



Tsi Nahò:ten Karihwanákere Nó:nen'k

PRESS RELEASE

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MCK pleased with Quebec Superior Court judge's decision to suspend two provisions of Bill 96

For immediate release

(Kahnawake – 16, Seskéha/August 2022) The Mohawk Council of Kahnawà:ke (MCK) wishes to advise the community that it is pleased with a Quebec Superior Court judge's decision to suspend two provisions of Bill 96.

Ohén:ton Í:iente ne Ratitsénhaienhs Kahsennenhawe Sky-Deer, letsénhaienhs Tonya Perron and Ratsénhaienhs Arnold Boyer, along with lawyer Suzanne Jackson of MCK Legal Services, attended the hearing on August 5, 2022. For clarity, the MCK was neither a party nor an intervenor, but submitted an affidavit in support of the plaintiffs' motion.

The plaintiffs, a group of lawyers, are seeking a judicial review of two provisions of Bill 96 (article 5 and 119) which amend the Charter of the French Language in that legal persons must have certified French translations of all procedures in order to file them with the Court. The plaintiffs are arguing that articles 5 and 119 are a violation of article 133 of the *Constitution Act 1867* which guarantees access to courts in English and French. They also submit that these provisions will create barriers to access to justice for anglophone legal persons by increasing costs and delays.

The judgment of the Honourable Quebec Superior Court Justice Chantal Corriveau of August 12, 2022 is in relation to a stay requested by the Plaintiffs pending the hearing on the merits of the constitutionality of these provisions (this hearing will likely be in November).

The judge found that the three required elements for a stay were met by the plaintiffs:

- A serious question at issue (possible violation of the Constitution)
- Irreparable Harm (it is likely that the requirement of translation will affect access to justice and could make urgent matters impossible to seek justice)
- Balance of Inconvenience (in favor of the plaintiffs given the nature of the potential harms)

Justice Corriveau cited the affidavit of letsénhaienhs Perron in her reasons as evidence of both the irreparable harm as well as the balance of inconvenience. She noted that English is the language most commonly used by the Mohawk community of Kahnawà:ke. She held that the possibility of delays and costs could result in limiting or impeding access to justice. **Justice Corriveau noted that these issues could have unique impacts to communities like Kahnawà:ke.**