Federal Court  Cour fédérale

Date: 20230915

Docket: T-1228-22

Citation: 2023 FC 1248

Ottawa, Ontario, September 15, 2023

PRESENT: The Honourable Justice Fuhrer

BETWEEN:

KAGUSTHAN ARIARATNAM

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Kagusthan Ariaratnam, seeks judicial review of the decision of the Canadian Human Rights Commission [Commission] not to deal with his human rights complaint against the Canadian Security Intelligence Service [CSIS] because it was addressed or could have been addressed by the National Security and Intelligence Review Agency [NSIRA].

[2] I find the Applicant has met his onus of establishing that the Commission's decision is unreasonable. For the more detailed reasons that follow, I thus grant the Applicant's judicial review application.

II. Background

[3] Having escaped the Liberation Tigers of Tamil Eelam [LTTE], the Applicant left Sri Lanka and came to Canada where he was granted refugee protection in 1998. He eventually became a Canadian citizen. In the meantime, the Applicant provided CSIS with intelligence information regarding the LTTE for a few years, until he suffered mental illness that he alleges was orchestrated or caused by CSIS and involved medical misdiagnoses (of bipolar disorder and chronic paranoid schizophrenia).

[4] The Applicant later worked as a security guard for a company called Iron Horse Security and Investigations [Iron Horse]. In connection with this employment, the Applicant was considered for security work with the Parliamentary Protective Service [PPS], which required site access clearance from CSIS. The request for clearance, however, subsequently was cancelled.

[5] Not satisfied with a written response to his inquiry from CSIS that the "requesting organization cancelled their request," the Applicant brought a complaint before the Security Intelligence Review Committee [SIRC] under then in-force section 41 of the *Canadian Security Intelligence Service Act*, RSC 1985, c C-23, to find out what happened regarding the cancelled request. (The complaint provisions later were repealed and replaced with the *National Security*

and Intelligence Review Agency Act, SC 2019, c 13, s 2 [*NSIRA Act*]; SIRC thus became NSIRA.) See Annex "A" below for relevant legislative provisions.

[6] NSIRA conducted an investigation and held an *in camera* hearing at which the Applicant and three witnesses were questioned.

[7] In its report, NSIRA found that the House of Commons [HoC] cancelled the site access clearance request after CSIS shared with the HoC information about the Applicant's mental health. The information was obtained from open-source Internet searches, as well as two briefs that were prepared by CSIS for (then) Citizenship and Immigration Canada [CIC] during the Applicant's immigration process.

[8] NSIRA concluded that the Applicant's allegations against CSIS were unsupported. Although CSIS acknowledged that the sharing of the immigration briefs "would not have been approved by management," NSIRA found that CSIS did not use the open-source information improperly, nor did CSIS deny the Applicant's site access clearance request. Rather, the latter was done by the HoC.

[9] After the hearing but before NSIRA issued its report, the Applicant began complaints with the Commission against CSIS, HoC and PPS. The Applicant later withdrew the complaints against HoC and PPS.

[10] The Commission invited the parties to respond to a list of questions about whether it should refuse to deal with the Applicant's complaint further to paragraph 41(1)(d) of the *Canadian Human Rights Act*, RSC 1985, c H-6 [*CHRA*], which gives the Commission the discretion to dismiss a complaint where it appears to the Commission that the complaint is trivial, frivolous, vexatious, or made in bad faith.

[11] The initial section 41 report [Initial Report] overlooked the parties' responses to the questions; hence, the Commission sent a Supplementary Report to the parties acknowledging that the Initial Report was flawed. The same human rights officer [Officer] prepared both reports and recommended that the Commission not deal with the complaint on the basis that it had been or could have been dealt with through NSIRA.

[12] Following the parties' response to the Supplementary Report, the Commission issued a final decision [Decision] not to deal with the complaint.

III. Issues and Standard of Review

[13] The Applicant argues the Decision was unreasonable and procedurally unfair. In addition, the Respondent raises a preliminary issue regarding the style of cause.

[14] A reasonable decision is one that exhibits the hallmarks of justification, transparency and intelligibility, and is justified in the context of the applicable factual and legal constraints: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] at para 99.

The Applicant has the burden of establishing the decision was unreasonable: *Vavilov*, above at para 100.

[15] Questions of procedural fairness attract a correctness-like standard of review: *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at para 54; *Vavilov*, above at para 77. The focus of the reviewing court is whether the process was fair and just in the circumstances: *Chaudhry v Canada (Citizenship and Immigration)*, 2019 FC 520 at para 24; *Benchery v Canada (Citizenship and Immigration)*, 2020 FC 217 at para 9.

IV. Analysis

A. *Preliminary Issue: Style of Cause*

[16] Having regard to Rule 303 of the *Federal Courts Rules*, SOR/98-106, I agree with the Respondent's submission that the Canadian Security Intelligence Service was incorrectly named as the Respondent and should be replaced with the Attorney General of Canada. The Applicant took no position on this issue at the hearing of this matter.

[17] In the circumstances, the style of cause will be amended accordingly to identify the Respondent as the Attorney General of Canada, with immediate effect.

B. *Reasonableness of Decision*

[18] As explained below, I am not persuaded that the Decision is reasonable.

(1) Applicable Principles

[19] In *British Columbia (Workers' Compensation Board) v Figliola*, 2011 SCC 52 [*Figliola*], the Supreme Court of Canada outlined three factors for assessing whether a human rights complaint has been dealt with appropriately in an alternative process (at para 37):

1. there was concurrent jurisdiction to decide human rights issues;
2. the previously decided legal issue was essentially the same as the complaint in the later process;
3. the complainant had the opportunity to know and meet the case.

[20] After setting out these factors, the Supreme Court of Canada concludes in the same paragraph that, "[a]t the end of the day, it is really a question of whether it makes sense to expend public and private resources on the relitigation of what is essentially the same dispute."

[21] That said, the Supreme Court of Canada also instructs that the objectives of finality and avoidance of duplicative proceedings must be balanced against possible injustice that may arise if the result of an earlier proceeding is used to preclude a subsequent proceeding that involves significant differences in purpose, process and stakes: *Penner v Niagara (Regional Police Services Board)*, 2013 SCC 19 at para 42.

[22] The Commission's function is to screen complaints to determine whether they require further inquiry by the Canadian Human Rights Tribunal, which then may engage in a more in-depth inquiry and decide whether discrimination has occurred: *Beaulieu v Canada (Attorney General)*, 2022 FC 1671 at para 55.

[23] Where a decision of the Commission adopts the recommendations in an investigator's or officer's report, and provides only brief reasons, the underlying report should be treated as part of the Commission's reasons for the purpose of review. The rationale is that the person who prepared the report is considered an extension of the Commission: *Sketchley v Canada (Attorney General*), 2005 FCA 404 at para 37 (in the context of subsection 44(3) of the *CHRA*); *Berberi v Canada (Attorney General)*, 2013 FC 99 at para 18 (in the context of paragraph 41(1)(d) of the *CHRA*, as in the case here). This applies, in my view, even if the decision does not state specifically that the Commission adopts the recommendations but nonetheless the decision aligns with the recommendations in the report.

(2) Reasonableness Analysis

[24] Contrary to the Applicant's position, I find that the Initial Report and the Supplementary Report form part of the reasons for the Decision. In other words, I find no merit to the argument that the Decision *per se* is unreasonable in that it lacks reasons. Further, as the Respondent submits, and I agree, the Supplementary Report is just that – supplementary – and does not preclude consideration of the Initial Report.

[25] I also agree with the Respondent that, although the case was not mentioned specifically, it is evident from the Supplementary Report that the Commission considered the *Figliola* factors. That said, the fact that these factors were considered does not answer the question of whether they were addressed reasonably. I find that the third factor was not reasonably addressed which, in my view, justifies sending the matter back to the Commission for redetermination by a different officer.

[26] Regarding the first factor of concurrent jurisdiction to decide human rights issues, the Officer finds at paragraph 39 of the Initial Report that the Applicant could have raised his human rights concerns before NSIRA. Despite no detailed analysis or explanation for this, I accept the Respondent's submissions that the NSIRA has the mandate to look into any complaint regarding any activity carried out by CSIS: *NSIRA Act*, ss 8(1)(a), 16.

[27] Regarding the second factor of whether the legal issues were the same in both complaints, the Officer notes at paragraph 30 of the Supplementary Report that the Applicant admitted to filing the same complaint with both NSIRA and the Commission. Contrary to the Applicant's submission, I am not persuaded that the Commission's consideration of this factor starts and ends with this admission (contained in an October 2020 email from the Applicant to the Commission).

[28] I note, for example, that the NSIRA complaint is attached as Appendix A to the Supplementary Report, and the Officer is presumed to have considered it, unless the contrary is shown (which in my view has not been demonstrated in this case). The Officer also addresses this factor at paragraph 36 of the Initial Report with reference to the complaint described in the NSIRA Report (because the NSIRA complaint does not appear to have been before the Officer at that time) and the complaint filed with the Commission. The Commission reasonably found in my view that the complaints were rooted in the Applicant's allegation of misuse of confidential information by CSIS that it collected on the Applicant.

[29] I find nonetheless that the Supplementary Report unintelligibly concludes that the Applicant did not raise human rights issues before NSIRA, despite finding the complaints were the same. This incoherence is reinforced by the Officer's consideration of the third *Figliola* factor.

[30] Regarding the third factor of whether the Applicant had the opportunity to know and meet his case, the Commission finds at paragraph 32 of the Supplementary Report that the issue of CSIS sharing information about the Applicant's mental health with the HoC and PPS was covered at the NSIRA hearing.

[31] At paragraph 31 of the Supplementary Report, however, the Commission finds that, even if the Applicant may not have known about the information sharing until the NSIRA hearing, the Applicant nonetheless knew about the alleged orchestration of his illness and misdiagnoses by CSIS at the time he filed his NSIRA complaint which he could and should have raised before NSIRA. In my view, this statement is tantamount to recognition by the Commission that the Applicant was unaware of the information sharing by CSIS regarding his mental health with the HoC and PPS prior to the NSIRA hearing, a central issue of the Applicant's complaint before the Commission. I find that, even though the issue was covered at the NSIRA hearing, the Supplementary Report highlights that the Applicant in fact did not know the case to meet prior to the hearing, thus undermining the Commission's treatment of this factor and rendering the Decision unreasonable.

[32] Further, even if, as the Respondent contends, the Applicant had all the necessary knowledge to pursue a human rights claim before NSIRA following the hearing, there is no evidence of record before the Court to suggest the Applicant could have amended his NSIRA complaint to include a human rights claim after the hearing.

C. *Breach of Procedural Fairness*

[33] I am not persuaded that the Applicant has established a breach of procedural fairness.

[34] The Applicant's submissions regarding this issue focus on the asserted lack of reasons. As I have found above, the Initial Report and the Supplementary Report form part of the reasons for the Decision. Further, although the Initial Report was flawed, the Supplementary Report rectified the oversight regarding the parties' responses to the *CHRA* s 41(1)(d) questions.

[35] In addition, the Supplementary Report summarizes parts of the Applicant's submissions that he asserts the Commission did not consider.

[36] Further, although the Decision does not mention the parties' reply submissions to the Supplementary Report, the Commission is presumed to have considered them and, I infer, was not persuaded to depart from the recommendation in the Initial Report, repeated in the Supplementary Report, not to deal with the complaint.

V. Conclusion

[37] For the above reasons, the Applicant's judicial review application is granted. The Decision is set aside and the matter will be redetermined by a different decision maker.

[38] Both parties requested additional time following the Court's determination of the judicial review application to make costs submissions. If the parties cannot agree on costs, they have until September 29, 2023 to make brief costs submissions not exceeding three pages.

JUDGMENT in T-1228-22

THIS COURT'S JUDGMENT is that:

1. The style of cause will be amended to identify the Respondent as the Attorney General of Canada, with immediate effect.
2. The judicial review application is granted.
3. The June 1, 2022 decision of the Canadian Human Rights Commission is set aside, with the matter to be redetermined by a different decision maker.
4. If the parties cannot agree on costs, they have until September 29, 2023 to make brief costs submissions not exceeding three pages.

"Janet M. Fuhrer"
Judge

Annex "A": Relevant Provisions

***Canadian Human Rights Act* (R.S.C., 1985, c. H-6)**
***Loi canadienne sur les droits de la personne* (L.R.C. (1985), ch. H-6)**

Proscribed Discrimination **General** **Prohibited grounds of discrimination** **3 (1)** For all purposes of this Act, the prohibited grounds of discrimination are race, national or ethnic origin, colour, religion, age, sex, sexual orientation, gender identity or expression, marital status, family status, genetic characteristics, disability and conviction for an offence for which a pardon has been granted or in respect of which a record suspension has been ordered. …	**Motifs de distinction illicite** **Dispositions générales** **Motifs de distinction illicite** **3 (1)** Pour l'application de la présente loi, les motifs de distinction illicite sont ceux qui sont fondés sur la race, l'origine nationale ou ethnique, la couleur, la religion, l'âge, le sexe, l'orientation sexuelle, l'identité ou l'expression de genre, l'état matrimonial, la situation de famille, les caractéristiques génétiques, l'état de personne graciée ou la déficience. …
Discriminatory Practices **Denial of good, service, facility or accommodation** **5** It is a discriminatory practice in the provision of goods, services, facilities or accommodation customarily available to the general public **(a)** to deny, or to deny access to, any such good, service, facility or accommodation to any individual, or **(b)** to differentiate adversely in relation to any individual, on a prohibited ground of discrimination.	**Actes discriminatoires** **Refus de biens, de services, d'installations ou d'hébergement** **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)** d'en priver un individu; **b)** de le défavoriser à l'occasion de leur fourniture.
Discriminatory Practices and General Provisions **Commission to deal with complaint** **41 (1)** Subject to section 40, the Commission shall deal with any complaint filed with it unless in respect of that complaint it appears to the Commission that …	**Actes discriminatoires et dispositions générales** **Irrecevabilité** **41 (1)** Sous réserve de l'article 40, la Commission statue sur toute plainte dont elle est saisie à moins qu'elle estime celle-ci irrecevable pour un des motifs suivants : …

(d) the complaint is trivial, frivolous, vexatious or made in bad faith; or …	**d)** la plainte est frivole, vexatoire ou entachée de mauvaise foi; …
Investigation **Definition of Review Agency** **45 (1)** In this section and section 46, Review Agency means the National Security and Intelligence Review Agency. **Complaint involving security considerations** (**2)** When, at any stage after the filing of a complaint and before the commencement of a hearing before a member or panel in respect of the complaint, the Commission receives written notice from a minister of the Crown that the practice to which the complaint relates was based on considerations relating to the security of Canada, the Commission may **(a)** dismiss the complaint; or **(b)** refer the matter to the Review Agency.	**Enquête** **Définition de Office de surveillance** **45 (1)** Au présent article et à l'article 46, Office de surveillance s'entend de l'Office de surveillance des activités en matière de sécurité nationale et de renseignement. **Plainte mettant en cause la sécurité** **(2)** Si, à toute étape entre le dépôt d'une plainte et le début d'une audience à ce sujet devant un membre instructeur, la Commission reçoit un avis écrit d'un ministre fédéral l'informant que les actes qui font l'objet de la plainte mettent en cause la sécurité du Canada, elle peut : **a)** soit rejeter la plainte; **b)** soit transmettre l'affaire à l'Office de surveillance.
Inquiries into Complaints **Complaint substantiated** **53(2)** If at the conclusion of the inquiry the member or panel finds that the complaint is substantiated, the member or panel may, subject to section 54, make an order against the person found to be engaging or to have engaged in the discriminatory practice and include in the order any of the following terms that the member or panel considers appropriate: **(a)** that the person cease the discriminatory practice and take measures, in consultation with the Commission on the general purposes of the measures, to redress the practice or to prevent the same or a similar practice from occurring in future, including **(i)** the adoption of a special program, plan or arrangement referred to in subsection 16(1), or	**Instruction des plaintes** **Plainte jugée fondée** **53(2)** À l'issue de l'instruction, le membre instructeur qui juge la plainte fondée, peut, sous réserve de l'article 54, ordonner, selon les circonstances, à la personne trouvée coupable d'un acte discriminatoire : **a)** de mettre fin à l'acte et de prendre, en consultation avec la Commission relativement à leurs objectifs généraux, des mesures de redressement ou des mesures destinées à prévenir des actes semblables, notamment : **(i)** d'adopter un programme, un plan ou un arrangement visés au paragraphe 16(1),

(ii) making an application for approval and implementing a plan under section 17; **(b)** that the person make available to the victim of the discriminatory practice, on the first reasonable occasion, the rights, opportunities or privileges that are being or were denied the victim as a result of the practice; **(c)** that the person compensate the victim for any or all of the wages that the victim was deprived of and for any expenses incurred by the victim as a result of the discriminatory practice; **(d)** that the person compensate the victim for any or all additional costs of obtaining alternative goods, services, facilities or accommodation and for any expenses incurred by the victim as a result of the discriminatory practice; and **(e)** that the person compensate the victim, by an amount not exceeding twenty thousand dollars, for any pain and suffering that the victim experienced as a result of the discriminatory practice.	**(ii)** de présenter une demande d'approbation et de mettre en oeuvre un programme prévus à l'article 17; **b)** d'accorder à la victime, dès que les circonstances le permettent, les droits, chances ou avantages dont l'acte l'a privée; **c)** d'indemniser la victime de la totalité, ou de la fraction des pertes de salaire et des dépenses entraînées par l'acte; **d)** d'indemniser la victime de la totalité, ou de la fraction des frais supplémentaires occasionnés par le recours à d'autres biens, services, installations ou moyens d'hébergement, et des dépenses entraînées par l'acte; **e)** d'indemniser jusqu'à concurrence de 20 000 $ la victime qui a souffert un préjudice moral.
Special compensation **(3)** In addition to any order under subsection (2), the member or panel may order the person to pay such compensation not exceeding twenty thousand dollars to the victim as the member or panel may determine if the member or panel finds that the person is engaging or has engaged in the discriminatory practice wilfully or recklessly. **Interest** **(4)** Subject to the rules made under section 48.9, an order to pay compensation under this section may include an award of interest at a rate and for a period that the member or panel considers appropriate.	**Indemnité spéciale** **(3)** Outre les pouvoirs que lui confère le paragraphe (2), le membre instructeur peut ordonner à l'auteur d'un acte discriminatoire de payer à la victime une indemnité maximale de 20 000 $, s'il en vient à la conclusion que l'acte a été délibéré ou inconsidéré. **Intérêts** **(4)** Sous réserve des règles visées à l'article 48.9, le membre instructeur peut accorder des intérêts sur l'indemnité au taux et pour la période qu'il estime justifiés.
Minister Responsible **Minister of Justice** **61.1** The Minister of Justice is responsible for this Act, and the powers of the Governor	**Ministre responsable** **Ministre de la Justice** **61.1** Le gouverneur en conseil prend les règlements autorisés par la présente loi, sauf

in Council to make regulations under this Act, with the exception of section 29, are exercisable on the recommendation of that Minister.	ceux visés à l'article 29, sur la recommandation du ministre de la Justice, responsable de l'application de la présente loi.

***National Security and Intelligence Review Agency Act* (S.C. 2019, c. 13, s. 2)**
***Loi sur l'Office de surveillance des activités en matière de sécurité nationale et de renseignement* (L.C. 2019, ch. 13, art. 2)**

Mandate **Review and investigation** **8 (1)** The mandate of the Review Agency is to **(a)** review any activity carried out by the Canadian Security Intelligence Service or the Communications Security Establishment; … **Findings and recommendations** **(3)** In the course of its reviews, the Review Agency may make any finding or recommendation that it considers appropriate, including findings and recommendations relating to **(a)** a department's compliance with the law and any applicable ministerial directions; and **(b)** the reasonableness and necessity of a department's exercise of its powers.	**Mandat** **Examens et enquêtes** **8 (1)** L'Office de surveillance a pour mandat : **a)** d'examiner toute activité exercée par le Service canadien du renseignement de sécurité ou le Centre de la sécurité des télécommunications; … **Conclusions et recommandations** **(3)** Dans le cadre des examens qu'il effectue, l'Office de surveillance peut formuler les conclusions et recommandations qu'il estime indiquées, notamment en ce qui a trait : **a)** au respect par les ministères de la loi et des instructions et directives ministérielles applicables; **b)** au caractère raisonnable et à la nécessité de l'exercice par les ministères de leurs pouvoirs.
Complaints **Complaints — Canadian Security Intelligence Service** **16 (1)** Any person may make a complaint to the Review Agency with respect to any activity carried out by the Canadian Security Intelligence Service and the Agency must, subject to subsection (2), investigate the complaint if **(a)** the complainant has made a complaint to the Director with respect to that activity and the complainant has not received a	**Plaintes** **Plaintes — Service canadien du renseignement de sécurité** **16 (1)** Toute personne peut porter plainte contre des activités du Service canadien du renseignement de sécurité auprès de l'Office de surveillance; sous réserve du paragraphe (2), celui-ci fait enquête à la condition de s'assurer au préalable de ce qui suit : **a)** d'une part, la plainte a été présentée au directeur sans que ce dernier ait répondu dans un délai jugé normal par l'Office de

response within a period of time that the Agency considers reasonable or is dissatisfied with the response given; and **(b)** the Agency is satisfied that the complaint is not trivial, frivolous or vexatious or made in bad faith.	surveillance ou ait fourni une réponse qui satisfasse le plaignant; **b)** d'autre part, la plainte n'est pas frivole, vexatoire, sans objet ou entachée de mauvaise foi.
Investigations **Canadian Human Rights Commission may comment** **26** In the course of an investigation of a complaint, the Review Agency must, if appropriate, ask the Canadian Human Rights Commission for its opinion or comments with respect to the complaint.	**Enquêtes** **Commentaires de la Commission canadienne des droits de la personne** **26** Au cours d'une enquête relative à une plainte, l'Office de surveillance demande, si cela est opportun, à la Commission canadienne des droits de la personne de lui donner son avis ou ses commentaires sur la plainte.

Canadian Security Intelligence Service Act **(R.S.C., 1985, c. C-23)**
Loi sur le Service canadien du renseignement de sécurité **(L.R.C. (1985), ch. C-23)**

Complaints **41 (1)** Any person may make a complaint to the Review Committee with respect to any act or thing done by the Service and the Committee shall, subject to subsection (2), investigate the complaint if **(a)** the complainant has made a complaint to the Director with respect to that act or thing and the complainant has not received a response within such period of time as the Committee considers reasonable or is dissatisfied with the response given; and **(b)** the Committee is satisfied that the complaint is not trivial, frivolous, vexatious or made in bad faith.	**Plaintes** **41 (1)** Toute personne peut porter plainte contre des activités du Service auprès du comité de surveillance; celui-ci, sous réserve du paragraphe (2), fait enquête à la condition de s'assurer au préalable de ce qui suit : **a)** d'une part, la plainte a été présentée au directeur sans que ce dernier ait répondu dans un délai jugé normal par le comité ou ait fourni une réponse qui satisfasse le plaignant; **b)** d'autre part, la plainte n'est pas frivole, vexatoire, sans objet ou entachée de mauvaise foi.
Other redress available **(2)** The Review Committee shall not investigate a complaint in respect of which the complainant is entitled to seek redress by means of a grievance procedure established pursuant to this Act or the Federal Public Sector Labour Relations Act.	**Restriction** **(2)** Le comité de surveillance ne peut enquêter sur une plainte qui constitue un grief susceptible d'être réglé par la procédure de griefs établie en vertu de la présente loi ou de la Loi sur les relations de travail dans le secteur public fédéral.

[Repealed]	[Abrogé]

***Federal Courts Rules* (SOR/98-106)**
***Règles des Cours fédérales* (DORS/98-106)**

General **Respondents**	**Dispositions générales** **Défendeurs**
303 (1) Subject to subsection (2), an applicant shall name as a respondent every person	**303 (1)** Sous réserve du paragraphe (2), le demandeur désigne à titre de défendeur :
(a) directly affected by the order sought in the application, other than a tribunal in respect of which the application is brought; or **(b)** required to be named as a party under an Act of Parliament pursuant to which the application is brought.	**a)** toute personne directement touchée par l'ordonnance recherchée, autre que l'office fédéral visé par la demande; **b)** toute autre personne qui doit être désignée à titre de partie aux termes de la loi fédérale ou de ses textes d'application qui prévoient ou autorisent la présentation de la demande.
Application for judicial review	**Défendeurs — demande de contrôle judiciaire**
(2) Where in an application for judicial review there are no persons that can be named under subsection (1), the applicant shall name the Attorney General of Canada as a respondent.	**(2)** Dans une demande de contrôle judiciaire, si aucun défendeur n'est désigné en application du paragraphe (1), le demandeur désigne le procureur général du Canada à ce titre.
Substitution for Attorney General	**Remplaçant du procureur général**
(3) On a motion by the Attorney General of Canada, where the Court is satisfied that the Attorney General is unable or unwilling to act as a respondent after having been named under subsection (2), the Court may substitute another person or body, including the tribunal in respect of which the application is made, as a respondent in the place of the Attorney General of Canada.	**(3)** La Cour peut, sur requête du procureur général du Canada, si elle est convaincue que celui-ci est incapable d'agir à titre de défendeur ou n'est pas disposé à le faire après avoir été ainsi désigné conformément au paragraphe (2), désigner en remplacement une autre personne ou entité, y compris l'office fédéral visé par la demande.

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-1228-22
STYLE OF CAUSE:	KAGUSTHAN ARIARATNAM v ATTORNEY GENERAL OF CANADA
PLACE OF HEARING:	OTTAWA, ONTARIO
DATE OF HEARING:	JANUARY 11, 2023
JUDGMENT AND REASONS:	FUHRER J.
DATED:	SEPTEMBER 15, 2023

APPEARANCES:

Nicholas Pope	FOR THE APPLICANT
Charles Maher	FOR THE RESPONDENT

SOLICITORS OF RECORD:

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