose mission is to advance the interests of its members and other Canadians who experience disadvantages and challenges due to what the *CHRA* calls a "disability", claimed that it could not fairly apply for government funding designed to provide financial support to that very kind of organization, and Indigenous organizations, to carry out their mandates. Indeed, AEBC's complaint noted that it was *invited* to apply for the funding by EDSC itself. And the Federal Court of Appeal decided in 2012 in *Jodhan* that a failure to provide accessible websites constituted a violation of Ms Jodhan's rights under s. 15 of the *Charter*.

[90] Two observations may be made to address AEBC's submissions in the context of this application for judicial review. First, in *Jodhan*, the evidence from Ms Jodhan was that she was personally and directly affected by the inaccessible websites during her search for employment, in efforts to obtain information on government pension and other benefits, in accessing government statistics, and in completing her Census return: *Jodhan*, at paras 9-14; see also the Federal Court's decision in that case, 2010 FC 1197, [2011] 2 FCR 355 (Kelen J.), at paras 30-43.

[91] However, that is an incomplete answer because the Federal Court of Appeal found that both Ms Jodhan herself and other visually impaired people had been denied equal benefit of the law under s. 15 of the *Charter*: *Jodhan*, at paras 138, 150-152, 155-156, and 158-159.

[92] The second observation is to repeat, as discussed at the outset of these Reasons, that the Commission in this case expressly recognized that the human rights issues raised by AEBC's were "serious". The Commission invited ESDC to take steps to remove barriers that prevent Canadians from accessing its services and programs, including but not limited to providing screen reader accessible grant application documents. The Commission's reasons also expressly agreed with paragraphs 43 and following of the Report.

V. **Conclusion**

[93] Applying the principles set out by the Supreme Court in *Vavilov*, I conclude that the Commission's decision in respect of the complaint displayed the required hallmarks of intelligibility, transparency and justification and respected the legal and factual constraints that

applied to it. The Commission's decision is therefore reasonable and the application for judicial review must be dismissed.

[94] The respondent requested that the Attorney General of Canada be named as the respondent in this proceeding, in place of ESDC, under Rule 303 of the *Federal Courts Rules*. That change will be made.

[95] The applicant requested its costs as a public interest litigant, on a solicitor and client basis and regardless of the outcome of this application. AEBC also requested that no costs be awarded against it whatever the outcome. The respondent did not request costs. While neither party made legal submissions on costs, I have considered the principles related to possible costs awards in public interest litigation: see e.g., *McEwing v Canada (Attorney General)*, 2013 FC 953 (Mosely J.); *Doherty v Canada (Attorney General)*, 2021 FC 695 (Gagné ACJ.); *Fraser v Canada (Public Safety and Emergency Preparedness)*, 2021 FC 821 (McVeigh J.), at paras 165 and following; and *Galati v Harper*, 2016 FCA 39. I am also conscious of the Court's discretion under Rule 400 of the *Federal Court Rules*. Considering in particular that AEBC was acting as a public interest litigant in this application, the outcome of the application and the respondent's position, it is appropriate not to make a costs order.

JUDGMENT in T-938-20

THIS COURT'S JUDGMENT is that:

1. The application is dismissed.

2. The title of this proceeding is amended to remove the original named respondent and replace it with the Attorney General of Canada as respondent.

3. There is no costs order.

"Andrew D. Little"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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APPEARANCES:

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