Court File: A-73-24 (Lead appeal)

FEDERAL COURT OF APPEAL

BETWEEN:

ATTORNEY GENERAL OF CANADA

Appellant

-and-

CANADIAN CIVIL LIBERTIES ASSOCIATION

Respondent

-and-

ATTORNEY GENERAL OF ALBERTA

Intervener

AND BETWEEN:

Court File: A-29-23

ATTORNEY GENERAL OF CANADA

Appellant

-and-

CANADIAN CIVIL LIBERTIES ASSOCIATION

Respondent

AND BETWEEN:

Court File: A-30-23

ATTORNEY GENERAL OF CANADA

Appellant

-and-

CANADIAN CONSTITUTION FOUNDATION

Respondent

AND BETWEEN:

Court File: A-74-24

ATTORNEY GENERAL OF CANADA

Appellant

-and-

CANADIAN CONSTITUTION FOUNDATION

Respondent

-and-

ATTORNEY GENERAL OF ALBERTA

Intervener

AND BETWEEN:

Court File: A-75-24

ATTORNEY GENERAL OF CANADA

Appellant

-and-

EDWARD CORNELL AND VINCENT GIRCYS

Respondents

AND BETWEEN:

Court File: A-76-24

CANADIAN FRONTLINE NURSES and KRISTEN NAGLE

Appellant

-and-

ATTORNEY GENERAL OF CANADA

Respondent

APPELLANT'S MEMORANDUM OF FACT AND LAW

ATTORNEY GENERAL OF CANADA

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OVERVIEW

1. The application judge failed to apply the reasonableness standard on judicial review of the discretionary decision by the Governor General in Council ("GIC") to declare a public order emergency under the *Emergencies Act* ("*EA*"). He also erred in finding that regulations enacted under *EA* violated the *Canadian Charter of Rights and Freedoms*. The appeal should be allowed.

2. The Supreme Court of Canada's decision in *Vavilov*[1] required the application judge to start with the GIC's reasoning for declaring a public order emergency and assess whether that reasoning demonstrated an internally coherent and rational chain of analysis that was justified in relation to the constraints at the time. The application judge did not do that. Instead, he acted as though he were a first-instance decision maker. Using hindsight and an expanded record, and without due regard for the GIC's reasons, he made his own findings of fact and law and used them as a yardstick to measure the GIC's decision. This flawed methodology is apparent in his ultimate conclusion: "I conclude that there was no national emergency justifying the invocation of the *Emergencies Act* and the decision to do so was therefore unreasonable and *ultra vires*."[2]

3. Applying *Vavilov*, the GIC's reasons for declaring a public order emergency were reasonable: the GIC's reasoning demonstrated an internally coherent and rational chain of analysis that was justified in relation to the constraints at the time. The GIC acted reasonably in finding reasonable grounds to believe that the situation on February 14, 2022—including an unprecedented and volatile series of blockades and occupations of critical infrastructure and key ports of entry across the country—threatened the security of Canada and exceeded the capacity or authority of a province to effectively resolve under existing laws. While not every region of the country faced equal risk, this does not undercut the GIC's assessment of the threat to the country as a whole and the need for nationwide measures. The GIC acted reasonably in finding reasonable grounds to believe that the

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[1] *Canada (MCI) v Vavilov*, 2019 SCC 65 [***Vavilov***].
[2] *Canadian Frontline Nurses v Canada (AG)*, 2024 FC 42 [***CFN***] at para 255 [emphasis added].

situation posed a threat to critical infrastructure and a threat of serious violence to individuals, especially following the RCMP's seizure of firearms, high-capacity magazines, and body armour at Coutts, Alberta.

4. The application judge also erred in finding that the relevant provisions of the *EA* admitted only one reasonable interpretation—his own. These provisions engaged broad, open-ended concepts like "threat" and "serious". The GIC's interpretation of them demonstrated an internally coherent and rational chain of analysis, as well as a reasonable understanding of the legal constraints on the GIC's authority. Although a different decision maker—and in particular the application judge—might have interpreted these provisions differently or even made a different decision in the circumstances at the time, the GIC's interpretation was reasonable. Reasonableness review turns on whether an administrative decision is justified, intelligible and transparent—not on whether the reviewing court would have made the same decision.

5. The application judge also erred in finding that the GIC's special temporary measures violated the *Charter*. The *Emergencies Measures Regulations* (the "*Regulations*") constrained public assemblies that might reasonably be expected to lead to a breach of the peace. To the extent those constraints limited fundamental freedoms under s. 2 of the *Charter*, the measures were minimally impairing and otherwise justified under s. 1, as they fell within a range of reasonable solutions to the problem confronted. Likewise, the *Emergency Economic Measures Order* (the "*Economic Order*") did not unjustifiably limit the right to be free from unreasonable search and seizure under s. 8 of the *Charter*. The *Economic Order* did not effect a "seizure" because the requirement that financial institutions temporarily cease dealing with designated persons while engaged in unlawful activities was not further to any criminal or administrative investigation, a pre-condition the application judge did not address. Any "search" arising from information-sharing under ss. 5 and 6 of the *Economic Order* was reasonable in light of the important objective of peacefully ending the unlawful protests. The application judge fundamentally erred by relying on s. 8 standards that apply to criminal investigations, without citing or applying the leading Supreme Court authority on assessing the reasonableness of a search outside the criminal context.

6. This case warrants this Court's intervention. The application judge failed to adopt the required posture of a court on judicial review. He explicitly acknowledged that he was revisiting the GIC's decision "with the benefit of hindsight and [an expanded] record". He also acknowledged that he himself may have made the same decision as the GIC, had he "been at their tables at that time".[3] *Vavilov* prohibits the application judge's approach. This Court should set aside the application judge's decision and dismiss the applications.

PART I – STATEMENT OF FACTS

A. FREEDOM CONVOY 2022 AND OCCUPATION OF OTTAWA

7. On November 19, 2021, the Public Health Agency of Canada announced that starting November 30, 2021, there would no longer be a vaccine exemption for entry to Canada for several groups, including essential service providers and truck drivers.[4]

8. On January 22, 2022, the Freedom Convoy 2022 departed from Prince Rupert, B.C., gathering supporters along its way for a planned demonstration in Ottawa.[5] Six days later, the Convoy—consisting of thousands of protesters and hundreds of vehicles, including many large transport trucks—arrived in Ottawa. The ensuing occupation of much of the downtown core and Parliamentary Precinct, and the blockade by Convoy trucks and other vehicles, became entrenched.

9. While many Convoy participants were peaceful, the Convoy also included high-decibel noise disruption caused by protesters—trucks honking, air horns, train whistles, street parties, and fireworks set off near residences. Exhaust fumes permeated the air and seeped into neighbouring properties. Containers of flammable diesel fuel needed to keep vehicles and equipment running were also present, including next to Parliament Hill. There

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[3] *CFN* at para 370.
[4] *CFN* at para 31; Affidavit of Rebecca Coleman, sworn April 4, 2022 ["Coleman Affidavit"], para 3, Ex A, Appeal Book ["**AB**"], Vol 7, Tab 13.11, pp 3551-3552, 3591-3602.
[5] *CFN* at para 33 & 34; Coleman Affidavit, paras 4-7, 122, Exs B, D, E, QQQQQ, Appeal Book ["AB"], Vol 7, Tab 13.11, pp 3554-3555, 3587, 3603-3618, 3624-3629, 3630-3634,4314-3423.

were reported incidents of harassment, assaults, and intimidation. As the application judge noted, this created "intolerable conditions for many residents and workers in the district."[6]

10. The Convoy also included extremist elements.[7] For example, the appellant Ms. Nagle was in contact with Jeremy MacKenzie, the founder of Diagolon (an extremist group whose motto is "gun or rope"[8]), during Ms. Nagle's time in Ottawa. Before coming to protest in Ottawa, Mr. MacKenzie was arrested in January 2022 after police found firearms, prohibited magazines, ammunition, and body armour at his home.[9] Diagolon insignia would later be found on body armour seized when arrests were made at the Coutts border blockade. Visible symbols of hate were also seen to be held or worn by protesters in media photographs of the occupation. Ms. Nagle acknowledged seeing demonstrators wearing yellow Stars of David like those the Nazis forced Jewish persons to wear, featuring the words "non vaxx." Media reported protesters with flags featuring swastikas, signs with the Nazi "SS" symbol, as well as Confederate flags.[10]

11. During the occupation, one of the organizing groups, Canada Unity, presented a "memorandum of understanding" between itself, the Senate of Canada, and the Governor General proposing to form a joint committee to assume government functions in return for which the Convoy would cease its occupation of Ottawa. The application judge accepted that this illustrated "an effort by some of those involved in the Convoy to interfere with the democratic process and undermine the government."[11] The application judge also acknowledged that materials in the tribunal record (e.g., the minutes of the Incident Response Group ("IRG"), a dedicated emergency committee and coordination body that

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[6] *CFN* at para 35; Jost Cross-Exam Transcript, pp 36-41, 103-112, 136-141, Exs 1 and 3, AB, Vol 13, Tab 17.10, pp 7082-7087, 7149-7158, 7182-7187, 7302, 7304; Coleman Affidavit, Exs S, LL, SSS, GGGGG, RRRRR, AB, Vol 7, Tab 13.11, pp 3733-3738, 3854-3876, 4053-4064, 4245-4259, 4324-4371.
[7] *CFN* at para 43.
[8] Coleman Affidavit, Ex QQQQQ, AB, Vol 7, Tab 13.11, p 4319.
[9] *CFN* at para 41; Nagle Cross-Exam Transcript, pp 37-38, 41-44, AB, Vol 12, Tab 17.3, pp 6599-6600, 6603-6606.
[10] *CFN* at para 43; Nagle Cross-Exam Transcript, pp 114-117, AB, Vol 12, Tab 17.3, pp 6676-6679 and Exs C and F, AB, Vol 12, Tabs 17.3.9 and 17.3.10, pp 6769 and 6770.
[11] *CFN* at para 44.

advises the Prime Minister in a national crisis) included information that extremist elements were a part of the protest.[12]

12. The Ottawa Police Service ("OPS") launched several criminal investigations into the desecration of national monuments during the occupation, as well as "threatening/illegal/intimidating behaviour" toward police officers, workers, and private citizens.[13] However, the OPS were outnumbered and unable to deal with the highly disruptive protests, which were unprecedented in nature, massive in scale, polarizing in context, and threatening in many different ways.[14] There were even reports of an ambulance being pelted with rocks and protesters yelling racial slurs at a paramedic when he went to check the damage to the vehicle.[15]

13. On February 2, 2022, the OPS noted a significant element of American involvement in the organizing and funding of the Convoy. This same day, the OPS Chief stated that "there may not be a policing solution to the demonstration" and "there need to be other elements brought in to find a safe, swift and sustainable end to this demonstration that's happening here and across the country."[16]

14. On February 3, 2022, the Mayor of Ottawa submitted a request to the Minister of Public Safety for additional resources to deal with the Convoy. That same day, Convoy organizers held a press conference and stated that they would remain in Ottawa until all

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[12] *CFN* at paras 40-41.
[13] Affidavit of Abigail Deshman, sworn March 4, 2022 ["**Deshman Affidavit**"], Ex F, 'Ottawa mayor would like protesters to move on, but organizers say they're not going anywhere', AB, Vol 5, Tab 13.7.6 pp 1581-1582, 1722-1730.
[14] Coleman Affidavit, paras 18-31, Ex P-CC, AB, Vol 7, Tab 13.11, pp 3556-3560, 3710-3810; Deshman Affidavit, Ex S, Federal government invokes Emergencies act for the first time ever in response to protests, blockades', AB, Vol 5, Tab 13.7, pp 1588, 1904.
[15] Coleman Affidavit, Ex W and GGGGG, AB, Vol 7, Tab 13.11, pp 3755-3759, 4245-4259.
[16] *CFN* at para 36; Coleman Affidavit, paras 30, 33, 112, Exs BB, EE, GGGGG, AB, Vol 7, Tab 13.11, pp 3556, 3563, 3795-3802, 3813, 3816, 4245-4259; Affidavit of Madeline Ross, sworn February 22, 2022 ["**Ross Affidavit**"] para 9, Ex D, 'Ottawa declares state of emergency as police boost enforcement, target protest's fuel supply', AB, Vol 4, Tab 13.6, pp 1351, 1389-1398.

COVID-19 mandates were removed.[17] Convoy participants continued to promote Canada Unity's proposal to have the Governor General dismiss the Prime Minister until late in the occupation.[18]

15. On February 6, 2022, the Mayor of Ottawa declared a state of emergency. This reflected the seriousness of the danger and threat to the safety and security of residents posed by the ongoing demonstrations and highlighted the need for support from other jurisdictions and levels of government.[19] The next day, the Ontario Provincial Police ("OPP") intelligence unit identified the Convoy as a "threat to national security" and the OPS requested an additional 1,800 police officers from other agencies. On February 7, 2022, Justice McLean of the Ontario Superior Court of Justice granted a ten-day interim injunction to "silence the honking horns" and prevent other by-law breaches by truckers parked in city streets in downtown Ottawa.[20]

16. From February 8 to 10, 2022, the Convoy numbered about 418 vehicles. Almost 25% of those vehicles had children present, hampering police responses and leading to concerns for the children's safety. Additionally, Convoy participants and their supporters engaged in a concerted effort to flood Ottawa's emergency services with excessive calls designed to overwhelm its capacity to respond. Many of the resulting calls originated from the United States.[21]

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[17] *CFN* at para 37; Coleman Affidavit, paras 69, 112, Exs PPP, GGGGG, AB, Vol 7, Tab 13.11, pp 3571, 3583, 4042-4046, 4245-4259; Ross Affidavit #1, para 9, Ex D, 'Ottawa declares state of emergency as police boost enforcement, target protest's fuel supply', Appeal Book, Vol 4, Tab 13.6, pp 1351, 1389-1398.

[18] *CFN* at para 37; Coleman Affidavit, para 69, Ex PPP, Appeal Book, Vol 7, Tab 13.11, pp 3571, 4042-4046; see also Nagle Cross–Exam Transcript, pp 45–46, 50–54, AB, Vol 12, Tab 17.3, pp 6607-6608, 6612-6616.

[19] *CFN* at para 37; Coleman Affidavit, paras 45, 48, 112, Exs QQ, TT, GGGGG, AB, Vol 7, Tab 13.11, at 3564, 3583, 3899-3900, 3915-20, 4252; Ross Affidavit, Ex D, 'Ottawa declares state of emergency as police boost enforcement, target protest's fuel supply', AB, Vol 4, Tab 13.6, at 1351, 1389-98.

[20] *CFN* at para 38; Coleman Affidavit, paras 56, 57, 112, Exs BBB, CCC, GGGGG, AB, Vol 7, Tab 13.11, at 3567, 3583, 3965-72, 3973-78, 4252-53.

[21] *CFN* at para 39; Coleman Affidavit, paras 60, 62, 63, 66, 67, Exs FFF, GGG, III, JJJ, MMM, NNN, AB, Vol 7, Tab 13.11, at 3568-3570, 3987-4003, 4009-4016.

17. On February 10, 2022, the OPS confirmed they had responded to nearly 1,000 phone calls, had made 25 arrests, and had 126 active criminal investigations related to the demonstration. On this same day and in response to the ongoing illegal blockades, the Prime Minister convened the IRG to advise on the crisis.[22]

18. On February 11, 2022, the Ontario government declared a province-wide state of emergency in response to interference with critical infrastructure throughout the province, which prevented the movement of people and delivery of essential goods. That same day, the Prime Minister and the President of the United States discussed the ongoing illegal blockades taking place across Canada, including at or near Canada-U.S. border crossings, and their impact on North American trade (as outlined below).[23]

19. On February 12 and 13, 2022, the Prime Minister convened the IRG again and discussed further immediate actions the federal government was considering.[24] Options continued to be developed and considered along two "tracks." While Track 1 explored actions under existing authorities, Track 2 examined new authorities, including invoking the *EA*.[25] The options considered from February 9 to 13 were loosely categorized into four themes: enforcement, engagement, Ontario-specific engagement, and financial levers.[26]

20. On February 13, 2022, hackers targeting the crowdfunding website GiveSendGo released information about donors and the amount of donations directed to Convoy

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[22] *CFN* at para 40; Coleman Affidavit, para 68, Exhibit OOO, AB, Vol 7, Tab 13.11, at 3570, 4040-41; Affidavit of Steven Shragge, sworn April 2, 2022 ["**Shragge Affidavit**'] paras 5 and 7, AB, Vol 6, Tab 13.9, p 3397; IRG Minutes, February 10, 2022 AB, Vol 9, Tab 13.21.2, pp 5410-5419.

[23] *CFN* at para 40; Ontario Declaration of Emergency, Coleman Affidavit, paras 71, 73, 112, Exs TTT, RRR, GGGGG, AB, Vol 7, Tab 13.11, pp 3571-3572, 3583, 4050-4052, 4065-4071, 4254; Shragge Affidavit, Ex A, s. 58 Explanation ["**s. 58 Explanation**"], pp 3-4, AB, Vol 6, Tab 13.9.1, pp 3403-3404.

[24] *CFN* at para 40 acknowledging the further IRG meetings; Coleman Affidavit, para 78, Exhibit YYY, AB, Vol 7, Tab 13.11, pp 3574, 4097-4099; Shragge Affidavit, para 8, AB, Vol 6, Tab 13.9, p 3397.

[25] IRG Minutes, dated February 10, 12, 13, 2022, AB, Vol 9, Tab 13.21, pp 5407-5445.

[26] IRG Minutes, dated February 12, 2022, pp 14-20, AB, Vol 9, Tab 13.21.4, pp 5436-5442.

protesters, showing that 55.7% of donors were in the United States compared with 39% of donors being located in Canada; $3.65 million USD was donated by U.S.-based donors.[27]

21. As of February 14, 2022, there were about 500 trucks and other vehicles in downtown Ottawa and, in the application judge's words, the situation stood at "an impasse".[28] Local tow truck drivers had refused to work with governments to remove trucks in the blockade, individuals formerly employed in law enforcement or who had served in the military had appeared alongside Convoy organizers to provide logistical and security advice, and children had been brought to the occupation to limit law enforcement intervention. Court injunctions had proven ineffective, police were unable to enforce the rule of law, and the OPS police chief would resign the following day.[29] Protesters also attempted to impede access to the International Airport in Ottawa and threatened to blockade railway lines.[30]

22. As the application judge acknowledged, this situation was critical and required an urgent resolution by governments, but the provincial government had been unable to achieve any resolution in Ottawa.[31]

B. BORDER BLOCKADES

1) Coutts, Alberta

23. On January 29, 2022, a blockade began near the Sweetgrass–Coutts border crossing, which disrupted U.S. border traffic at a critical commercial border point between Canada and the United States. On February 5, 2022, Alberta's Minister of Municipal Affairs wrote to the federal Ministers of Public Safety and Emergency Preparedness seeking "federal assistance that includes the provision of equipment and personnel to move approximately 70 semi-tractor trailers and approximately 75 personal and recreational

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[27] *CFN* at para 39; s. 58 Explanation, AB, Vol 6, Tab 13.9.1, pp 3399-3413; Deshman Affidavit, Ex E, AB, Vol 7, Tab 13.7.5, pp 1707-1720; Ross Affidavit, Ex A, AB, Vol 4, Tab 13.6.1, pp 1350, 1355-1369.
[28] *CFN* at paras 53 & 249.
[29] s. 58 Explanation AB, Vol 6, Tab 13.9, p 3405.
[30] *CFN* at para 63; s. 58 Explanation, p 11, AB, Vol 6, Tab 13.9.1, p 3410.
[31] *CFN* at para 254.

vehicles." The letter noted that the RCMP "have exhausted all local and regional options to alleviate the week-long service disruptions at this important international border."[32] By February 11, 2022, between 200 and 250 additional Convoy vehicles had gathered at Milk River, the police checkpoint set up to limit access to the blockade at Coutts.[33]

24. The morning of February 14, 2022, the RCMP executed search warrants and seized a large cache of weapons at Coutts, including 14 firearms, a large supply of ammunition, high-capacity magazines and body armour, some of which was marked with the insignia of Diagolon.[34] Eleven individuals were arrested, four of whom were charged with conspiracy to commit murder, in addition to other offences. The border blockade was not dismantled and dispersed until February 15.[35]

2) Ambassador Bridge, Windsor, Ontario

25. On February 6, 2022, a second blockade began, this time at the Ambassador Bridge linking Windsor, Ontario and Detroit, Michigan—Canada's busiest land border crossing. The blockade undermined over $390 million in trade each day with the U.S., representing 30% of all such trade and resulting in loss of employee wages, reduced automotive processing capacity, and overall production loss in the automotive industry, which was already hampered by a supply shortage of critical electronic components.[36]

26. Although the police removed blockade participants on February 13, 2022, access to the Ambassador Bridge remained limited and the City of Windsor proceeded to declare

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[32] *CFN* at para 46; Affidavit of Madeleine Ross dated February 22, 2022 at Exhibit Q, AB, Vol 4, Tab 13.6, pp 1353, 1468; s. 58 Explanation, AB, Vol 6, Tab 13.9.1, pp 3403-3403.
[33] Coleman Affidavit, para 75, Ex VVV, AB, Vol 7, Tab 13.11, pp 3574, 4075-4082.
[34] *CFN* at para 51; Coleman Affidavit, Ex. QQQQQ, AB, Vol 7, Tab 13.11, pp 3574, 4314-4323.
[35] *CFN* at para 51; s. 58 Explanation, AB, Vol 6, Tab 13.9.1; Deshman Affidavit, Exhibits E, O, JJ AB, Vol 5 Tab 13.7 pp 1568, 1707, 1854, 2149; Coleman Affidavit, at paras 72, 122, Exhibits SSS, QQQQQ, AB, Vol 7, Tab 13.11, pp 3574, 4053-4064, 4314-4323; Ross Affidavit, Exhibits A and P, AB, Vol 4, Tab 13.6.
[36] *CFN* at para 48; s 58 Explanation, p 8, AB, Vol 6, Tab 13.9.1, p 3410.

a state of emergency on February 14, 2022, over concerns that the blockades would resume and law enforcement would be unable to hold the area.[37]

3) Blue Water Bridge, Sarnia, Ontario

27. On February 8, 2022, a third blockade targeted access to and from the Blue Water Bridge between Sarnia, Ontario and Port Huron, Michigan, resulting in the suspension of all outbound movement of commercial and traveller vehicles to the United States, along with reduced inbound capacity, at Canada's second-busiest border crossing.[38]

4) Peace Bridge, Fort Erie, Ontario

28. On February 12, 2022, a fourth blockade emerged, targeting the Peace Bridge port of entry at Fort Erie, Ontario, which is the third-busiest land border crossing between Canada and the United States,[39] responsible for millions of dollars in international trade each day. The protest disrupted inbound traffic for a portion of the day on February 12, 2022, and resulted in a blockade of outbound traffic until February 14, 2022, when the OPP and Niagara Regional Police restored security of the trade corridor linking the provincial highway to the border crossing.[40]

5) Vancouver and Surrey, British Columbia

29. Also on February 12, 2022, vehicles broke through an RCMP barricade in south Surrey, B.C., heading to the Pacific Highway port of entry and forced the highway closure

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[37] Coleman Affidavit at para 92, Ex MMMM, AB, Vol 7, Tab 13.11, 4150-4158; Shragge Affidavit, para 10, AB, Vol 6 Tab 13.9, p 3192.
[38] *CFN* at para 48; s. 58 Explanation, AB, Vol 6, Tab 13.9.1; Deshman Affidavit, Ex E, AB, Vol 5 Tab 13.7, p 1568; Ross Affidavit, Ex. A, AB, Vol 4, Tab 13.6, pp 1350, 1355-1369; Coleman Affidavit, pp 27 & 28 at para 65, Exhibit LLL, AB, Vol 7, Tab 13.11, pp 3569-3570, 4020-4030.
[39] *CFN* at para 49.
[40] s. 58 Explanation, p 8, AB, Vol 6, Tab 13.9.1, p 3410; Deshman Affidavit, Ex E, AB, Vol 5, Tab 13.7, pp 1579, 1707-1720; Ross Affidavit, Ex. A, AB, Vol 4, Tab 13.6, pp 1350, 1355-1369.

at the Canada–U.S. border in Surrey. This was the fifth border blockade across Canada. As of February 15, 2022, 16 people had been arrested in relation to the demonstrations.[41]

6) Emerson, Manitoba

30. On February 10, 2022, a sixth blockade began, this one north of the Emerson, Manitoba port of entry. The Premier of Manitoba sent a letter dated February 11, 2022, to the Prime Minister urging "immediate and effective federal action regarding the blockade activity now unfolding at […] Emerson […]. These evolving and increasing border disruptions—in Manitoba and elsewhere across the country—require the reasoned and balanced national leadership that only you and the federal government can provide."[42] The blockade prevented commercial shipments from accessing this port of entry, resulting in significant disruptions to trade between Canada and the United States.[43]

31. As stated in the s. 58 explanation described below, the "closure of, and threats against, crucial ports of entry along the Canada-U.S. border [had] not only had an adverse impact on Canada's economy, it […] also imperiled the welfare of Canadians by disrupting the transport of crucial goods, medical supplies, food, and fuel."[44]

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[41] *CFN* at para 50; s. 58 Explanation; Deshman Affidavit, para 55, Ex E, Ex H, 'Five arrested as anti-COVID-19 mandate convoys, rallies staged in British Columbia', Ex P, AB, Vol 5, Tab 13.7, pp 1579, 1586, 1715, 1861-1865; Ross Affidavit, Ex. A, Ex R, 'Update #5 – Blockade at Emerson border crossing now cleared', Ex T, "RCMP arrest 4 people for mischief at border protests in Surrey, B.C.', Ex U, RCMP Update, AB, Vol 4, Tab 13.6, pp 1350, 1353, 1355-1369; Coleman Affidavit, para 81, Exs. BBBB, JJJJJ, AB, Vol 7, Tab 13.11, pp 3575, 3577, 4107-4111, 4136-4137.

[42] Affidavit of Madeleine Ross dated February 22, 2022 at Exhibit S, AB, Vol 4, Tab 13.6, pp 1353, 1473.

[43] *CFN* at para 49; s. 58 Explanation; Deshman Affidavit, paras 52-53, Ex E, Ex N, 'A perfect solution': Manitoba border blockade ends as RCMP escort protesters away'; Ex O, 'Last border blockade to be dismantled as protesters in Emerson, Man., agree to leave', , AB, Vol 5, Tab 13.7, pp 1579, 1585-1586, 1714, 1847-1852, 1854-1859; Ross Affidavit, Ex. A, AB, Vol 4, Tab 13.6, pp 1350, 1355-1369; Coleman Affidavit, pp 29, 32, 34, 38, 40 at paras 70, 80, 85, 100, 106, Exhibits QQQ, AAAA, FFFF, UUUU, AAAAA, AB, Vol 7, Tab 13.11, pp 3571, 3574, 3576, 3580, 3582, 4047-4049, 4104-4106, 4125-4126,4200-4202, 4223-4225.

[44] *CFN* at para 251; s. 58 Explanation, p 11, AB, Vol 6, Tab 13.9, p 3410.

C. INVOCATION OF *EMERGENCIES ACT*

1) Declaration of a public order emergency

32. On February 14, 2022, the GIC issued a Proclamation declaring that it had reasonable grounds to believe a public order emergency existed under s. 17(1) of the *EA*, which necessitated special temporary measures. The Proclamation identified five aspects of the public order emergency.

33. First, there were continuing blockades by persons and vehicles and continuing threats to oppose removal of the blockades, including by force. The blockades included threats or use of acts of serious violence against persons or property, including critical infrastructure, for the purpose of achieving a political or ideological objective within Canada.

34. Second, there were adverse effects on the Canadian economy—still recovering from the impacts of the COVID-19 pandemic—and threats to Canada's economic security resulting from the impacts of blockades of critical infrastructure, including trade corridors and international border crossings.

35. Third, there were adverse effects of the blockades on Canada's relationship with trading partners, including the United States, that were detrimental to the interests of Canada.

36. Fourth, there was the breakdown in the distribution chain and availability of essential goods, services, and resources caused by the blockades and the risk that this breakdown would continue as blockades continued and increased in number.

37. And fifth, there was the potential for an increase in the level of unrest and violence that would further threaten the safety and security of Canadians.[45]

38. The Proclamation also specified special temporary measures that were expected to be necessary for dealing effectively with the emergency. These included measures to

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[45] *Proclamation Declaring a Public Order Emergency*, SOR/220-20, February 14, 2022 [***Proclamation***], at p 2, para (a), AB Vol 4, Tab 13.1, p 1312.

regulate or prohibit public assemblies—other than lawful advocacy, protest, or dissent—that might reasonably be expected to lead to a breach of the peace, or the travel to, from, or within any specified area; to regulate or prohibit the use of specified property, including goods to be used with respect to a blockade; and to designate and secure protected places, including critical infrastructure.

39. In addition, expected measures included those authorizing or directing persons to render essential services, including in relation to the removal and towing of vehicles. Anticipated measures also included regulating or prohibiting the use of property to fund or support the blockade, reporting certain transactions to FINTRAC, and requiring financial service providers to determine whether their clients were participating in the blockade.

40. Finally, the Proclamation noted that measures to authorize the RCMP to enforce municipal and provincial laws may be required, along with the imposition of fines or imprisonment for contravention of any emergency orders or regulations.

2) ***Emergency Measures Regulations* and *Economic Order***

41. The following day, on February 15, 2022, the GIC exercised its power to make the *Regulations*, which among other things, prohibited public assemblies that were likely to result in a breach of the peace by causing serious disruption to the movement of persons, goods, or trade, interference with critical infrastructure, or support of threats or use of acts of serious violence.[46]

42. The *Regulations* also designated protected places (such as Parliament Hill),[47] provided for reasonable compensation for essential goods and services, enabled authorities to require the assistance of heavy tow truck operators to remove transport trucks[48] and created offences for the failure to comply with the *Regulations*.[49]

43. The accompanying *Economic Order* contained provisions to further the *Regulations'* prohibition on "public assembly that may reasonably be expected to lead to a

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[46] *Regulations*, s 2(1).
[47] *Regulations*, s 6.
[48] *Regulations*, s 7-9.
[49] *Regulations*, s 10.

breach of the peace" and defined a "designated person" as anyone participating in such assemblies. It also required certain actions from Financial Institutions.[50]

3) Section 58 Explanation

44. On February 16, 2022, pursuant to s. 58 of the *EA*, the Public Safety Minister brought a motion before the House of Commons to confirm the Proclamation of the public order emergency on February 14, 2022.[51] An explanation of the reasons for issuing the Proclamation (the s. 58 Explanation), as well as a report on consultations with the Lieutenant Governors-in-Council of the provinces (the Consultation Report), were also tabled before both Houses of Parliament that day.[52]

45. As the application judge noted, the s. 58 Explanation provides the reasoning for the GIC's discretionary decision to declare a public order emergency under the *EA*.[53]

46. The s. 58 Explanation began by outlining the legislative basis for declaring a public order emergency under the *EA*, including the meaning of a "threat to the security of Canada" and a "national emergency." It then set out the five components of the public order emergency specified in the Proclamation, as well as the six types of temporary measures that were referenced, as noted above.

47. The s. 58 Explanation provided background information on the circumstances leading to the Proclamation. For example, it noted that participants at the blockades had "adopted a number of tactics that [were] threatening, causing fear, disrupting the peace, impacting the Canadian economy and feeding a general sense of public unrest," including "harassing and berating citizens and members of the media, slow roll activity, slowing down traffic and creating traffic jams, in particular near ports of entry," and there were

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[50] *Regulations*, s 2(1); *Economic Order*, ss 1-6.
[51] *CFN* at para 56; Shragge Affidavit, p 3 at para 13, Exhibit C, AB, Vol 6, Tab 13.9, pp 3398, 3428-3429; Deshman Affidavit, Ex N, 'A perfect solution': Manitoba border blockade ends as RCMP escort protesters away', AB, Vol 5, Tab 13.7, pp 1585, 1849; Coleman Affidavit, p 40 at para 106, Exhibit AAAAA, AB, Vol 7, Tab 13.11, pp 3582, 4223-4225.
[52] *CFN* at para 57.
[53] *CFN* at paras 68 & 218.

"reports of protesters bringing children to protest sites to limit the level and types of law enforcement intervention." Movement had "moved beyond a peaceful protest, and there [was] significant evidence of illegal activity underway."[54] Foreign funding of the Convoy was also noted, with 55.7% of the 92,844 GiveSendGo.com Convoy donations (totalling $3.65 million USD) having been made by U.S.-based donors, compared to 39% of donors being located in Canada.[55]

48. The s. 58 Explanation noted that the City of Ottawa and the Provinces of Ontario and Alberta had requested federal support to deal with the blockades. It also cited the Consultation Report as providing further detail on the consultations with provinces and territories, and discussed emergency measures taken by Ontario and other provinces. These measures included Ontario's declaration of a state of emergency on February 11, 2022 and the regulations Ontario passed to make it illegal to block and impede the movement of goods, people, and services along critical infrastructure.

49. The s. 58 Explanation provided reasoning for each of the five grounds for declaring the public order emergency. It noted that the intent of the temporary measures was to supplement provincial authorities and to restore public order, the rule of law, and confidence in Canada's institutions. The time-limited measures were to be used only where needed depending on the nature of the threat and its evolution and would not displace or replace provincial authorities or derogate from their authority to direct their police forces.[56]

50. As for the first rationale—the continuing blockades and threats to oppose their removal—the s. 58 Explanation noted that the Convoy had become a rallying point for anti-government, anti-authority, and anti-vaccination conspiracy theory and white supremacist groups throughout Canada and other Western countries. There was evidence of coordination between the various convoys and blockades, Convoy supporters formerly employed in law enforcement and the military had appeared alongside organizers providing

[54] s. 58 Explanation, p 3, AB, Vol 6, Tab 13.9.1, p 3402.
[55] s. 58 Explanation, p 3, AB, Vol 6, Tab 13.9.1, p 3402.
[56] s. 58 Explanation, p 4, AB, Vol 6, Tab 13.9.1, p 3403.

logistical and security advice, and tactics adopted by the protesters included bringing children to protest sites to limit the level and types of law enforcement intervention.[57]

51. Further, the s. 58 Explanation noted that violent incidents and threats of violence and arrests related to the protests had been reported across Canada, and the RCMP's seizure of a cache of firearms with a large quantity of ammunition in Coutts indicated that there were elements within the protests that had intentions to engage in violence. Moreover, violent online rhetoric, increased threats against public officials, and the physical presence of ideological extremists at protests also indicated that there was a risk of serious violence and the potential for lone-actor attackers to conduct terrorism attacks.[58]

52. The second, third, and fourth rationales related to economic and trade-related aspects of the crisis. The explanation for the second rationale—adverse effects on the Canadian economy—noted that since the blockades began at the Ambassador Bridge, over $390 million in trade each day with Canada's most important trading partner, the U.S., had been affected. This disruption had resulted in the loss of employee wages, reduced automotive processing capacity, and overall production loss in the automotive industry, which was already hampered by the supply shortage of critical electronic components.[59]

53. On this point, the s. 58 Explanation noted that the blockades in Coutts, Alberta and Emerson, Manitoba had affected about $48 million and $73 million in trade each day, respectively. Throughout the week leading up to February 14, 2022, there were 12 additional protests that directly impacted port of entry operations. It was beyond the capacity of Ontario to ensure that tow trucks could be used to clear vehicles in a timely manner.[60]

54. These blockades and protests were directly threatening the security of Canada's borders, with the potential to endanger the ability of Canada to manage the flow of goods and people across the border, as well as the safety of CBSA officers. Moreover, the federal

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[57] s. 58 Explanation, p 5, AB, Vol 6, Tab 13.9.1, p 3404.
[58] s. 58 Explanation, p 6, AB, Vol 6, Tab 13.9.1, p 3405.
[59] s. 58 Explanation, pp 6 -7, AB, Vol 6, Tab 13.9.1, p 3405-3406.
[60] s. 58 Explanation, pp 7–9, AB, Vol 6, Tab 13.9.1, p 3406-3408.

and provincial financial systems at the time were ill-equipped to mitigate the adverse effects of the economic impact without additional measures. Finally, threats were also made to block railway lines, which would result in significant disruptions to Canada's freight rail industry that transports more than $310 billion worth of goods each year.[61]

55. The third and fourth rationales concerned the adverse effects of the blockades on Canada's relationship with its trading partners, as well as the breakdown of the distribution chain. The U.S. had expressed concerns related to the economic impacts of blockades at the borders, as well as possible impacts on violent extremism, and one week of the Ambassador Bridge blockade alone was estimated to have caused a total economic loss of $51 million for U.S. working people and businesses in the automotive and transportation industry.[62]

56. Generally, the protests and blockades had been eroding confidence in Canada, which has a uniquely vulnerable trade and transportation system. The closure of, and threats against, crucial ports of entry along the Canada–U.S. border had not only had an adverse impact on Canada's economy, but also imperiled Canadians' welfare by disrupting the transport of crucial goods, medical supplies, food, and fuel across the Canada–U.S. border. Failing to keep international crossings open could have resulted in a shortage of crucial medicine, food, and fuel.[63]

57. The fifth and final rationale concerned the potential for an increase in the level of unrest and violence that would further threaten the safety and security of Canadians. There was significant evidence of illegal activity, with a concerning, volatile, and unpredictable situation across the country. The Freedom Convoy could also have led to an increase in the number of individuals who support ideologically motivated violent extremism and the risk of serious violence.[64]

58. Furthermore, since the Convoy began, there had been a significant increase in the number and duration of incidents involving criminality associated with public order events

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[61] s. 58 Explanation, pp 9-10, AB, Vol 6, Tab 13.9.1, p 3408-3409.
[62] s. 58 Explanation, p 10, AB, Vol 6, Tab 13.9.1, p 3409.
[63] s. 58 Explanation, pp 10 & 11, AB, Vol 6, Tab 13.9.1, p 3409-3410.
[64] s. 58 Explanation, pp 11 & 12, AB, Vol 6, Tab 13.9.1, p 3410-3411.

related to anti-public health measures, and there had been serious threats of violence considered to be politically or ideologically motivated, including two bomb threats made against Vancouver hospitals. Additionally, the OPS had been unable to enforce the rule of law in the downtown core due to the overwhelming number of protesters, and the OPS's ability to respond to other emergencies had been hampered by the flooding of Ottawa's 911 hotline, including by individuals from outside Canada.[65]

59. Protesters had refused to comply with injunctions covering downtown Ottawa and the Ambassador Bridge, as well as recent legislation enacted by the Ontario government under the *Emergency Management and Civil Protection Act*, and the occupation of the downtown core of Ottawa had also hindered the ability of emergency medical responders to attend medical emergencies in a timely way. In addition, there was the cancellation of many medical appointments. Lastly, the inability of municipal and provincial authorities to enforce the law or control the protests may have led to a further reduction in public confidence in police and other Canadian institutions.[66]

4) Use, confirmation, and revocation of the Proclamation

60. From February 15 to 23, 2022, the RCMP disclosed information from the OPP, OPS, and its own investigations on about 57 entities and individuals to financial service providers, resulting in the temporary freezing of about 257 accounts under the *Economic Order*.[67]

61. On February 15, 2022, the RCMP restored access to the Coutts border crossing.[68] The RCMP also reached a resolution with protesters at the Emerson blockade, which was cleared the following day.[69]

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[65] s. 58 Explanation, pp 12-13, AB, Vol 6, Tab 13.9.1, p 3411-3412.
[66] s. 58 Explanation, p 13, AB, Vol 6, Tab 13.9.1, p 3412.
[67] *CFN* at para 55; Beaudoin Affidavit, pp 2 & 3 at paras 12 & 20, AB, Vol 8, Tab 13.12, pp 4673-4674; Deshman Affidavit, para 100, Ex HH, 'Most bank accounts frozen under the Emergencies Act are being released, committee hears', AB, Vol 5, Tab 13.7, pp 1596, 2051-2053.
[68] *CFN* at para 54.
[69] *CFN* at para 54-56.

62. From February 17 to 21, 2022, the police in Ottawa arrested 196 protesters, of whom 110 were charged criminally. The police also removed 115 vehicles and dismantled the blockades on Ottawa streets.[70]

63. On February 21, 2022, the motion to confirm the declaration of the public order emergency passed in the House of Commons. That same day, the RCMP advised financial service providers that they no longer believed the individuals or entities previously disclosed were engaged in conduct or activities covered under the *Regulations*.[71]

64. On February 23, 2022, the GIC revoked the declaration of an emergency, only nine days after it was proclaimed, as the police forces now had the ability to deal with any further challenges.[72] The Ontario government lifted its state of emergency the same day.[73]

5) Reviews of the Proclamation

65. On March 3, 2022, a Special Joint Committee on the Declaration of Emergency was established by motion of the Senate and House of Commons pursuant to s. 62(1) of the *EA*. The parliamentary review committee's purpose was to review the "exercise of powers and the performance of duties and functions pursuant to a declaration of emergency".[74]

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[70] *CFN* at para 58; Coleman Affidavit, pp 39 – 45 at paras 103, 104, 108 – 110, 112, 114, 118, 119, 122, Exhibits XXXX, YYYY, CCCCC, DDDDD, EEEEE, GGGGG, IIIII, MMMMM, NNNNN, OOOOO, QQQQQ, AB, Vol 7, tab 13.11, pp 3581-3587, 4209-4219, 4229-4239, 4245-4259, 4264-4276, 4294-4310, 4314-4323; Ross Affidavit, Exs G, I, J, K, L, AB, Vol 7, tab 13.11, pp 3581-3587, 4209-4219, 4229-4239, 4245-4259, 4264-4276, 4294-4310, 4314-4323, AB, Vol 4, Tab 13.6, pp 1352, 1425, 1433, 1436, 1439 & 1442-1443.

[71] *CFN* at para 59; Shragge Affidavit, p 3 at para 14, Exhibit D; Beaudoin Affidavit, p 4 at para 30, AB, Vol 6, Tab 13.9, pp 3398, 3432-3433; Deshman Affidavit, para 100, Ex HH, 'Most bank accounts frozen under the Emergencies Act are being released, committee hears', AB, Vol 5, Tab 13.7, pp 1596, 2051-2053.

[72] *CFN* at para 60; Ross Supplemental Affidavit, p 1 at para 4, Exhibit B, AB, Vol 10, Tab 15.1, p 5921, 5934.

[73] *CFN* at para 60; Coleman Affidavit, pp 44 & 45 at para 121, Exhibit PPPPP, AB, Vol 7, Tab 13.11, pp 3586-3587, 4311-4313; Beaudoin Affidavit, p 1 at para 3, AB, Vol 8, tab 13.12, p 4672; Deshman Affidavit, para 4, AB, Vol 5, Tab 13.7, p 1569.

[74] *CFN* at para 61.

66. On April 25, 2022, by way of an Order-in-Council made under s. 63(1) of the *EA*, the GIC caused a public inquiry to be held into the circumstances that led to the Proclamation being issued and the measures taken for dealing with the emergency.[75]

67. The Public Order Emergency Commission ("POEC") heard hundreds of hours of testimony from 76 witnesses. Eight ministers, including the Prime Minister, were examined and cross-examined in open hearings. The POEC also received over 85,000 documents and marked 8,900 of them as exhibits, including evidence that post-dated the decision to invoke the *EA*. On February 17, 2023, the POEC Commissioner, Justice Paul Rouleau, issued his report concluding that "the very high threshold for invocation was met."[76]

D. DECISIONS UNDER APPEAL

1) Preliminary rulings

68. Following the application judge's March 2022 decision dismissing as moot the stay motion brought by Canadian Frontline Nurses (CFN) and Ms. Nagle,[77] the application judge made two other preliminary rulings that affected his judicial review decision.

69. First, the application judge granted the Rule 312 motions brought by the Canadian Civil Liberties Association (CCLA) and Canadian Constitution Foundation (CCF) to admit in the judicial review proceeding a selection of documents, transcripts, and witness summaries produced during the POEC's proceedings.[78] Canada filed notices of appeal in relation to these decisions (A-29-23 and A-30-23). These appeals were held in abeyance pending the decision on the judicial reviews and have now been consolidated with the main appeals and are addressed below. In addition, Canada filed a motion to provide reply evidence to complete and contextualize the evidence admitted on CCLA and CCF's motion. The application judge granted Canada's motion in part.[79]

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[75] *CFN* at para 62.
[76] *Report of the Public Inquiry into the 2022 Public Order Emergency*, vol 1 (Ottawa: His Majesty the King in Right of Canada, 2023), p 247 ["**POEC Report"**].
[77] *Canadian Frontline Nurses v Canada (AG)*, 2022 FC 284.
[78] *Canadian Civil Liberties Association v Canada (AG)*, 2023 FC 118 [***Rule 312 Decision***].
[79] *CFN, and Kristen Nagle v Canada (AG)*, T-306-22/T-316-22/T-347-22/T-382-22, dated March 1, 2023 per Mosley J, AB, Vol 12, Tab 17.1, pp 6463-6472.

70. Second, in his judicial review reasons, the application judge decided Canada's motion to strike the judicial review applications for mootness and lack of standing. On mootness, the application judge found that an adversarial context continued to exist, that the record permitted meaningful judicial review, that judicial economy did not foreclose hearing the applications, and that the legislative history of the *EA* favoured exercising his discretion to hear the applications.[80] On standing, the application judge found that the applicants Cornell and Gircys alone had direct standing, and that both CCLA and CCF had public interest standing.[81] The other applicants—CFN and Nagle, Jost, and Ristau—lacked standing. Canada does not challenge these rulings on mootness or standing.

2) Judicial review decision

71. On judicial review, the application judge purported to apply the reasonableness standard of review in assessing the GIC's discretionary decision to declare a public order emergency under the *EA*.[82]

a) Application judge finds no national emergency

72. The application judge found that the First Ministers' meeting of February 14, 2022, satisfied the *EA*'s requirement to consult with the provinces and territories before declaring an emergency. However, he found that the *EA* required the federal government to wait while the provinces or territories determined whether they had the capacity or authority to deal with the threat at hand. He also found that it was an "overstatement" to suggest that the emergency existed "throughout Canada," even though the s. 58 Explanation identified a risk that new blockades would emerge at pressure points across the country. He found that the evidence showed the blockades were being dealt with through arrests and injunctions, aside from the "impasse" in Ottawa.

73. The application judge found that the Prime Minister's February 15, 2022, letter to the premiers did not directly address s. 3(a) of the *EA*, which requires that the situation

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[80] *CFN* at paras 134-158.
[81] *CFN* at paras 174-190.
[82] *CFN* at paras 192, 201.

exceed the capacity or authority of a province. He found that, as of that date, this requirement had been met only in Ontario due to the situation in Ottawa. It was "not clear" to him why tow-truck drivers could not have been compelled to assist in moving vehicles under provincial legislation. He saw "no obstacle" to assembling the large number of police officers from other forces ultimately used to assist the OPS in removing blockade participants. He found it was "debatable" whether the OPS was unable to enforce the rule of law in downtown Ottawa due to the overwhelming volume of protesters or instead due to a "failure of leadership and determination" and a "mistaken assumption" that the protest would be short-lived.

74. The application judge acknowledged the concerns expressed in the s. 58 Explanation about economic impacts and the risk of an increase in the level of unrest and violence based on ideologically motivated violent extremism associated with the Convoy, but made no findings on these issues. He found the evidence to be "clear" that the majority of provinces were able to deal with their situations using other federal laws (e.g., the *Criminal Code*) and their own legislation. Although he found that the evidence supported the conclusion that the situation was critical and required an urgent resolution by governments, in his view the evidence did not support the conclusion that the crisis could not have been effectively dealt with under other laws of Canada (citing Alberta) or that it exceeded the capacity or authority of provinces to deal with it (citing Quebec and the other provinces and territories including Ontario, except in Ottawa).

75. The application judge reached his own ultimate conclusion: "I conclude that there was no national emergency justifying the invocation of the *EA* and the decision to do so was therefore unreasonable and *ultra vires*".[83] In reaching this conclusion, he candidly acknowledged that he was revisiting the GIC's decision with the benefit of hindsight and additional materials that were not before the GIC:

> [370] At the outset of these proceedings, while I had not reached a decision on any of the four applications, I was leaning to the view that the decision to invoke the *EA* was reasonable. I considered the events that occurred in Ottawa and other locations in January and February 2022 went beyond legitimate protest and reflected an

[83] *CFN* at paras 241-255.

> unacceptable breakdown of public order. I had and continue to have considerable sympathy for those in government who were confronted with this situation. Had I been at their tables at that time, I may have agreed that it was necessary to invoke the Act. And I acknowledge that in conducting judicial review of that decision, I am revisiting that time with the benefit of hindsight and a more extensive record of the facts and law than that which was before the GIC. [Emphasis added.]

*b) **Application judge finds no threat to the security of Canada and no threats or use of acts of serious violence***

76. Based on his own interpretation of the *EA*, the application judge found that the GIC lacked reasonable grounds to believe that a threat to national security existed under s. 16 of the *EA*. Although he acknowledged that the harm being caused to Canada's economy, trade, and commerce was very real and concerning, he found that this did not constitute threats or the use of serious violence to persons or property.[84]

77. The application judge did not dispute that the activities in question were carried out for the purpose of achieving a political or ideological objective within Canada. But he found that the activities were not directed toward or in support of threats or use of acts of serious violence as the *Canadian Security Intelligence Service Act* [*CSIS Act*] required. On his own analysis, the application judge interpreted "serious" to mean "substantial rather than negligible" harm, rising to the level of at least "bodily harm" in the *Criminal Code*. He considered that "serious violence" to property could encompass *Criminal Code* offences relating to destruction or damage to property, including critical infrastructure (e.g., electrical grid or natural gas supply). But "absent any authority," the application judge found that he was "unable to find that the term encompasses the type of economic disruption that resulted from the border crossing blockades, troubling as they were."[85]

78. The application judge found that CSIS's assessment that there were no threats to the security of Canada within the meaning of s. 2 of the *CSIS Act* had to be given some weight but was not determinative. Nonetheless, he considered that the GIC had to assess whether reasonable grounds existed for believing there was a threat to the security of

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[84] *CFN* at paras 278-297.
[85] *CFN* at para 281.

Canada based on the definition provided by the *CSIS Act*. The application judge stated that while the decision to declare a public order emergency was "highly discretionary," it was akin to a legal determination made by courts rather than policymaking. In his view, "[t]here is only room for a single reasonable interpretation of the statutory provision".

79. Although the application judge acknowledged that the potential for serious violence was a valid concern, he found that it did not satisfy the test for invoking the *EA*, particularly because in his view there was no evidence of a "hardened cell" like the one seen at Coutts, only speculation, and the situation at Coutts had been resolved without violence.

80. The application judge stated that while events at the time were concerning, in his view the record did not support a conclusion that the Convoy created a critical, urgent, and temporary situation that was national in scope and could not effectively be dealt with under any other law of Canada. The situation at Coutts had been dealt with by the RCMP employing provisions of the *Criminal Code*. The Sûreté du Québec dealt with the protests in that province and the Premier expressed his opposition to the *EA* being invoked there. The application judge found that the record did not indicate that the police of local jurisdiction were unable to deal with the protests, except in Ottawa.

81. The application judge found the situation in Ottawa was unique: the OPS had been unable to enforce the rule of law in the downtown core, at least in part due to the volume of protesters and vehicles. But, in his view, although the harassment of residents, workers, and business owners in downtown Ottawa and the general infringement of the right to peaceful enjoyment of public spaces there was "highly objectionable", it did not amount to serious violence or threats of serious violence.

82. The application judge stated that although the other grounds for invoking the *EA* specified in the Proclamation "would have been sufficient to meet the test of 'threats to the security of Canada' had those words remained undefined in the statute," in his view the test for declaring a public order emergency under the *EA* required that each element be satisfied, including the definition imported from the *CSIS Act*. He found that the harm being caused to Canada's economy, trade, and commerce was "very real and concerning" but did not constitute threats or the use of serious violence to persons or property.

83. The application judge concluded there could be "only one reasonable interpretation of *EA* sections 3 and 17 and paragraph 2(c) of the *CSIS Act* and the Applicants […] established that the legal constraints on the discretion of the GIC to declare a public order emergency were not satisfied."[86]

c) Application judge finds breaches of ss. 2(b) and 8 of the Charter *but no breach of ss. 2(c), 2(d) or 7*

84. With respect to s. 2 of the *Charter*, the application judge found that the *Regulations* were overbroad and to the extent that peaceful protesters did not participate in the actions of those disrupting the peace, their freedom of expression under s. 2(b) of the *Charter* was infringed.[87] But the application judge found that the *Regulations* did not breach either the freedom of peaceful assembly under s. 2(c) of the *Charter*[88] or the freedom of association under s. 2(d) of the *Charter*.[89]

85. The application judge also found that the *Regulations* did not breach s. 7 of the *Charter* as the deprivation caused was temporary in nature and subject to judicial review.[90] However, he found that the *Economic Order* breached s. 8 of the *Charter*, finding that the *Economic Order* effectively enlisted financial institutions as subordinates of the government, bringing them within the scope of s. 8 of the *Charter*. He found there was no objective standard that needed to be satisfied before accounts were frozen, and this measure breached s. 8 of the *Charter* as a result.[91]

86. With respect to s. 1 of the *Charter*, while the application judge found that the objective of the *Regulations* and *Economic Order* was pressing and substantial, and that there was a rational connection between the freezing of accounts and the objective of stopping the funding of the blockades, the measures were not minimally impairing.[92]

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[86] *CFN* at para 372.
[87] *CFN* at paras 304-309.
[88] *CFN* at paras 310-314.
[89] *CFN* at paras 315-317.
[90] *CFN* at paras 318-324.
[91] *CFN* at paras 325-341.
[92] *CFN* at paras 351-359.

87. Lastly, while the application judge found that the *Bill of Rights* applied to the *EA*, the *Regulations*, and the *Economic Order*, he rejected the applicants' position that the *Bill of Rights'* due process provisions required the special measures to be put on hold while counsel and the application judge were engaged, and hearings were conducted. This would be contrary to the very purpose of the *EA* and an unnecessary burden on the justice system, given the temporary nature of the special measures.[93]

PART II – POINTS IN ISSUE

88. The application judge erred by:

(a) failing to properly apply the reasonableness standard of review to the GIC's discretionary decision to declare a public order emergency under the *EA*;

(b) admitting materials that were not before the GIC;

(c) finding that the *Regulations* violated s. 2(b) of the *Charter*; and

(d) finding that the *Economic Order* violated s. 8 of the *Charter*.

PART III – SUBMISSIONS

A. THE APPLICATION JUDGE'S ANALYSIS ATTRACTS NO DEFERENCE

89. On an appeal from a judicial review, this Court must determine whether the application judge "identified the appropriate standard of review and applied it correctly."[94] The application judge's analysis attracts no deference. This Court must "step into the shoes" of the application judge and review the decision for itself.[95].The tactical burden discussed by this Court in *Bank of Montreal* is not applicable in this appeal because the application judge's reasons do not provide a complete answer on all issues.[96] Any such

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[93] *CFN* at paras 362-369.
[94] *Agraira v Canada (MPSEP)*, 2013 SCC 36, [2013] 2 SCR 559 [***Agraira***] at para 45.
[95] *Northern Regional Health Authority v Horrocks*, 2021 SCC 42, 462 DLR (4th) 585 at paras 10-12.
[96] *Bank of Montreal v Canada (AG)*, 2021 FCA 189 at para 4.

burden would be readily met in any event, given the numerous flaws in the application judge's reasoning.

90. With respect to the constitutional issues, correctness review applies, irrespective of how the question is viewed.[97] On Canada's appeal of the application judge's Rule 312 decision to supplement the record with additional materials that were not before the GIC, the issue is "mainly one of law and is not discretionary,"[98] so the correctness standard applies. Even if this decision is characterized as discretionary, this Court must nonetheless intervene because the application judge erred in principle.[99]

B. THE APPLICATION JUDGE FAILED TO PROPERLY APPLY THE REASONABLENESS STANDARD OF REVIEW

1) Reasonableness review starts with the decision maker's reasons

91. In reviewing the GIC's discretionary decision to declare a public order emergency under the *EA*, the application judge's task was to start with the GIC's reasons—the s. 58 Explanation—and assess whether its reasoning demonstrated an internally coherent and rational chain of analysis that was justified in relation to the constraints at the time. A reviewing court must take a "reasons first" approach that evaluates the administrative decision maker's justification for its decision.[100] The application judge instead applied his own interpretation of the *EA*, performed his own assessment of the evidence with the benefit of hindsight and additional materials not before the GIC, and made his own findings about whether the circumstances amounted to a national emergency. In doing so, he failed to apply the methodology for reasonableness review.

92. Reasonableness is a deferential standard permitting judicial intervention only if necessary to safeguard the legality, rationality, and fairness of the administrative

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[97] *Vavilov* at paras 17 & 57; *Housen v Nikolaisen*, 2002 SCC 33, [2002] 2 SCR 235 at paras 8-9.
[98] *Association of Universities and Colleges of Canada v Canadian Copyright Licensing Agency*, 2012 FCA 22 [***Access Copyright***] at para 13.
[99] *Canada (AG) v Benjamin Moore & Co*, 2023 FCA 168 at para 27, citing *Hospira Healthcare Corporation v Kennedy Institute of Rheumatology*, 2016 FCA 215 at para 79.
[100] *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at paras 8 & 60.

process.[101] The Supreme Court of Canada in *Vavilov* confirmed that reasonableness review begins with the principle of judicial restraint and respect for the legislature's choice to delegate decision-making authority. It requires "respectful attention" to the decision maker's reasons, "seeking to understand the reasoning process followed by the decision maker to arrive at its conclusion."[102] Courts must not decide the issues for themselves:

> The Federal Court of Appeal noted in *Delios v Canada (AG)*, 2015 FCA 117, 472 N.R. 171, that, "as reviewing judges, we do not make our own yardstick and then use that yardstick to measure what the administrator did": para. 28; see also *Ryan*, at paras. 50-51. Instead, the reviewing court must consider only whether the decision made by the administrative decision maker—including both the rationale for the decision and the outcome to which it led—was unreasonable.[103]

93. Consistent with these principles, a court conducting reasonableness review must consider the outcome of the administrative decision in light of its underlying rationale in order to ensure that the decision as a whole is transparent, intelligible and justified. The court "must focus on the decision the administrative decision maker actually made, including the justification offered for it, and not on the conclusion the court itself would have reached in the administrative decision maker's place."[104]

94. To put it more simply, a judge on judicial review must determine whether the decisionmaker's reasoning and outcome are reasonable in light of the applicable factual and legal constraints at the time. The judge must not assess how they would have decided the question.[105]

95. Although the application judge recited relevant principles from *Vavilov*, he failed to apply the approach it demands. He did not start with the GIC's reasoning in the s. 58 Explanation. In fact, he did not even meaningfully summarize that reasoning, let alone assess its reasonableness. Nor did he consider whether the GIC's decision as a whole was

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[101] *Vavilov*, at paras 10 & 13.
[102] *Vavilov* at para 84, citing *Dunsmuir v New Brunswick*, 2008 SCC 9 at para 48.
[103] *Vavilov* at para 83.
[104] *Vavilov* at para 15 (emphasis added).
[105] *Vavilov* at para 85.

"based on an internally coherent and rational chain of analysis […] that is justified in relation to the facts and law that constrain the decision maker."[106] Instead, contrary to *Delios*, he developed his own yardstick and used it to measure what the GIC did. This is correctness review. Had he applied the required methodology for reasonableness review, he would have upheld the GIC's decision.

2) Reasonableness takes its colour from the context of the *EA*

96. *Vavilov* confirms that the reasonableness standard "takes its colour from the context": "what is reasonable in a given situation will always depend on the constraints imposed by the legal and factual context of the particular decision under review."[107] Here, this context includes the statutory framework governing the GIC's decision: the *EA*.

97. The *EA* gives the GIC—situated "at the apex of the Canadian executive"[108]—broad discretion to declare a public order emergency if it has "reasonable grounds" to believe one exists and requires special temporary measures. This legislative framework gives the GIC—not the courts—primary responsibility for making judgment calls about what the circumstances demand in the moment. Within this legislative context, reviewing courts should be sensitive to their limited role in ensuring those judgment calls are reasonable, and should not usurp the role that Parliament assigned to the GIC.[109]

98. Other appellate courts have applied this contextual approach in similar situations. For example, in *Gordon v Canada (AG)*, the Court of Appeal for Ontario emphasized the importance of deference and respect for the separation of powers with respect to wage caps and other pay restrictions enacted by government in response to the 2008 financial crisis. Justice Lauwers explained that economic policy is a core competency "of the legislature and executive, not the judiciary, particularly in circumstances of national importance where

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[106] *Vavilov* at para 85.
[107] *Vavilov* at para 89.
[108] *Vavilov* at paras 108, 110; *Entertainment Software Association v Society of Composers, Authors and Music Publishers of Canada*, 2020 FCA 100 at paras 28-32; *Gitxaala Nation v Canada*, 2016 FCA 187 at para 150; *Raincoast Conservation Foundation v Canada (AG)*, 2019 FCA 224 at paras 18-19.
[109] *Portnov v Canada (AG)*, 2021 FCA 171 at para 44.

the solutions to a problem are uncertain. This is where the democratic principle must surely bite most deeply."[110] He further cautioned that "[j]udicial second-guessing, in hindsight, of Parliament's response to a fast-moving crisis, in light of the polycentric nature of the issues, must be discouraged."[111]

99. Indeed, for the *EA*, the relevant statutory context is more than just how Parliament circumscribed the required decision-making. Given the *EA*'s subject matter, decisions under it must often be made rapidly and based on incomplete information. In an emergency context, decision-makers cannot wait until the bomb goes off or the water supply runs dry. That reality needs to be part of the calculus when evaluating the reasonableness of the decision made.

100. The *EA*'s burden of proof also reflects a precautionary and preventive approach to addressing emergencies. This is discussed in greater detail below. So is the wording of ss. 17 and 19 of the *EA*, which permits the GIC to consider a broad range of policy and public interest factors—polycentric criteria—when deciding whether to exercise its discretion to declare a public order emergency. As this exercise involves balancing competing interests and deciding on how best to use public resources in fast-moving situations, it must be left to the GIC.

101. The application judge considered that the *EA* contains "objective legal thresholds that must be satisfied before a Proclamation may issue," making the GIC's decision "more akin to the legal determinations courts make, governed by legal authorities, not policy."[112] But as Commissioner Rouleau observed in the POEC Report, the *EA*'s provisions include "broad, open-ended concepts such as 'threat' and 'serious,' that leave scope for reasonable people to disagree."[113] In any event, the existence of an "objective legal threshold" does not permit a reviewing court to conduct its own freestanding analysis of whether that threshold was met.

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[110] *Gordon v Canada (AG)*, 2016 ONCA 625 [***Gordon***] at paras 223-225, 228.
[111] *Gordon* at para 293.
[112] *CFN* at para 210.
[113] POEC Report Vol 1, pp 207–208.

102. Contrary to the application judge's view, the *EA*'s provisions do not admit of only one reasonable interpretation.[114] As the Supreme Court held in *Vavilov*, where a legislature chooses to use "broad, open-ended or highly qualitative language," it "clearly contemplates that the decision-maker"—here, the GIC—"is to have greater flexibility in interpreting the meaning of such language."[115]

103. More to the point, a reviewing court must not perform a "*de novo* analysis or measure the decision maker's interpretation against the one the Court would have reached."[116] Rather, a reviewing court must start with the decision maker's interpretation and assess whether it demonstrates an internally coherent and rational chain of analysis that was justified in relation to the constraints at the time.[117] If it does, the court must not substitute its own interpretation for that of the decision maker entrusted with the decision.

104. In reviewing the GIC's interpretation and decision to declare a public order emergency, the application judge failed to follow these principles. He did not grapple with—or even meaningfully summarize—the s. 58 Explanation, and he failed to show due deference[118] to the GIC's careful balancing of considerations of policy and the public interest, assessed on polycentric criteria and in real time, or to the GIC's reasonable apprehension about potential future developments given the dramatic revelations and arrests made at Coutts. Instead, the application judge, sitting as though he were a decision maker of first instance, took it upon himself to revisit and reweigh the evidence available to him and make his own findings—two years after the fact—about whether the situation warranted invocation of the *EA*. This flawed methodology tainted his entire analysis.

3) The GIC's decision to declare a public order emergency was reasonable

105. The GIC's decision to declare a public order emergency under s. 17 of the *EA* was reasonable. The GIC's s. 58 Explanation begins with a comprehensive acknowledgment of

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[114] *CFN* at paras 288, 372.
[115] *Vavilov* at para 110.
[116] *Yu v Richmond (City)*, 2021 BCCA 226 at para 53, citing *Vavilov* at paras 116-118, 120-121, 124; *1120732 B.C. Ltd. v Whistler (Resort Municipality)*, 2020 BCCA 101 at para 39.
[117] *Vavilov* at para 85.
[118] *Brar v Canada (MPSEP)*, 2024 FCA 114 at para 18.

the legal constraints on the GIC's discretion. First, as noted above, the GIC must have reasonable grounds to believe that a public order emergency exists and requires special temporary measures. Second, under s. 25(1) the lieutenant governor in council of each province where the emergency's effects occur must be consulted. Third, the emergency must arise from "threats to the security of Canada" within the meaning of s. 2 of the *CSIS Act*. Fourth, the emergency must be so serious that it amounts to a national emergency within the meaning of s. 3 of the *EA*.

106. The application judge did not pay the required respectful attention to the GIC's reasoning in the s. 58 Explanation, as the structure of his reasons reflects. As shown in his subheadings, he asked himself "Was there a national emergency?", "Was the 'threats to the security of Canada' threshold met?", and "Was there evidence of threats or use of acts of serious violence?"[119] He did not engage with the GIC's interpretation of the applicable legal framework or the GIC's express reasons for believing that reasonable grounds existed on February 14, 2022, to declare a public order emergency. Instead, he engaged in his own freestanding interpretation of the legal framework and his own freestanding analysis on the expanded record before him.[120]

107. The application judge's ultimate conclusion also reflects his flawed methodology: "I conclude that there was no national emergency justifying the invocation of the *Emergencies Act* and the decision to do so was therefore unreasonable and *ultra vires.*"[121] This phrasing confirms that the application judge started by reaching his own conclusion on whether a national emergency existed, and then found that the GIC's conclusion was unreasonable because it differed from his own. This is correctness review, not reasonableness review, even if the application judge used the latter's vernacular. Applying the required approach to a reasonableness review, the GIC's decision to declare a public order emergency was transparent, intelligible, and justified—*i.e.*, reasonable.

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[119] *CFN* at paras 219, 256, 266.
[120] *CFN* at paras 100-103, 191.
[121] *CFN* at para 255 [emphasis added].

a) The GIC met the consultation requirement

108. The application judge properly acknowledged that from the outset of the Convoy crisis in late January 2022, the federal government and the provincial governments engaged with each other extensively, as explained in the Consultation Report laid before both Houses of Parliament under s. 25 of the *EA*. On February 14, 2022, the Prime Minister convened a meeting of First Ministers to consult the provinces and territories on whether to declare a public order emergency. All premiers participated. They disagreed about whether the *EA* should be invoked, either at all or nationally. While several premiers expressed support, others said it was not required in their provinces.[122]

109. The application judge rightly held that this meeting satisfied the consultation requirement under s. 25(1) of the *EA*. This provision states that the lieutenant governor in council of each province in which the effects of the emergency occur must be consulted before the GIC declares any public order emergency.[123] The provision requires *consultation*, not unanimous—or even any—agreement. That requirement was met.

b) The "reasonable grounds to believe" standard has a preventive purpose and cannot be applied with hindsight

110. The *EA* gives the GIC discretion to declare a public order emergency when it believes on "reasonable grounds" that one exists and necessitates special temporary measures. This language signals that the GIC's discretion—exercised in a fast-moving context and with a view to potential future developments—attracts deference. This deference is consistent with the constitutional principles underlying Parliament's jurisdiction in emergency situations[124] and the scope given in assessing national security threats, where the emphasis is likewise on "precautionary and preventive principles" and

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[122] Shragge Affidavit, Ex B, AB Vol 6, Tab 13.9.2, pp 3415-3427; *CFN* at para 244.
[123] *CFN* at para 244.
[124] E.g., *Reference re Anti–Inflation Act*, 1976 CanLII 16, [1976] 2 SCR 373 [***Re Anti–Inflation***].

avoiding being "too late."[125] In this context, "the cost of failure can be high" as Lord Hoffman noted in *Rehman* (which the Supreme Court cited with approval in *Suresh*).[126]

111. The "reasonable grounds to believe" standard allows the GIC to act before it is too late and fulfills the *EA*'s purposes by requiring more than a bare opinion or suspicion, but less than proof on a balance of probabilities. The GIC must have an objective basis for the belief, based on compelling and credible information.[127] This standard permits the GIC to make judgment calls in the moment based on its global assessment of the situation. As the Minister of National Defence explained at the Legislative Committee in discussing the bill that led to the *EA* (the *EA* Bill):

> It depends not only on an assessment of the current facts of the situation, but even more on judgments about the direction events are in danger of moving and about how quickly the situation could deteriorate. Judgments have to be made, not just about what has happened or is happening, but also about what might happen.[128]

112. As the application judge acknowledged, with the luxury of time and the benefit of hindsight, one can easily imagine different ways that an emergency could have been managed.[129] As Binnie J put it in *NAPE*, "resourceful counsel, with the benefit of hindsight, can multiply the alternatives."[130] And it is equally easy to criticize past judgment calls based on subsequent information about what did or did not happen. But such hindsight has

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[125] *Secretary of State for the Home Department v Rehman*, [2001] UKHL 47 [***Rehman***] at paras 22 and 56; *Suresh v Canada*, 2002 SCC 1, [2002] 1 SCR 3 [***Suresh***] at para 85; *Charkaoui (Re)*, 2003 FC 1419 at paras 126–128*; R v Cornell*, 2010 SCC 31, [2010] 2 SCR 142 at para 24.
[126] *Rehman* at para 62, cited in *Suresh* at para 33.
[127] *Mugesera v Canada (MCI)*, 2005 SCC 40, [2005] 2 SCR 100 at paras 114–16; *Canada (MCI) v Harkat*, 2014 SCC 37, [2014] 2 SCR 33 at para 30.
[128] House of Commons, Legislative Committee on Bill C–77, *Evidence,* 33–2, Vol 1, No 1, pp 13-14 (Hon. Perrin Beatty, Min. of National Defence).
[129] *Taylor v Newfoundland and Labrador*, 2020 NLSC 125 [***Taylor***] at para 455.
[130] *Newfoundland (Treasury Board) v NAPE*, 2004 SCC 66, [2004] 3 SCR 381at para 96.

no place in the judicial review process.[131] The reasonableness of the GIC's decisions made in the moment must be assessed in light of the circumstances that existed in that moment.[132]

113. Although the application judge correctly identified the applicable standard—"reasonable grounds to believe"—he never considered whether the GIC's reasoning demonstrated reasonable grounds for *its* belief that a public order emergency existed. Instead, he wrongly decided for himself whether reasonable grounds existed.

114. The *EA* did not require the GIC to engage in a detailed assessment of credibility or the precise level of risk suggested by various aspects of the crisis. Rather, the EA required the GIC only to establish reasonable grounds to believe the *EA*'s other criteria were met, considered globally. It would be incompatible with the urgent nature of emergency situations to require "the most relevant evidence" or "substantively equivalent inputs" as the CCF proposed in the court below, or to impose any formulaic framework.[133]

115. Unlike judicial or quasi-judicial findings, the GIC's findings need not be supported on a balance of probabilities. To the extent that the applicants argue (as they did in the court below) that the GIC must be satisfied there was a "reasonable probability – not just the possibility – of violence,"[134] they are wrong. Neither the criminal "reasonable and probable grounds" standard nor the civil "balance of probabilities" standard applies here.

116. Given the forward-looking nature of the *EA*, which contemplates both acts and *threats* of serious violence (as discussed below), the GIC may reasonably consider "possibilities" that are supported by compelling and credible information. As Chief Justice Crampton recently summarized in *Spencer*, the issue is whether there is "a reasonable basis in the record to support the GIC's opinion."[135] Although the application judge correctly

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[131] *Beaudoin v B.C. (AG)*, 2022 BCCA 427 [***Beaudoin***] at para 268; *Ontario (AG) v Trinity Bible Chapel*, 2023 ONCA 134 [***Trinity Bible Chapel ONCA***] at paras 52-57.
[132] *Canadian Council for Refugees v Canada*, 2008 FCA 229 [2009] 3 FCR 136 at para 57, aff'd *Canadian Council for Refugees v Canada (MCI)*, 2023 SCC 17 at paras 50-52.
[133] CCF FC Memorandum of Fact and Law [**MFL**], para 25, AB, Vol 14, Tab 20, p 7535.
[134] CCLA MFL, para 59, citing *R v Beaver*, 2022 SCC 54 at para 72(6), AB, Vol 14, Tab 19, p 7484.
[135] *Spencer v Canada (Health)*, 2021 FC 621 [***Spencer***] at para 250.

noted that the standard of proof was lower in *Spencer*, he missed the more fundamental point: as in *Spencer*, the issue before the application judge was whether the GIC acted reasonably in finding that the relevant standard was met—here, that reasonable grounds existed for declaring a public order emergency—not whether, in his own view, that standard was met.

c) The GIC acted reasonably in finding reasonable grounds to believe a threat to the security of Canada existed on February 14, 2022

117. As the s. 58 Explanation described, between January 29 and February 14, 2022, Canada faced an urgent, unpredictable, and volatile situation of escalating, unlawful demonstrations and illegal blockades across the country that included acts or threats of serious violence to persons or property linked with a stated purpose of achieving a change in government policy and in some instances a change of the government.[136]

118. Based on these circumstances, the GIC acted reasonably in finding reasonable grounds to believe a threat to the security of Canada existed on February 14, 2022. The application judge erred by assessing for himself, with the benefit of hindsight and an expanded record, whether such a threat existed. He also erred by finding that because there was no "threat to the security of Canda" under the *CSIS Act*, there was no threat under the *EA*.

i) The application judge erred in his interpretation of "threats to the security of Canada"

119. The application judge wrongly interpreted the *EA* for himself, without due deference to the GIC's interpretation. The s. 58 Explanation properly noted that threats to the security of Canada included the "threat or use of acts of serious violence against persons or property for the purpose of achieving a political or ideological objective" and went on to specify five categories of such threats and acts.[137] Even though s. 16 of the *EA*

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[136] s. 58 Explanation, AB, Vol 6, Tab 13.9.1, p 3404; Coleman Affidavit, Ex B, Ex WW, AB, Vol 7, Tab 13.11, pp 3603-3618, 3937-3945; Nagle Cross–Exam Transcript, AB, Vol 12, Tab 17.3, p 6560; Supplemental Affidavit of Rebecca Coleman sworn February 1, 2023 [**Supplemental Coleman Affidavit**], Ex A, POEC Charrette/Drouin, and Exhibit C, POEC Mendicino, AB, Vol 12, Tab 17.2, pp 6478-6508, 6518-6533.
[137] s. 58 Explanation, AB, Vol 6, Tab 13.9.1, pp 3399-3413.

incorporates the definition of "threats to the security of Canada" under s. 2 of the *CSIS Act*,[138] the application judge erred by interpreting this phrase exclusively by reference to its meaning in the context of the *CSIS Act*.[139]

120. The meaning of "threats to the security of Canada" under s. 2 of the *CSIS Act*, and CSIS's views on whether the situation on February 14, 2022, engaged that language, did not govern the GIC's task given the different legislative purposes and contexts. As Commissioner Rouleau noted: "the *CSIS Act* and the *Emergencies Act* are different regimes that operate independently from each other. They serve different purposes, involve different actors, and implicate different considerations."[140] While CSIS's input was "an important consideration," as Commissioner Rouleau properly noted "it was not, and should not have been, determinative."[141] The GIC had its own legislation to apply, its own collection of factors to consider, and its own decision to make. Had Parliament intended to give CSIS the power to declare a public order emergency, it would have done so.

121. Commissioner Rouleau's analysis is consistent with the modern approach to statutory interpretation. Legislative provisions must be read in their entire context and in a manner consistent with the legislation's purposes.[142] Applying this approach, the meaning of s. 16 of the *EA* cannot be determined solely by recourse to how the text of s. 2 of the *CSIS Act* has been interpreted.

122. Different decision makers acting in different legislative contexts can reach different interpretations, even if the statutory language is similar or even the same. CSIS interprets and applies the phrase "threats to the security of Canada" solely for the purposes of the *CSIS Act*, which creates a civilian intelligence agency with a defined mandate to investigate

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[138] *CSIS Act*, RSC 1985, c. C–23.
[139] *CFN* at paras 287-288, 372.
[140] POEC Report Vol 1, p 206.
[141] POEC Report Vol 1, p 206.
[142] *Re Rizzo & Rizzo Shoes Ltd*, 1998 CanLII 837, [1998] 1 SCR 27 [***Rizzo & Rizzo***] at paras 21-22.

threats requiring security intelligence.[143] CSIS focuses mainly on gathering security intelligence about "subjects of investigation," and the phrase "threats to the security of Canada" operates as a threshold for CSIS to exercise its intelligence-gathering mandate for specific activities.[144]

123. By contrast, the subject-matter and purpose of possible orders and regulations issued for a public order emergency include regulating public assemblies, securing protected places, controlling public services, compelling essential services, and imposing penalties for contravening the orders and regulations.[145]

124. In light of these differences and the requirement to consider not only the text of the legislation but also its context and purpose, the application judge erred in finding that he had to "take the definition as it reads" and that there was "only room for a single reasonable interpretation of the statutory provisions."[146]

ii) The application judge erred in his interpretation of "serious violence"

125. The application judge also erred in finding that the s. 58 Explanation did not provide reasonable grounds for believing that the situation on February 14, 2022 constituted a threat of serious violence to persons or property.

126. To declare a public order emergency, the GIC must have reasonable grounds to believe that a "threat or use of acts of serious violence against persons or property" exists. This standard requires something more than a threat of minor acts of violence, but is not restricted to activities that threaten or cause death or a "serious personal injury offence"

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[143] *House of Commons Debates*, 32–2, Vol 2 (February 10, 1984), p 1273 (Hon Bob Kaplan, Solicitor General of Canada); The McDonald Commission, *Second Report* (1981) Vol 1, No 3, pp 413, 423; The McDonald Commission, *Second Report* (1981) Vol 2, No 3, p 1067; *House of Commons Debates*, 32–2, Vol 2 (February 10, 1984), pp 1271–1274 (Hon Bob Kaplan, Solicitor General of Canada); House of Commons, Standing Committee on Justice and Legal Affairs, *Evidence*, 32–2, Vol 1, No 9, p 5 (Hon Bob Kaplan, Solicitor General of Canada).
[144] *CSIS Act*, ss 12(1), 21(1).
[145] *EA*, s 19.
[146] Supplemental Coleman Affidavit, Ex E, POEC Vigneault, AB, Vol 12, Tab 17.2, pp 6555-6559.

under the *Criminal Code*. In the context of the *EA*, Parliament adopted the definition in s. 2 of the *CSIS Act* to permit the government to protect Canadians from prospective harms caused by national emergencies that pose a threat of violence well short of lethality.

127. As the application judge correctly noted, the threat of "serious violence" in s. 2(c) of the *CSIS Act* need not involve the "use or attempted use of violence" to endanger the life or safety of another person or to inflict severe psychological damage.[147] That separate standard is the one used for determining whether a "serious personal injury offence" has been committed under s. 752 *Criminal Code*, not for determining whether there is a "threat or use of acts of serious violence against persons or property" engaging CSIS's investigatory powers under the *CSIS Act* or the GIC's discretion under the *EA*.

128. However, contrary to the application judge's findings, serious violence also does not require harm at the level of "bodily harm" under the *Criminal Code*.[148] That concept does not apply in the *EA* context. Even under the *CSIS Act*, "serious violence" has always simply meant something more than "minor" forms of violence. This is evident in the legislative history of the *CSIS Act*,[149] which shows that the proposal to add the word "serious" to modify the term "violence" was raised and rejected by the Senate committee considering Bill C-9 (which ultimately became the *CSIS Act*), because the term "violence" was deemed sufficient on its own.[150]

129. At the House of Commons Standing Committee on Justice and Legal Affairs, several options were again proposed to avoid capturing "minor acts of political violence," with the example of protesters throwing tomatoes at politicians being repeatedly cited.

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[147] *CFN* at para 280.
[148] *Ibid*.
[149] *1704604 Ontario Ltd v Pointes Protection Association*, 2020 SCC 22 at para 6.
[150] *Debates of the Senate*, 32–1, Vol 5 (3 November 1983) at 6147–6149 (Appendix: Report of the Special Senate Committee on the Canadian Security Intelligence Service, *Delicate Balance: A Security Intelligence Service in a Democratic Society* (November 1983)), paras 35–36.

"Criminal violence" was an option that was rejected, while "serious violence" ultimately carried the day.[151]

130. Although the Solicitor General did not think that "minor acts of violence" should be a matter of great concern to CSIS in any event and did not think the addition of the word "serious" was needed, he advised the Committee that the addition was acceptable to the government if the Committee wanted such reassurance.[152]

131. With respect to the Convoy blockades and occupations, the s. 58 Explanation noted that there were considerable cumulative threats of serious violence to individuals, including the threat of lethal violence.[153] Actual threats of violence and death against law enforcement and elected officials, along with the atmosphere of intimidation, harassment and lawlessness, demonstrated increasing threats of serious violence at the illegal blockades, demonstrations, and occupations.[154] Counter-protests and concerns about retaliation were also becoming an issue in Ottawa, Windsor, Vancouver and elsewhere.[155]

132. Further, the s. 58 Explanation outlined how the closure of, and threats against, major ports of entry along the Canada-U.S. border had not just had massive economic impacts, but "imperiled the welfare of Canadians by disrupting the transport of crucial

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[151] *Ibid*; House of Commons, Standing Committee on Justice and Legal Affairs, *Evidence*, 32–2, No 12 (10 April 1984) at 12:17–12:21 (Hon. Warren Allmand, Notre-Dame-de-Grâce, Lachine East, L & Hon. Bob Kaplan, Solicitor General of Canada).

[152] House of Commons, Standing Committee on Justice and Legal Affairs, *Evidence*, 32–2, No 12 (10 April 1984) at 12:17–12:21 (Hon. Warren Allmand, Notre-Dame-de-Grâce, Lachine East, L & Hon. Bob Kaplan, Solicitor General of Canada).

[153] s. 58 Explanation, pp 11–14, AB, Vol 6, Tab 13.9.1, pp 3410-3413; Supplemental Coleman Affidavit, Ex A, POEC Charrette/Drouin, Ex C, POEC Mendicino, Ex D, POEC Prime Minister Trudeau, AB, Vol 12, Tab 17.2, pp, 6478-6508, 6518-6533, 6534-6554.

[154] Supplemental Coleman Affidavit, Ex C, POEC Mendicino, Ex D, POEC Prime Minister Trudeau, AB, Vol 12, Tab 17.2, pp, 6518-6533, 6534-6554; s. 58 Explanation, pp 13– 14, AB, Vol 6, Tab 13.9, p 3412-3413; Coleman Affidavit, Ex EE, SS, GGGGG, SSSSS, WWWWW, AAAAAA, AB, Vol 7, Tab 13.11, pp 3813-3816, 3909-3914, 4245-4259, 4372-4594, 4623-4635, 4657-4667.

[155] Coleman Affidavit, Ex LL, OO, SSS, VVV, GGGGG, QQQQQ, AB, Vol 7, Tab 13.11, pp 3864, 3866, 3872, 3875, 3892, 4060, 4081, 4252, 4255, 4319; Supplemental Coleman Affidavit, Ex D, POEC Prime Minister Trudeau, AB, Vol 12, Tab 17.2.4, pp 6540.

goods, medical supplies, food, and fuel".[156] The threat of shortages of medicines, food and fuel was real and serious and raised risks of serious violence, indirectly if not directly.

133. The *EA* also encompasses the threat or use of serious violence against property, which is not limited to physical damage. The term "violence" must be interpreted in the context in which it is used.[157] Here, that context included the purpose of the *EA*, which is to protect the safety and security of Canadians.

134. The application judge erred in finding that "absent any authority" he was "unable to find the term [serious violence] encompasses the type of economic disruption that resulted from the border crossing blockades, troubling as they were." [158] Likewise, he erred in concluding that although "harm being caused to Canada's economy, trade and commerce, was very real and concerning, it did not constitute threats or the use of serious violence to persons or property."[159] Those conclusions were not his to make. He referenced no authorities challenging the GIC's interpretation and failed to consider the harms and threats of harms explicitly identified in the s. 58 Explanation. As that explanation notes, rendering critical infrastructure unusable creates the same danger to Canadians' safety and security as physical damage to that infrastructure and amounts to "serious violence" with respect to property. The blocking of borders risked harming Canadians due to its impacts on the economy, directly affected businesses and their employees, shortages of foods and medicines, and Canada's international reputation for trade and investment.[160]

135. Given these findings, and the text, context, and purpose of the *EA*, the GIC acted reasonably in finding reasonable grounds to believe that a "threat or use of acts of serious violence against persons or property" existed on February 14, 2022. Moreover, the fact that such blockades could constitute a national security threat is not novel. In the Legislative Committee's 1988 discussion about the *EA* Bill, MP Patrick Crofton raised a prescient

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[156] s. 58 Explanation, p 11, AB, Vol 6, Tab 13.9.1, p 3410.
[157] *R v Steele*, 2014 SCC 61 at para 44.
[158] *CFN* at para 281.
[159] *CFN* at para 296.
[160] s. 58 Explanation, AB, Vol 6, Tab 13.9.1; Supplemental Coleman Affidavit, Ex C, POEC Mendicino, AB, Vol 12, Tab 17.2, pp 6518-6533.

example of a situation to which the new legislation might apply: a longstanding blockade at Canada's busiest port in Vancouver that reached the point where police capacity was outstripped, public order and public safety were not being maintained, there were increasing impacts on economic activity, and there was growing public hysteria.[161] This is akin to what happened in January and February 2022.

iii) The GIC acted reasonably in finding reasonable grounds to believe a threat to the security of Canada existed

136. The subject of judicial review was the GIC's "highly discretionary" decision to declare a public order emergency under s. 17 of the *EA*.[162] The question of whether a "threat to the security of Canada" existed at the time depended, in part, on the GIC's belief, on reasonable grounds, that a threat to the security of Canada existed. Whether there actually *was* a threat to the security of Canada when the GIC exercised its discretion to make a declaration—much less viewed in hindsight—is not part of the analysis when judicially reviewing the GIC's decision to make the declaration. The proper question is whether the GIC acted reasonably (i.e., transparently, intelligibly, and justifiably) in finding reasonable grounds to *believe* there was a threat to the security of Canada. Although this is more or less what the application judge stated at paragraph 202 of his reasons, it is not the analysis he actually conducted.

137. The GIC acted reasonably in finding reasonable grounds to believe a threat to the security of Canada existed. The application judge erred by revisiting that finding himself.

138. The phrase "threats to the security of Canada" under the *EA* must be read in its entire context and in its grammatical and ordinary sense harmoniously with the scheme of the *EA*, the object of the *EA*, and the intent of Parliament in enacting the *EA*.[163] Parliament's intent was to give the GIC broad discretion to take wide-ranging action in exceptional

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[161] House of Commons Committees, Legislative Committee on Bill C–77, *Evidence*, 33–2, Vol 1, No 7, p 32 (Mr. Crofton).
[162] *CFN* at para 288.
[163] *Rizzo & Rizzo* at paras 21-22.

circumstances. This intent demands some flexibility in the GIC's assessment of the circumstances in which a proclamation of a public order emergency may be made.

139. The GIC plainly found there were reasonable grounds for believing that a threat to the security of Canada existed. The s. 58 Explanation identified multiple acts and threats of harm to people and property for ideological ends, including impeding ports of entry, causing businesses to shutter, threatening to block railway lines, threats to bomb hospitals, threats to MPs, threats to attack the Quebec National Assembly, breaking into businesses and residences, threatening law enforcement and Ottawa residents, and the hampering of emergency medical responders.

140. The application judge essentially ignored those matters because in his view "serious violence" to property did not encompass the admittedly "very real and concerning" "harm being caused to Canada's economy, trade and commerce."[164] However, he provided no apparent basis for this conclusion and neglected to perform his role of assessing whether the GIC had acted reasonably. He failed to engage with, or even acknowledge, the harms to Canadians and threats of harm explicitly identified in the s. 58 Explanation.

141. The GIC was not bound to wait for any further assessments by CSIS, police, or other authorities before declaring a public order emergency. Nor was it required to wait for a firefight with Diagolon supporters, or some other eruption of violence after the cache of arms was discovered at Coutts. The GIC acted reasonably in finding reasonable grounds—as identified in the s. 58 Explanation—for believing a threat to the security of Canada existed at the time. The application judge himself found that "the discoveries of weapons, ammunition and other materials at Coutts was deeply troubling and greatly influenced the Cabinet in recommending the invocation of the Act. As did the possibility that similar findings would emerge at any of the other blockades across the country."[165]

142. The application judge also acknowledged that despite the suggestion of benign intent associated with bouncy castles and hot tubs in downtown Ottawa, "there were

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[164] *CFN* at para 296.
[165] *CFN* at para 242.

undoubtedly others present there and elsewhere at the blockades across the country with a darker purpose. And there were threats expressed in social media and other online communications of an intent to resist efforts by the police to dismantle the existing blockades and set up new ones at different locations."[166]

143. All of these findings support the conclusion that the GIC acted reasonably in finding reasonable grounds to believe a threat to national security existed on February 14, 2022. The situation facing the GIC at the time included the intransigence of the occupation in Ottawa, ongoing difficulties in resolving several of the border blockades, the threat of even more blockades, and the alarming arrests and seizure of weapons at Coutts that very morning.

144. The application judge admitted that his dismissal of all of these threats—and his finding that the "threats were being dealt with by the police of provincial and local jurisdiction outside of Ottawa"[167]—was based on hindsight and an expanded record that was not before the GIC at the time. The application judge even acknowledged that had he "been at their tables at the time," he "may have agreed that it was necessary to invoke the Act."[168] These admissions lay bare a methodologically flawed approach to reasonableness review. Rather than assessing whether the GIC's decision and the reasons given for it were reasonable in light of the applicable factual and legal context, the application judge reweighed the evidence and concluded *ex post facto* that "the only reasonable outcome" was for the GIC not to invoke the *EA*.

145. *Vavilov* prohibits this approach. *Vavilov* requires judges to read the administrative decision maker's reasons "in light of the record and with due sensitivity to the administrative setting in which they were given".[169] The application judge failed to give due consideration to the purpose of the *EA*: to entrust the GIC with the authority to implement temporary measures to address a public order emergency. And while the GIC must base its assessment that an emergency exists on compelling and credible information,

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[166] *CFN* at para 243.
[167] *CFN* at para 243.
[168] *CFN* at para 370.
[169] *Vavilov* at para 91 (see heading).

this assessment still involves judgment calls. As noted by the then-Minister of National Defence when discussing the *EA* Bill, judgment calls must be made not only about the current situation, but also about the direction events are headed and "how quickly the situation could deteriorate."[170]

146. This reality underscores why hindsight has no place in assessing the reasonableness of the GIC's decision to declare a public order emergency. Consideration of how events might have unfolded differently or did in fact unfold departs from an evaluation of the GIC's consideration of the information that was before it at the time. The reasonableness of the GIC's decision-making must be assessed in the context of those decisions.

147. Although Canada maintains that the application judge erred in admitting evidence from the POEC on judicial review (as argued below), Canada argues alternatively that if this Court finds the POEC evidence admissible, it only reinforces the reasonableness of the GIC's exercise of its discretion. For instance, the Public Safety Minister testified that the RCMP Commissioner had underlined for him that Coutts "involved a hardened cell of individuals who were armed to the teeth with lethal firearms, who possessed a willingness to go down with the cause." Given "the potential for gun violence and for the loss of life, and the fact that there were RCMP personnel that were in the field," the Minister stated that he was "extremely concerned that this had reached a new height of both urgency and emergency," particularly in light of earlier OPS reports that "guns had been brought into the National Capital Region" and "potentially into the Parliamentary Precinct," and a report about the arrest of a Convoy participant in Ottawa that ultimately resulted in the seizure of a firearm.[171]

148. The Clerk of the Privy Council, meanwhile, provided evidence at POEC placing the Invocation Memorandum's[172] comments about the discovery of a cache of weapons at

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[170] House of Commons Committees, Legislative Committee on Bill C–77, *Evidence*, 33–2, Vol 1, No 1, pp 13–14 (Hon. Perrin Beatty, Min. of National Defence).
[171] Supplemental Coleman Affidavit, Ex C, POEC Mendicino, AB, Vol 12, Tab 17.2, pp, 6518-6533.
[172] This document is a Memorandum for the Prime Minister from the Clerk of the Privy Council with the subject line "Invoking the *Emergencies Act* to End Nation-Wide Protests

Coutts in the context of the prior days' IRG briefings. RCMP Commissioner Lucki had raised the possibility of weapons at Coutts and earlier described the situation there as "complex." And there was discussion about why Coutts could not be solved; it "looked like it was getting fixed; then it was not getting fixed." But when the Clerk learned of the arrests and the quantity of weapons discovered earlier on February 14, she understood that the "seriousness" and "scale" of contemplated illegal activity was "beyond […] prior expectations."[173]

149. These concerns grounded the Invocation Memorandum's reference to "elements within the movement that have intentions to engage in violence" and the "movement having moved beyond peaceful protest."[174] The Clerk further explained that the movement was not homogeneous but was understood to comprise "cells of protest activity" with "different objectives" yet "some degree of organization and coordination," including via social media. Beyond those opposed to public health measures, there was "talk about overthrowing the government," and this "other element" was not something the Clerk felt could be ignored. Considering the situation nationally, and breakouts or incidents from coast to coast, the Clerk observed "an escalation, this was a series of volatility."[175]

150. The s. 58 Explanation also explained the importance of the Coutts incident when outlining the threat of serious violence animating the GIC's decision to invoke the *EA*.[176]

151. All of this explanation demonstrates transparency, intelligibility, and justification. Assessing the GIC's decision in the context in which it was made—rather than reweighing the evidence with the benefit of hindsight—it was reasonable for the GIC to issue the proclamation declaring that a public order emergency existed. The application judge's finding that no threat to the security of Canada existed at the time is untenable. For

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and Blockages"; it was not part of the GIC's tribunal record but was tendered at the POEC and admitted by the application judge on the Rule 312 motion, as discussed below.

[173] Supplemental Coleman Affidavit, Ex A, POEC Charrette/Drouin, AB, Vol 12, Tab 17.2, pp 6478-6508.

[174] CCLA MFL, para 62 AB, Vol 14, Tab 20, p 7548.

[175] Supplemental Coleman Affidavit, Ex A, POEC Charrette/Drouin, AB, Vol 12, Tab 17.2, pp 6478-6508.

[176] s. 58 Explanation, AB, Vol 6, Tab 13.9.1.

example, it is untenable to suggest that the crisis in Ottawa simply involved "parked cars" and honking horns absent any threat of "serious violence," or to suggest that Coutts was just a "local law enforcement concern," as the respondents suggested in the court below.[177] As the s. 58 Explanation noted, there were serious safety concerns for both residents and police in Ottawa and reports of harassment, intimidation and assault—and law enforcement was overwhelmed. In the circumstances, the GIC acted reasonably in finding reasonable grounds to believe a threat to the security of Canada existed.

*d) **The GIC acted reasonably in finding reasonable grounds to believe a national emergency existed***

152. The application judge erred in concluding that, in his view, s. 17's requirement of a "national emergency" was not met. He erred in finding that the *EA* requires the GIC "to wait when the country is 'threatened by serious and dangerous situations'" to allow provinces to decide for themselves whether they have the capacity or authority to deal effectively with the situation.[178] This interpretation would produce intolerable results.

153. The law required the application judge to ask whether the GIC's belief that a national emergency existed was reasonable (*i.e.*, transparent, intelligible, and justified) based on what was known at the time and reasonably foreseeable. The s. 58 Explanation demonstrates that the GIC understood the meaning of "national emergency": "an urgent, temporary and critical situation that seriously endangers the health and safety of Canadians that cannot be effectively dealt with by the provinces or territories, or that seriously threatens the ability of the Government of Canada to preserve the sovereignty, security and territorial integrity of Canada. It must be a situation that cannot be effectively dealt with by any other law of Canada." [179]

154. The facts at the time reasonably supported the GIC's finding that there were reasonable grounds to believe a national emergency existed. For example, when the weapons cache and alleged plot to murder RCMP officers was discovered at Coutts, it was

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[177] CCLA FC MFL, paras 45,46, 62, AB, Vol 14, Tab 20, p7548 pp 7545, 7548.
[178] *CFN* at para 241.
[179] s. 58 Explanation, AB, Vol 6, Tab 13.9.1.

reasonable for the GIC to consider that similar actors might exist at other blockades or in the Ottawa occupation, contrary to the application judge's view that this was "only speculation."[180] An objective basis for the belief existed, founded on compelling and credible evidence.

155. The application judge acknowledged that the Coutts blockade posed a threat of serious violence, but downplayed this threat as an isolated incident that was "resolved without violence."[181] This is hindsight bias on full display.[182] When the GIC decided to invoke the *EA* on February 14, 2022—the same day the arrests were made at Coutts—there was no certainty that the Coutts incident was isolated or "resolved." Moreover, protests continued to "pop up" across the country, even after the GIC invoked the *EA*.[183] There remained a real risk that "cleared" locations would be recaptured or new blockades established.[184] Even if subsequent events proved to be non-violent, it is impossible to know what would have happened if an emergency had not been proclaimed and the emergency measures had not been implemented. Hindsight and counterfactuals offer no insight when assessing reasonableness; what matters is what the GIC had reasonable grounds to believe on February 14, 2022.[185] On that date, it was reasonable for the GIC to consider these risks in its assessment of the nature and geographical scope of the threat posed to the country

156. The crisis Canada was facing was national in scope and could not be resolved in a localized or piecemeal fashion. Moreover, the situation in Coutts underscored that it was a crisis involving violent elements. The connections between these different elements were

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[180] *CFN* at para 292.
[181] *Ibid*.
[182] *Taylor* at para 455.
[183] s. 58 Explanation, AB, Vol 6, Tab 13.9.1; Coleman Affidavit, Ex ZZZZ, Ex FFFFF, Ex HHHHH, Ex JJJJJ, Ex KKKKK, Ex PPPPP, Ex WWWWW AB, Vol 7, Tab 13.11, pp 4220-4222, 4242-4243, 4260-4263, 4276-4284, 4285-4287, 4311-4313, 4623-4635; Supplemental Coleman Affidavit, Ex A, POEC Charrette/Drouin, and Ex D, POEC Prime Minister Trudeau, AB, Vol 12, Tab 17.2, pp 6478-6508, 6534-6554.
[184] Supplemental Coleman Affidavit, Ex D, POEC Prime Minister Trudeau, AB, Vol 12, Tab 17.2, pp 6534-6554. The s. 58 Explanation also refers to the need for efforts to ensure the Ambassador Bridge and Coutts entry point remained open after they were cleared: AB, Vol 4, Tab 13.2, pp 1316, 1320.
[185] *Canadian Council for Refugees v Canada (MCI)*, 2023 SCC 17 at para 50.

evident in, for instance, the presence of the Diagolon insignia on body armour seized at Coutts, while the group's founder, Jeremy MacKenzie, was at the occupation in Ottawa—weeks after police allegedly found five restricted weapons, prohibited magazines, ammunition, and body armour at his house.[186]

157. As described in the s. 58 Explanation, utilizing the national scope of the *EA* was not only reasonable, but also necessary, as demonstrations and blockades were still taking place outside of Ottawa, and the risk of new demonstrations and blockades or movement of participants was real. The GIC reasonably believed that the situation was still fluid and that the *EA* measures needed to apply across Canada to be effective.[187]

158. Although the CCLA and CCF argued in the court below that by the time the Proclamation was made on February 14, 2022, blockades had "cleared" and the threats were "resolved,"[188] this assertion is inaccurate. The situation was not "resolved" or under control on February 14, despite the measures being taken by police to deal with blockades. Their argument reflects the same hindsight error made by the application judge. The fact that events did not occur *after* February 14 does not mean there was no reasonable basis *on* February 14 for believing they might occur in the future.

i) The GIC acted reasonably in finding reasonable grounds to believe the emergency could not have been dealt with effectively under any other law of Canada

159. The GIC acted reasonably in finding reasonable grounds to believe that the public order emergency could not have been "effectively dealt with under any other law of Canada," as s. 3 of the *EA* requires. This provision requires a broad and general assessment. It does not require the GIC to focus on any specific statute or outcome of the situation; rather, it requires the GIC to consider whether the existing laws of Canada (i.e., federal laws), *taken together*, can adequately deal with the whole situation. This interpretation is

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[186] Nagle Cross–Exam Transcript, AB, Vol 12 Tab 17.3, pp 6699, 6706.
[187] *Fort Frances Pulp and Power Co. v Man. Free Press Co*, [1923] A.C. 695 cited by all judges in *Reference re Wartime Leasehold Regulations*, [1950] SCR 124.
[188] CCLA MFL, paras 21, 58, Schedule A, AB, Vol 14 Tab 19, pp 7475, 7484, 7502, CCF MFL, para 36, AB, Vol 14 Tab 20, p 7541.

supported by the "shared meaning" principle of bilingual interpretation[189] and the French version of the provision: "une situation de crise nationale résulte d'un concours de circonstances critiques […] auquel il n'est pas possible de faire face adéquatement sous le régime des lois du Canada."

160. The GIC did not need evidence showing the ineffectiveness of any specific existing laws of Canada before declaring a public order emergency. Further, the term "effective" must be given meaning: there may be situations where existing federal laws could *apply* but would not be *effective* in curtailing the situation in a safe and timely way.[190]

161. The application judge noted that, other than the arrests in Coutts, the only arrests appeared to have been for minor offences. The applicants also argued in the court below that the situation was under control because only 25 arrests had been made in Ottawa as of February 10, 2022.[191] But the situation was hardly under control. In fact, it was so volatile that law enforcement was overwhelmed and *unable* to enforce basic laws, as the s. 58 Explanation noted.[192] The application judge himself found the "OPS had been unable to enforce the rule of law in the downtown core."[193] During the public order police operation in Ottawa following invocation of the *EA*, about 200 people were arrested and more than 100 were criminally charged.[194] The level and nature of arrests made before the GIC invoked the *EA* had no bearing on whether the GIC acted reasonably in finding reasonable grounds to believe there was a national emergency. Given the facts at the time, the GIC acted reasonably in finding reasonable grounds to believe the situation was not "under control" on February 14, 2022.

162. Further, although the police exercised their discretion to make arrests, this exercise of discretion does not imply that the situation did not pose a threat or warrant the special temporary measures authorized under the *EA*. *EA* measures like the exclusion zones,

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[189] *Medovarski v Canada (MCI)*, 2005 SCC 51 at paras 24-25; *R v Daoust*, 2004 SCC 6 at paras 28-29; *Reference re Supreme Court Act, ss 5 and 6*, 2014 SCC 21 at para 32.
[190] POEC Report Vol 1, p 212.
[191] CCLA MFL, para 61 AB, Vol 14 Tab 19, p 7484.
[192] s. 58 Explanation, AB, Vol 6, Tab 13.9.1.
[193] *CFN* at para 295.
[194] Coleman Affidavit, Ex NNNNN, AB, Vol 7, Tab 13.11, pp 4302-4305.

compelling of essential services, cease-dealings provisions, and prohibition against providing material support were all uniquely effective tools unavailable under existing federal laws. The GIC acted reasonably in finding reasonable grounds to believe these measures would contribute to the quick and peaceful resolution of the emergency.[195]

163. The application judge asked himself the wrong question. The question he needed to answer was not whether *he* believed the situation could have been dealt with effectively under existing laws. Rather, the question was whether the GIC acted reasonably in concluding that there were reasonable grounds to believe the situation could not be dealt with effectively under existing laws given the information available to the GIC on February 14, 2022.[196] He never properly answered this question.

164. Although it was argued below that not all "available" tools had been exhausted before invoking the *EA*, this fact was well known at the time. The challenge was that enforcement under existing tools was considered unsafe and police forces were unwilling or unable to use them. Moreover, no existing tools were ever identified with the capacity to resolve the national crisis.[197]

165. Although the applicants below pointed to other authorities that could hypothetically have been applied, the statutory language does not ask whether there is another law that may potentially apply to offer some form of limited redress. Section 3 of the *EA* only required the GIC to have had reasonable grounds to believe that the Convoy blockades and occupations could not have been "effectively dealt with under any other law of Canada." This called for the GIC to assess whether the situation as a whole could be *effectively* dealt with under the existing regime of Canadian laws. As Commissioner Rouleau noted, this had to include practical considerations "such as whether the resources existed to enforce

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[195] Coleman Affidavit, Ex KKKKK, AB, Vol 7, Tab 13.11, pp 4285-4287; See also Exs CCCCC, NNNNN, OOOOO, AB, Vol 7, Tab 13.11, pp 4229, 4302, 4306.
[196] *Spencer* at para 250.
[197] See, e.g., the "Track 1" proposals in the IRG Minutes, dated February 10, 12, 13, 2022, AB, Vol 9, Tab 13.21, pp 5407-5445; see also the Supplemental Coleman Affidavit, Ex B, POEC Lucki, AB Vol 12, Tab 17.2.2, pp 6514-6516.

existing authorities, whether they would be effective in resolving the situation in a timely way, and whether they would address the situation safely."[198]

166. For instance, although CCLA argued in the court below that various powers under the *Criminal Code* were never used, it was reasonable for the GIC not to be satisfied, on the reasonable grounds to believe standard, that these provisions were sufficient to effectively deal with the full scope of the threat to the security of Canada. While s. 67 of the *Criminal Code* and related provisions criminalize unlawful assemblies or riots, and authorize the use of force to disperse them, they do not address the national nature of the threat from the Convoy occupations and blockades, which were decentralized, dispersed across several cities and provinces, and organized via social media and encrypted chat apps.[199] Additionally, these provisions are aimed at suppressing riots or unlawful assemblies already in progress,[200] not preventing their formation or the re-formation of dispersed protests, a key object of the *EA* measures.

167. CCLA and CFN also suggested in the court below that using Canada's military was a solution to the situation.[201] But the application judge accepted the validity of the government's decision not to involve the military.[202] The *EA* was a replacement for the *War Measures Act* and a response to prior use of the military to deal with situations of civil unrest. Military deployment was considered as an option in the "Track 1" proposals when the IRG was canvassing existing authorities, but ultimately rejected.[203] The GIC acted reasonably in finding, on the reasonable grounds to believe standard, that military force would not provide a safe and effective means of resolving this crisis. There is no evidence

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[198] POEC Report, Vol 3, p 237.
[199] Nagle Cross–Exam Transcript, AB, Vol 12, Tab 17.3.
[200] *R v Brien*, 1993 CanLII 2841 at para 25, [1994] NWTR 59; see also *Canadian Civil Liberties Assn. v Toronto Police Service*, 2010 ONSC 3525 at para 127.
[201] CCLA MFL, paras 73, 74, 79, AB, Vol 14, Tab 19, pp 7488-7489, 7490; CFN MFL, paras 40–41, AB, Vol 14, Tab 18 p 7583.
[202] *CFN* at para 250.
[203] IRG Minutes, Feb. 12, 2022, CCLA AR Vol 6 Tab 41, pp 4090; see also Coleman Affidavit, Ex BB and Ex HH, AB, Vol 7, Tab 13.11, pp 3795-3802, 3826-3827.

that the military even had any equipment readily available or suitable to assist in the towing of vehicles, or had the training required for crowd control.

168. The suggestion that the crisis could have been dealt with effectively under existing laws of Canada is entirely speculative and could well have led, in the case of *Criminal Code* "riot" measures, to clashes between police, Convoy participants, and counter-protesters.[204] Cutting off funding, prohibiting certain types of assemblies, prohibiting the attendance of minors, and the other targeted measures safely, quickly, and effectively brought the crisis under control. The GIC acted reasonably in finding, on the reasonable grounds to believe standard, that the existing laws of Canada could not deal effectively with the crisis.

ii) The GIC acted reasonably in finding reasonable grounds to believe that the emergency exceeded the capacity or authority of the provinces

169. Contrary to CCLA's submissions in the court below on "available provincial authorities," the *EA* and the temporary special measures taken under it were valid exercises of Parliament's jurisdiction.[205] They were justified under the emergency branch of Parliament's power in s. 91 of the *Constitution Act, 1867* to make laws for the peace, order, and good government of Canada ("POGG").[206]

170. In an emergency, the emergency branch of POGG authorizes temporary federal measures in any area that would fall within provincial jurisdiction during normal times.[207] The fact that federal emergency measures may touch on areas normally within provincial jurisdiction is one of the reasons for Parliament's emergency power: national emergencies

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[204] s. 58 Explanation, AB Vol 6, Tab 13.9.1; Coleman Affidavit, Ex LL, OO, SSS, VVV, GGGGG, QQQQQ, AB, Vol 7, Tab 13.11, pp 3864, 3866, 3872, 3875, 3892, 4060, 4081, 4252, 4255, 4319; Supplemental Coleman Affidavit, Ex D, POEC Prime Minister Trudeau, AB, Vol 12, Tab 17.2.4, pp 6540.
[205] CCLA MFL, paras 81–86, AB, Vol 14, Tab 19, pp 7491-7492.
[206] *Constitution Act*, 1867, 30 & 31 Vict, c 3, s 91.
[207] *Re Anti–Inflation* at p 463, 399–400, 427; Patrick J. Monahan, Byron Shaw and Padraic Ryan, *Constitutional Law*, 5th ed. (Toronto: Irwin Law, 2017), p 268, RR Vol 4 Tab 14, Appendix B Tab 1.

require a national response.[208] Federal powers expand temporarily to address a national crisis, which in this instance was for a mere nine days.[209]

171. Contrary to the *Jost* applicants' assertion in the court below, no division of powers issues arise here. Since the statutory threshold for invoking the *EA* was met, a division of powers issue would arise only if the *Jost* applicants had challenged the *EA* itself, which they did not. If the statutory threshold was not met (which Canada denies), administrative law would provide a full remedy; addressing division of powers issues in this context would be inconsistent with settled principles of judicial restraint and the preference for resolving cases on administrative law and statutory interpretation grounds.[210]

172. When the threshold for declaring a national emergency is met under the *EA*, the GIC can indeed enact special temporary measures to manage the emergency effectively, as it did here.

173. Section 3 of the *EA* requires that a national emergency must "exceed the capacity or authority of a province to deal with it" and that it "cannot be effectively dealt with under any other law of Canada."[211] The phrase "law of Canada" refers to federal statutes, regulations, and common law, as noted above.[212] It does not encompass provincial law, because provincial incapacity is addressed by the first part of s. 3. Section 3 does not contemplate whether provincial laws can effectively deal with the emergency as suggested by CCLA below.[213] Rather, it relates to whether the emergency extends beyond provincial

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[208] *Re Anti–Inflation* at pp 399–400, 402, 407–409, 427.
[209] *Ibid*.
[210] *Taseko Mines Limited v Canada (Environment)*, 2019 FCA 320 at para 105, citing *Philips v Nova Scotia (Commissioner, Public Inquiries Act)*, 1995 CanLII 86 (SCC) at paras 6–9, [1995] 2 SCR 97; *MacKay v Manitoba (AG)*, 1989 CanLII 26 (SCC), [1989] 2 SCR 357 at pp 361–367.
[211] *EA*, s. 3 [underlining added].
[212] *Roberts v Canada*, [1989] 1 SCR 322, interpreting s 101 of the *Constitution Act, 1867*; Federal and provincial legislation uses "law of Canada or a province" to refer to federal and provincial statutes, regulations, and common law. See for example, *Privacy Act*, RSC 1985, c P–21, ss 8(2)(e); *Softwood Lumber Products Export Charge Act, 2006*, SC 2006, c 13, ss 88(8) and 88(12); see also examples in provincial statute, *Business Corporations Act*, SNWT (Nu) 1996, c 19, s 264; *Income Tax Act*, RSBC 1996, c 215, s 68.1.
[213] CCLA MFL, para 82 AB, Vol 14, Tab 19, p7491.

borders, preventing any one province from resolving the entire crisis, or at least one province having indicated the emergency is beyond its capacity or authority, such that the provinces collectively are unable to resolve the crisis, as noted by Commissioner Rouleau.[214]

174. The application judge erred by considering his own hypotheticals rather than the reasonableness of the GIC's reality-anchored analysis under s. 3. "Capacity" of a province and "authority" of a province under s. 3(a) are disjunctive requirements and must mean different things. "Authority"/"pouvoirs" deals with a province's potential legal power. "Capacity"/"capacité" deals with what a province is actually capable of doing. Actual capacity takes into account, for example, the inability of the OPS to cope with a situation involving an overwhelming volume of protesters (as noted in the s. 58 Explanation), as well as the other issues suggested by the application judge (e.g., perceived failures of leadership and determination, the mistaken assumption the protest would be short-lived, and resourcing issues).[215]

175. Although the application judge observed that existing laws appeared to be sufficient "in Quebec and other provinces and territories including Ontario, except in Ottawa," this observation is irrelevant, and the inclusion of Ontario is inaccurate. Section 3(a) refers to the capacity or authority of *a* province—not *multiple* or *most* provinces. Further, as the s. 58 Explanation stated, and as the application judge acknowledged, the OPS by its own admission could not deal with the situation in Ottawa. The GIC's belief that this situation—and the risk of renewed blockades and occupations elsewhere—threatened public safety was reasonable. The application judge's statement that he saw the GIC's conclusion as "debatable" is a tacit acknowledgment that the GIC's belief was reasonable, even if he did not agree with it.[216]

176. The GIC acted reasonably in finding reasonable grounds to believe the s. 3 criteria were met. The protests were nationwide but geographically disparate, mobile, and

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[214] POEC Report Vol 1, p 211.
[215] *CFN* at paras 36, 38, 252, 294.
[216] *CFN* at para 252.

continually evolving.[217] Over time, the protests grew to be unmanageable and required a national approach to resolve them. Further, provincial incapacity was demonstrated by the requests from provinces for federal assistance to resolve the blockades at ports of entry in, for example, Alberta and Manitoba.[218]

177. In addition, the *EA* measures did not impair provinces' ability to take measures within their jurisdiction. The time-limited *EA* measures operated concurrently with provincial measures, and did not displace or conflict with them.

C. THE APPLICATION JUDGE ERRED BY EXPANDING THE RECORD

178. The application judge erred in principle in granting the CCLA and CCF's Rule 312 motions to adduce evidence that was not before the GIC at the time of its decision.[219] He misapprehended his limited role in conducting reasonableness review and the legal constraints that restrict that role. He not only incorrectly identified the decision maker whose decision was under review, but also erred in admitting 11 additional exhibits that were never before the GIC at the time of its decision to declare a public order emergency,[220] and were adduced to attack that decision as if the judicial review application were a *de novo* hearing on the merits. In relying on this evidence that was not before the decision maker, the application judge erred in his reasonableness review methodology. The application judge candidly acknowledged this flawed methodology: "I acknowledge that in conducting judicial review of that decision, I am revisiting that time with the benefit of hindsight and a more extensive record of the facts and law than that which was before the GIC."[221]

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[217] s. 58 Explanation, AB Vol 6, Tab 13.9.1; Supplemental Coleman Affidavit, Ex D, POEC Prime Minister Trudeau, AB, Vol 12, Tab 17.2, pp 6533-6553.
[218] Ross Affidavit, Exs Q and S, AB, Vol 4, Tab 13.6, pp, 1468, 1473; Deshman Affidavit, Ex V, AB, Vol 7, Tab 13.7, pp 1916-1947; Coleman Affidavit, Exs WWWW, LLLLL, AB, Vol 7, Tab 13.11, pp 4205-4208, 4288-4293.
[219] *Rule 312 Decision* at paras 5-10.
[220] Response to Rule 317 Request dated March 15, 2022 and Section 39 Certificate, AB, Vol 10, Tab 15.3, pp. 6120-6149 and 6150-51.
[221] *CFN* at para 370.

179. Reviewing courts are not trial courts. They review the decisions of administrative decision makers to whom Parliament or legislatures delegates authority. This limited role shapes the scope of evidence that a reviewing court may consider.[222] Generally, a reviewing court may consider only the evidence that was before the administrative decision maker at the time it made its decision.[223] This is the record for the court to review the decision. As this Court has held, this principle reflects "the distinction between the administrative decision-makers as the bodies designated by Parliament as the merits-deciders and the Federal Courts as merely reviewing courts, nothing more."[224]

180. To admit new evidence under Rule 312 of the *Federal Courts Rules*, two preliminary requirements must be satisfied: 1) the evidence must be admissible on the application for judicial review; and 2) the evidence must be relevant to an issue that is properly before the reviewing court.[225] Concerning admissibility, evidence that was not before the decision maker at the time of its decision is generally inadmissible. There are three limited exceptions to this general rule, to allow for the admission of background information, to highlight the complete absence of evidence before a decision maker, and to deal with procedural defects that cannot be found in the record of the decision maker.[226]

181. Even if the two preliminary requirements of admissibility and relevance are satisfied, an applicant must still convince the court that it should exercise its discretion to grant an order under Rule 312. Although several criteria are considered,[227] the "overriding consideration is whether the interests of justice will be served" by admitting the additional evidence.[228]

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[222] *Tsleil-Waututh Nation v Canada (AG)*, 2017 FCA 128 at paras 85-87 [***TWN***]; *Access Copyright* at paras 14-19; *Bernard v Canada (Revenue Agency)*, 2015 FCA 263 at paras 22-28 [***Bernard***].
[223] *TWN* at paras 112, 113 and 114.
[224] *TWN* at para 87.
[225] *Forest Ethics Advocacy Assoc. v National Energy Board*, 2014 FCA 88 at paras 4-6.
[226] *Access Copyright* at paras 19-20.
[227] *Oceanex Inc. v Canada (Transport)*, 2017 FC 496 at paras 20-22.
[228] *Holy Alpha and Amega Church of Toronto v Canada (AG)*, 2009 FCA 101 at para 2; see also *Atlantic Engraving Ltd. v Lapointe Rosenstein*, 2002 FCA 503, at para 8.

1) The application judge identified the wrong decision maker

182. The application judge's error in allowing additional evidence under Rule 312 starts with his error in identifying whose decision was under review. In enacting s. 2 and s. 18.1 of the *Federal Courts Act*, Parliament explicitly confined judicial review to a decision or order of a body that exercised powers conferred by an Act of Parliament. When Parliament enacted the *EA*, Parliament expressly gave the powers under ss. 17(1) and 19(1) to the GIC, to the exclusion of all others. Parliament did not give any powers to any individual minister, or to a collective of ministers. The application judge erred in law by finding that Cabinet was the body that exercised the powers conferred under the *EA* to make the Proclamation, *Regulations*, and *Economic Order*, for the purposes of identifying the federal board, commission, or tribunal whose decision was at issue for the purposes of s. 18.1 of the *Federal Courts Act*.[229]

183. Within our constitutional framework, Cabinet cannot qualify as a federal board, commission, or other tribunal under s. 2 and s. 18.1 of the *Federal Courts Act* because it cannot exercise powers conferred under an Act of Parliament. Cabinet exists only as a matter of constitutional convention. It is a political body that has no legal status. Its decisions are political.

184. Canada's system of government is a constitutional monarchy with executive authority, including powers conferred under acts of Parliament, vested in the King, as represented by the Governor General, aided and advised by the Privy Council. The *Interpretation Act* defines the term "Governor General in Council" (the formal name for the GIC) as exclusively meaning the "Governor General of Canada acting by and with the advice of, or by and with the advice and consent of, or in conjunction with the King's Privy Council for Canada."[230]

185. The Privy Council is the legal body created by the *Constitution Act, 1867* to advise the Governor General in the exercise of executive power.[231] As a matter of constitutional

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[229] *Rule 312 Decision* at para 34.
[230] *Interpretation Act*, RSC, 1985, c I-21, s. 35.
[231] *Constitution Act, 1867*, ss. 9-13.

convention, the functions and duties of the Privy Council are performed by a committee of ministers of the government of the day specifically convened to provide such advice to the Governor General. As such, the political deliberations of Cabinet are separate from the advice tendered by the Privy Council to the Governor General in the making of legal decisions.

186. Furthermore, in selecting the GIC as the sole decision maker under the *EA*, Parliament ensured that certain requirements would be met in the exercise of these powers—namely, the making of legal instruments, their formal registration and their publication in the official *Canada Gazette*. None of these requirements attach to a Cabinet decision.

187. The GIC was convened separately and duly constituted to perform its constitutionally assigned role, and it exercised the powers Parliament gave to it under ss. 17(1) and 19(1) of the *EA*.[232] The GIC made the Proclamation, *Regulations*, and *Economic Order* that were the subject of the underlying judicial reviews on February 14 and 15, 2022, separately from Cabinet, which met on February 13.[233] The GIC considered its own separate record consisting of the Minister's submission (which included the Minister's formal recommendation and the draft legal instruments, among other things), and recorded its own decision.[234]

188. Unquestionably, other government actors were involved in the events and discussions leading up to the GIC's decision to make the Proclamation, *Regulations*, and *Economic Order*, including the IRG, Cabinet, the Prime Minister, the Clerk of the Privy Council, the Prime Minister's National Security and Intelligence Advisor, and the Commissioner of the RCMP. However, none of these government actors were the decision maker for the purposes of judicial review under s. 18.1 of the *Federal Courts Act*. The

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[232] *Proclamation*, AB Vol 4, Tab 13.1, pp 1308-1313; Orders in Council PC 2022-0106, PC 2022-0107 and PC 2022-0108, AB Vol 10, Tab 15.3, pp 6123-6149.
[233] Cabinet Meeting Minutes, February 13, 2022, AB Vol 9, Tab 13.22, pp 5446-5477.
[234] Response to Rule 317 Request dated March 15, 2022 and Section 39 Certificate, AB, Vol 10, Tab 15.3, pp 6120-6149 and 6150-51; Schedule to Certificate of Janice Charette dated March 31, 2022, AB, Vol 9, Tab 13.20.1, pp 5402-5403.

decision maker was the GIC, and therefore only the record that was before the GIC was relevant and admissible on judicial review.

2) The application judge's analysis was tainted by the expanded record

189. The application judge's analysis was tainted by evidence that was not before the GIC at the time of its decision, including evidence later adduced before POEC. This is apparent not only in the application judge's express references to POEC testimony,[235] but also in the application judge's conclusions based on this expanded record.

190. The application judge expressly relied on testimony given at POEC in two instances when assessing whether a threat of serious violence existed, and whether the threshold for invoking the *EA* had been met. This evidence, given by the Prime Minister and the then Minister of Public Safety before the POEC,[236] went beyond context and was relied on by the application judge as evidence of why, in his view, the GIC's decision was unreasonable—even though the evidence did not form part of the s. 58 Explanation or the record before the GIC. This Court has warned of using "after-the-fact" evidence to augment or "bootstrap" the reasoning for a decision; the same prohibition applies to using such evidence to impeach reasoning after the fact.[237]

191. From several of the application judge's other findings related to whether there existed a national emergency, it can also be seen that he considered an expanded record not before the GIC. While the application judge did not specify which evidence underpinned several of his findings, his word choice is telling:

> - Para 248: "*However, the Proclamation stated that it "exists throughout Canada". **This was, in my view, an overstatement of the situation known to the Government at that time**. Moreover, in the first reason provided for the proclamation, which referenced the risk of threats or use of serious violence, language taken from section 2 of the CSIS Act, the emergency was vaguely described as happening at 'various locations throughout Canada*'."

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[235] *CFN* at para 89.
[236] *CFN* at paras 290 & 291.
[237] *Leahy v Canada (MCI)*, 2012 FCA 227 at para 145.

- Para 249: "*I understand that the concern was that new blockades could emerge at any pressure point across the country but* ***the evidence available to Cabinet*** *was that these were being dealt with by local and provincial authorities, through arrests and superior court injunctions, aside from the impasse which remained in Ottawa*."
- Para 252: "*It asserts that the OPS had been unable to enforce the rule of law in the downtown core due to the overwhelming volume of protesters.* ***That is a debatable conclusion, as there appear to have been more compelling reasons*** *for the failure of the OPS to prevent the occupation of the city, such as a failure of leadership and determination, together with a mistaken assumption that the protest would be short lived*." [emphasis added]

192. The first two examples both reference an implied knowledge of bodies ("the Government" and "Cabinet") who were not the decision maker. Implied knowledge or evidence "available" to Cabinet is also not the same thing as the record that was before the decision maker.[238] The application judge plainly used an expanded record and the benefit of hindsight to evaluate the reasonableness of the decision to declare a public order emergency, as opposed to assessing the reasonableness of the decision based on the record as it existed at that time. As noted above, he even candidly admitted as much.[239]

193. Similar reasoning applies to the application judge's reliance on evidence that in his view suggested that the OPS's failure to prevent the occupation of Ottawa was based on a failure of leadership and determination, and a mistaken assumption that the protest would be short-lived. The application judge reweighed all the evidence available to *him* and made his own findings of fact.[240] Evidence about the OPS's response did not emerge before it was provided as testimony before the POEC, and therefore was not before the GIC and could not form part of its reasons for declaring a public order emergency.

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[238] *TWN* at para 114.
[239] *CFN* at para 370.
[240] *Vavilov* at para 125.

3) The application judged erred in admitting evidence not before the GIC

194. The evidence admitted by the application judge on the Rule 312 motions was not before the decision maker, the GIC, and did not engage any of the exceptions to the rule against expanding the record. Instead, it was used to impugn the merits of the decision taken by the GIC, with the benefit of hindsight.

195. Attempts to admit additional evidence on judicial review and invite courts to use hindsight are not new, but they are improper. Appellate courts have made a point of condemning these attempts in recent decisions related to other measures taken on an urgent basis for important public policy and safety reasons.

196. For example, in challenges to public health guidance during the COVID-19 pandemic, the B.C. Court of Appeal noted that receiving supplementary evidence as part of the record on judicial review "would be inconsistent with the limited supervisory jurisdiction of the court. As the chambers judge pointed out, it would also 'judicialize' review of the administrative decision by bypassing the [Provincial Health Officer] and the deference to which she is entitled. It would place the reviewing court in the untenable position of assessing matters afresh on an expanded record as something of an 'armchair epidemiologist'—a role it is ill equipped to discharge."[241]

197. This approach opens the door to an improper hindsight-based review. As the Ontario Superior Court emphasized in the *Trinity Bible Chapel* case cited by the B.C. Court of Appeal, "Hindsight is not the lens through which to assess government action in this case. […] I agree with Ontario that 'government decisions taken on the basis of imperfect information should not be undermined later with the benefit of hindsight.'" [242]

198. The application judge erred in admitting testimonial and documentary evidence from the POEC and his reliance upon it on judicial review was also in error.

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[241] *Beaudoin* at paras 156, 268, 277-279, 301, citing *Ontario v Trinity Bible Chapel et al*, 2022 ONSC 1344 [***Trinity Bible Chapel ONSC***] para. 6(1).
[242] *Trinity Bible Chapel ONSC* at paras 6 & 143, aff'd *Trinity Bible Chapel ONCA* at paras 52-57.

D. THE APPLICATION JUDGE ERRED IN HIS *CHARTER* ANALYSIS

199. The application judge erred in finding that the *Regulations* unjustifiably limited freedom of expression under s. 2(b) of the *Charter*, and that the *Economic Order* constituted an unreasonable search and seizure under s. 8.[243] His s. 1 analysis shows none of the deference required by the case law, whether under *Oakes* or *Doré*.[244] The two frameworks work "the same justificatory muscles: balance and proportionality"[245] and lead to the same outcome here. Had the application judge properly analyzed the *Charter* issues, he would have upheld the emergency measures.

200. The sole purpose of the *Regulations* and *Economic Order* was to address and dissuade participation in illegal activities across Canada to bring about a swift, orderly, and peaceful end to the circumstances that necessitated the Proclamation of a public order emergency. These measures were limited, proportionate, and tailored to their objectives, while respecting *Charter* rights. To the extent that these measures limited *Charter* rights, any limit was minimal, temporary, and justified in light of the unfolding public order emergency.

1) The *Regulations* did not violate s. 2 of the *Charter*

201. Section 2 of the *Charter* protects fundamental freedoms, including freedom of thought, belief, opinion, and expression (under s. 2(b)), freedom of peaceful assembly (under s. 2(c)), and freedom of association (under s. 2(d)). The applicants challenged the *Regulations* on all of these grounds in the court below. The application judge found no limit of ss. 2(c) or (d), but nonetheless found that the *Regulations* limited s. 2(b) of the *Charter* in a manner not justified under s. 1. In doing so, he erred.

202. The *Regulations* were adopted in response to a situation involving a range of threats and protest activities, including activities that fell outside the scope of fundamental freedoms protected by the *Charter*. They were carefully tailored to limit the residual protest

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[243] *CFN* at paras 298-359.
[244] See, by contrast, *Harper v Canada (AG)*, 2004 SCC 33, [2004] 1 SCR 827 at paras 64, 75-88 (especially 85-88), 111.
[245] *Doré v Barreau du Québec*, 2012 SCC 12, [2012] 1 SCR 395 at para 5.

activity that was within the scope of fundamental freedoms no more than reasonably necessary to address the serious harms of the emergency and were proportionate in their effects. To peacefully end the unlawful occupations and blockades and their significant adverse impacts—and to prevent their recurrence—the *Regulations* prohibited participation in public assembly only if it might reasonably be expected to breach the peace by seriously disrupting the movement of persons or goods or by seriously interfering with trade, interfering with critical infrastructure, or supporting the threat or use of serious violence against persons or property. [246]

203. To support this core prohibition, the *Regulations* also restricted certain additional activities to prevent attendance at or near prohibited assemblies, such as travel to a prohibited assembly, travel or attendance of minors at prohibited assemblies, and the provision of property to facilitate or participate in a prohibited assembly.[247]

204. As the application judge noted in finding no breach of the *Charter*'s s. 2(c) guarantee of peaceful assembly, these prohibitions were consistent with s. 19(1)(a)(i) of the *EA*, which permits the "prohibition of any public assembly that may reasonably be expected to lead to a breach of the peace." None of the applicants challenged the constitutionality of this section of the *EA*, and as the application judge noted: "The evidence supports a finding that the notion of blockading and occupying the downtown core of the Nation's Capital and other major centres, including cross border ports of entry, with massive trucks, falls within the scope of the authorizing enactment."[248] This led the application judge to conclude there was no limit on freedom of peaceful assembly.[249]

a) ***Section 2(b) does not protect violence, threats of violence, or mere physical activity***

205. While the *Charter* provides robust protection for protest activities, not all activities associated with protests fall within the scope of s. 2 freedoms. Section 2(b) of the *Charter* does not protect violence or threats of violence because they "undermine the rule of law"

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[246] *Regulations*, s 2.
[247] *Regulations*, ss 2(2)–5; s. 58 Explanation, AB Vol 6, Tab 13.9.1.
[248] *CFN* at para 312.
[249] *CFN* at para 313.

and "take away free choice and undermine freedom of action."[250] Further, activities that are purely physical—such as blockades that act through physical coercion—might bolster or supply infrastructure for protest but do not themselves convey meaning and thus are not expressive activities within the scope of s. 2(b).[251]

*b) **The special temporary measures were justified***

206. Insofar as some forms of participation in the unlawful Convoy assemblies could still be considered protected forms of political expression, the application judge erred in finding the limits on this expression not to be justified under s. 1 of the *Charter* as a proportional means of achieving the legislative end of the *Regulations*—i.e., to peacefully end the unlawful occupations and blockades and their significant adverse impacts, and to prevent their recurrence. As evidenced by the complementary prohibitions in the *Regulations* on travel to a prohibited assembly, travel or attendance of minors at these assemblies, and the provision of property to facilitate or participate in a prohibited assembly, this legislative objective went beyond mere prohibition of conduct of "those who behaved in a manner that could reasonably be expected to lead to a breach of the peace." As noted above, the *Regulations* aimed to implement an *effective* solution to this multifaceted crisis by also preventing inflows into specific areas that could amplify the disruption and make resolution of blockades and occupations less safe and more time-consuming.[252]

207. Properly characterizing the *Regulations'* objectives is essential for assessing the proportionality of the means chosen to achieve them. Here, however, the application judge went no further than to describe the purpose of both the *Regulations* and the *Economic Order* as "to clear out the blockades that had formed as part of the protest." [253] Although the application judge accepted that this purpose was pressing and substantial and the

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[250] *R. v Khawaja*, 2012 SCC 69, [2012] 3 SCR 555 [***Khawaja***] at paras 67, & 70. Non–peaceful assembly is excluded from section 2(c) of the *Charter* by definition: *R c Lecompte*, 2000 CanLII 8782 (QC CA) [***Lecompte***] at para 16.
[251] *Irwin Toy Ltd. v Quebec (AG)*, 1989 CanLII 87, [1989] 1 SCR 927 at 969; *Guelph (City) v Soltys*, 2009 CanLII 42449 (ONSC) [***Guelph***] at para 26.
[252] See above at para 165.
[253] *CFN* at paras 351.

measures chosen by the GIC were rationally connected to it, his failure to appreciate how the measures operationalized it compromised his analysis.

208. *Charter* rights are not absolute and can be limited when reasonable and demonstrably justified, such as in circumstances where their exercise would be inimical to achieving collective goals of fundamental importance.[254] Here, the temporary measures specified in the *Regulations* were carefully tailored to limit the impact on s. 2(b) *Charter* rights to what was reasonable and proportionate in the circumstances.

209. The application judge provided only a single s. 1 analysis in relation to both the s. 2(b) and the s. 8 issues.[255] With respect to s. 2(b), the application judge's findings were limited to finding the *Regulations* were not minimally impairing because they were "applied throughout Canada" and "could have been limited to Ontario, which faced the most intransigent situation."[256] But this sparse, conclusory analysis was undermined by the very next sentence of his reasons, where the application judge admitted: "And possibly Alberta, although the Coutts situation had been resolved when the *EA* was invoked."[257]

210. When the *Regulations* were made on February 15, 2022, one day after the arrests and discovery of a cache of firearms, high-capacity magazines, and body armour bearing "Diagolon" insignia at Coutts, the GIC would have had little sense that, as the application judge reasoned, the border blockades and occupation of Ottawa "had been resolved" or that "existing legislative tools" were proving satisfactory elsewhere in the country.[258]

211. Contrary to this hindsight-driven analysis, the potential for an increase in the level of unrest and violence that would further threaten the safety and security of Canadians was real, as the s. 58 Explanation emphasized. The situation across Canada on February 14, 2022, remained "concerning, volatile and unpredictable."[259]

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[254] *R v Oakes*, 1986 CanLII 46, [1986] 1 SCR 103 [***Oakes***] at para 65; *Carter v Canada (AG)*, 2015 SCC 5, [2015] 1 SCR 331 [***Carter***] at para 94, citing *Oakes*.
[255] *CFN* at para 354.
[256] *CFN* at para 354.
[257] *CFN* at para 354.
[258] *CFN* at para 354.
[259] s. 58 Explanation, AB, Vol 6, Tab 13.9.1, p 3403.

212. Demonstrations continued to pop up across the country, and it was impossible to know where the next blockade might arise.[260] When police dispersed the blockades at Windsor and Coutts, this created a risk that the demonstrators would simply regroup and re-establish a blockade at a new location.[261] Threats of occupations and blockades continued across the country well after invocation of the *EA* measures.[262] The use of social media and encrypted chat apps to coordinate blockades and occupations across the country were also a national phenomenon that supported a national solution.[263]

213. As a result, the prohibition on public assemblies likely to breach the peace could not reasonably have been limited to any particular province or locale. Further, the unpredictability and the intractability of the blockades created a "reasonable apprehension of harm"[264] that justified the use of precautionary measures to prevent the blockades from degenerating into violence and to meet the objective of safely ending the unlawful assemblies and preventing the formation of new ones.[265] To be both "dissuasive and preventive," the prohibition on unlawful protests had to be national. [266]

214. The application judge thus erred in finding the *Regulations* not to be proportional. Section 1 of the *Charter* "does not demand that the limit on the right be perfectly calibrated,

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[260] s. 58 Explanation, AB, Vol 6, Tab 13.9.1, pp 3403-3409; Coleman Affidavit, Ex ZZZZ, Ex WWWWW, AB, Vol 7, Tab 13.11, pp 4220-4222, 4623-4635; Supplemental Coleman Affidavit, Ex A, POEC Charrette/Drouin, Ex D, POEC, Prime Minister Trudeau, AB, Vol 12, Tab 17.2, pp, 6478-6508, 6534-6554.

[261] Supplementary Coleman Affidavit, Ex D, POEC Prime Minister Trudeau, AB, Vol 12, Tab 17.2, pp 6534-6554; POEC Report, Vol 3, pp 253; the s. 58 Explanation also refers to the need for efforts to ensure the Ambassador Bridge and Coutts entry points remained open after they were cleared: AB, Vol 4, Tab 13.2, pp 1316, 1320.

[262] Coleman Affidavit, Ex ZZZZ, Ex FFFFF, Ex HHHHH, Ex JJJJJ, Ex KKKKK and Ex PPPPP: Revocation of the *Emergencies Act*, AB, Vol 12, Tab 17.2, pp 4214-4219,4242-4244, 4260-4263, 4276-4284, 4285-4287, 4311-4313; s. 58 Explanation, AB, Vol 6, Tab 13.9.1; Supplemental Coleman Affidavit, Ex D, POEC Prime Minister Trudeau, AB, Vol 12, Tab 17.2, pp 6534-6554.

[263] Supplemental Coleman Affidavit, Ex A, POEC Charrette/Drouin, AB, Vol 12, Tab 17.2, pp 6478-6508; Coleman Affidavit, Ex RRRRR, Ex WWWWW, AB, Vol 7, Tab 13.11, pp 4324-4371,4623-4635; s. 58 Explanation, AB, Vol 6, Tab 13.9.1; Nagle Cross–Exam Transcript, AB, Vol 12, Tab 17.3, p 6690.

[264] *R v Sharpe*, 2001 SCC 2, [2001] 1 SCR 45 [***Sharpe***], paras 85, 88, 89, 103.

[265] *Lecompte* at para 17.

[266] POEC Report, Vol 3, p 254.

judged in hindsight, but only that it be 'reasonable' and 'demonstrably justified'."[267] As the Supreme Court has held, to establish "minimal impairment" it is not necessary to show that Parliament has adopted the least restrictive means of achieving its end. Rather, it will be sufficient "if the means adopted fall within a range of reasonable solutions to the problem confronted. The law must be reasonably tailored to its objectives; it must impair the right no more than reasonably necessary, having regard to the practical difficulties and conflicting tensions that must be taken into account."[268]

215. Further, in complex matters that escape scientific proof, such as issues involving predictions about human behaviour, the Supreme Court has made it clear that the proper standard is not one of "concrete proof" but whether Parliament had a *reasonable basis* for concluding that the perceived harms existed (as just noted, a "reasoned apprehension of harm").[269] As the Supreme Court has observed:

> [A] government enacting social legislation is not required to show that the law will in fact produce the forecast benefits. Legislatures can only be asked to impose measures that reason and the evidence suggest will be beneficial. If legislation designed to further the public good were required to await proof positive that the benefits would in fact be realized, few laws would be passed, and the public interest would suffer.[270]

216. In this case, and particularly given the unique urgency and circumstances of the crisis at hand, the measures chosen by the GIC were minimally impairing. They were carefully tailored and fell within the range of reasonable alternatives for practically resolving the blockades and occupations.[271] The application judge erred in his assessment by failing to consider whether *at the relevant time*, the GIC was reasonable in thinking that the protests could spread and that national measures were necessary. Instead, he arrived at his own hindsight-driven conclusion, without affording the GIC the required deference under s. 1.

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[267] *Alberta v Hutterian Brethren of Wilson Colony*, 2009 SCC 37, [2009] 2 SCR 567 [***Hutterian Brethren***] at para 37.
[268] *Sharpe* at para 96 [underlining by SCC]; see also *Hutterian Brethren* at para 85.
[269] *Sharpe*, paras 85, 88, 89, 103.
[270] *Hutterian Brethren* at para 85.
[271] *Sharpe* at paras 96-97; *Carter* at para 102; *Hutterian Brethren* at para 53; *Canada v JTI–Macdonald Corp.*, 2007 SCC 30, [2007] 2 SCR 610 [***JTI-Macdonald***] at para 43.

217. The application judge also erred by effectively requiring the GIC to have accepted options that would achieve the *Regulations'* objectives less effectively.[272] Here, as noted above, it was necessary for all individuals—even those simply "standing on Parliament Hill carrying a placard" [273]—to be removed and prevented further access, in order to "shrink the footprint" and ensure a safe and effective resolution that would re-establish public order permanently.

218. The application judge also erred in his proportionality analysis by interpreting the *Regulations* as a complete ban on expression, rather than as a limitation related to the time, place, or manner of expression[274] that was carefully tailored to contain a number of exceptions.[275]

219. The application judge failed to appreciate that the *Charter* does not require absolute rules, unnecessary rigidity, or lack of common sense with respect to the private use of public spaces.[276] Rather, he adopted an approach that equated the occupation of Canada's capital and active interference with the democratic process as tantamount to core political protest.[277]

220. Over the course of the occupation, many government functions, including sittings of Parliament and general, day-to-day government administration, were undermined. As acknowledged by the application judge, the conditions were "intolerable" in downtown Ottawa due to the protest that "became a blockade."[278] Moreover:

> While the widely published images of people enjoying the hot tub and bouncy castle set up in proximity to Parliament Hill and the War Memorial suggests a benign intent, there were undoubtedly others present there and elsewhere at the blockades across the country with a darker purpose.[279]

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[272] *R v Chaulk*, 1990 CanLII 34, [1990] 3 SCR 1303 at p 1341.
[273] *CFN* at para 308.
[274] *Ramsden v Peterborough (City)*, 1993 CanLII 60 (SCC), [1993] 2 SCR 1084 at p 1105.
[275] *Regulations*, s 4(3).
[276] *Batty v City of Toronto*, 2011 ONSC 6862 at para 106.
[277] *CFN* at paras 306 & 345.
[278] *CFN* at para 35.
[279] *CFN* at para 243.

221. In a situation where interests and rights conflicted, it was not for the application judge to intervene simply because he thought of a better, less intrusive way to manage the problem with the benefit of hindsight.[280] Deference is merited where, as here, the means adopted plainly fell "within a range of reasonable solutions to the problem confronted."[281] Moreover, during the limited period of invocation, peaceful protesters were free to protest outside of the restricted areas.[282] Once order was reestablished and the *EA* was revoked, peaceful protesters were once again able to resume such protest on Parliament Hill.

222. The *Regulations* were minimally impairing, and their collective benefit outweighed any deleterious effects. Any breach of s. 2(b) was proportional and justified.

2) The *Economic Order* did not violate s. 8 of the *Charter*

223. The application judge's reasons offered little analysis to explain or support his conclusions on s. 8 of the *Charter*—specifically, how the *Economic Order*'s requirement that financial institutions "cease dealing" with designated persons constituted a "seizure" of their accounts, how the act of requiring financial institutions to disclose account information to designated persons amounted to an unreasonable search, or why ss. 5 and 6 of the *Economic Order* did not provide an objective standard for disclosure.[283] Had the application judge properly considered the provisions in issue, he would have found the *Economic Order* complied with the *Charter*.

224. Section 8's right to be secure against unreasonable search and seizure protects individuals against unjustified intrusions on their privacy interests.[284] The provision involves a two-step analysis. First, applicants must establish that there has been a "search" or "seizure" within the meaning of s. 8. Second, the search or seizure will be reasonable and comply with s. 8 of the *Charter* where: (i) it was authorized by law; (ii) the law itself is reasonable; and (iii) the search or seizure was carried out in a reasonable manner.[285]

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[280] *Montréal (City) v 2952-1366 Québec Inc.*, 2005 SCC 62, [2005] 3 SCR 141 at para 94.
[281] *Sharpe* at para 96; see also *Hutterian Brethren* at para 85.
[282] *R v Banks*, 2007 ONCA 19 at para 131.
[283] *CFN* at paras 334 & 341.
[284] *Hunter v Southam Inc.*, 1984 CanLII 33, [1984] 2 SCR 145 at p 159.
[285] *Goodwin v B.C. (Superintendent of Motor Vehicles)*, 2015 SCC 46, [2015] 3 SCR 250 at para 48; *R v Collins*, [1987 CanLII 84, [1987] 1 SCR 265 at para 23.

a) Section 2 of the Economic Order did not authorize "seizures"

225. A "search" occurs when a government entity examines or inspects something belonging to a person who has a reasonable privacy interest in it.[286] A "seizure" is the "taking of a thing from a person by a public authority without that person's consent."[287] However, because s. 8's protection against seizure is "designed to promote privacy interests and not property rights," the provision does "not apply to government action merely because those actions interfere with property rights." Rather, "there must be a superadded impact upon privacy rights occurring in the context of administrative or criminal investigation."[288] As a result, a restraint order against property will constitute a seizure where it is issued for the ultimate purpose of investigation. But "where property is taken by governmental action for reasons other than administrative or criminal investigation, a 'seizure' under the *Charter* has not occurred."[289]

226. While the application judge acknowledged the above-noted passages from *Laroche*, and that the purpose of s. 8 of the *Charter* is to protect privacy rights and not property, he nonetheless found that "governmental action that results in the content of a bank account being unavailable to the owner of the said account would be understood by most members of the public to be a 'seizure' of that account as defined in *Dyment* and *Thomson Newspapers* above."[290]

227. In applying this reasoning, the application judge erred by failing to take into account the distinction identified by the Supreme Court in *Laroche*. The cases of *Dyment* and *Thomson Newspapers* both involved seizures in the context of investigations (combines and criminal, respectively) that, much like the restraint orders in *Laroche*, were effected for the purpose of placing property under the state's control to further a criminal

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[286] *R v Tessling*, 2004 SCC 67, [2004] 3 SCR 432 at para 18.
[287] *R v Dyment*, 1988 CanLII 10, [1988] 2 SCR 417 at para 26; *R v Colarusso*, 1994 CanLII 134, [1994] 1 SCR 20 at 58; *R v Law*, 2002 SCC 10, [2002] 1 SCR 227 [***Law***] at para 15.
[288] *Quebec (AG) v Laroche*, 2002 SCC 72, [2002] 3 SCR 708 [***Laroche***] at para 53, quoting S. C. Hutchison, J. C. Morton and M. P. Bury, *Search and Seizure Law in Canada* (loose-leaf), at p 2-5.
[289] *Laroche* at paras 52-53 [underlining by SCC in original].
[290] *CFN* at para 344.

investigation. But in *Laroche*, the Supreme Court also clarified that a seizure will not have occurred for s. 8 purposes "where property is taken by governmental action for reasons other than administrative or criminal investigation."[291]

228. Section 2 of the *Economic Order* did not place any property under the state's control to further an administrative or criminal investigation. The provision was part of what was explicitly a temporary measure taken by the GIC to bring the public order emergency to an end.[292] This temporary authority applied only to "designated persons"[293] while they were engaged in specified prohibited activities, as defined by the *Regulations*, and its sole purpose was to discourage such participation. Section 2 required only that financial institutions "cease dealing" or suspend services to such designated persons. At no point was money taken or seized, as Commissioner Rouleau also noted in finding no seizure under s. 8.[294]

229. Financial services providers were required to determine "on a continuing basis" whether a person was participating in the unlawful activities. Once a person stopped engaging in an activity prohibited by the *Regulations*, they were no longer a designated person and the powers under s. 2 no longer applied to them.[295]

230. This was consistent with the *Economic Order*'s objective, which was to encourage the illegal blockades to safely disperse and prevent them from re-forming. The objective was thus unrelated to furthering any administrative or criminal investigation. As such, actions taken pursuant to s. 2 were not a seizure for the purposes of s. 8 of the *Charter*.

231. Among the parties to this appeal, none had their financial accounts frozen, except for Messrs. Gircys and Cornell. Mr. Gircys' accounts were frozen for approximately four

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[291] *Laroche* at para 53 [underlining by SCC in original].
[292] s. 58 Explanation, AB, Vol 6, Tab 13.9.1.
[293] "Designated persons" are defined in s. 1 of the *Economic Order* as "any individual or entity" (itself defined as a "corporation, trust, partnership, fund, unincorporated association or organization or foreign state") "that is engaged directly or indirectly, in an activity prohibited by sections 2 to 5 of the [*Regulations*.]"
[294] POEC Report, Vol 3, pp 264-265.
[295] Beaudoin Affidavit, para 29, AB, Vol 8, Tab 13.12, p 4675.

days and Mr. Cornell's for approximately five days. Their accounts were unfrozen shortly after they ended their participation in the unlawful activities that gave rise to the declaration of a public order emergency.[296] All accounts were unfrozen after February 21, 2022.[297]

b) Any "search" under ss. 5-6 was reasonable: targeted and temporary information sharing supported goal of ending emergency

232. The application judge also found what he called a "seizure" (but is better understood to be a "search") in the *Economic Order*'s information-sharing provisions. While it is not disputed that authorizing and requiring the sharing of personal financial information would engage the protection of s. 8 of the *Charter*, a proper statutory interpretation of ss. 5 and 6 of the *Economic Order* establishes that any such search was reasonable. The application judge conducted no such interpretation and erred in finding ss. 5 and 6 of the *Economic Order* to infringe s. 8. He also fundamentally erred by applying criminal *Charter* standards to a non-criminal context.

i) Application Judge's s. 8 analysis tainted by his failure to properly interpret ss. 5-6 of the Economic Order

233. To start with, the application judge did not cite, let alone apply, the leading case on assessing the reasonableness of a search for s. 8 purposes outside the criminal context—*Goodwin*—nor did he engage with the relevant considerations for assessing whether the law authorizing a search or seizure was reasonable.[298] He failed to consider the purpose and nature of the scheme and the mechanism of seizure, as required by *Goodwin*,[299] which supported the reasonableness of the information sharing authorized by the *Economic Order*. His entire analysis was tainted by this omission.

234. Sections 5 and 6 of the *Economic Order* authorized the collection and sharing of information to support temporary financial measures aimed at peacefully ending the illegal

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[296] Affidavit of Vincent Gircys, sworn March 8, 2022 [**Gircys Affidavit**], paras 52-56, AB, Vol 11, Tab 16.8, pp 6384-6385; Gircys Cross–Exam Transcript, pp 510-511, AB, Vol 12, Tab 17.9, pp 6972-6973; Affidavit of Edward Cornell, sworn February 23, 2022 [**Cornell Affidavit**], paras 12 and 21-26, AB, Vol 11, Tab 16.7, pp 6362, 6364.
[297] Beaudoin Affidavit, para 31 and Ex D, AB, Vol 8, Tab 13.12, p 4675, 4694.
[298] *Goodwin* at paras 55-57.
[299] *Goodwin* at para 57.

blockades across Canada and preventing them from re-forming. Insofar as these measures authorized "searches" for the purposes of s. 8, these searches were reasonable, and therefore consistent with s. 8, due to the *Economic Order*'s limited scope and duration, and its targeted focus on peacefully ending the unlawful activities that gave rise to the declaration of the public order emergency. This is illustrated in the nature of the measures themselves.

235. Section 5 of the *Economic Order* created an obligation on Canadian financial service providers to disclose certain information to the RCMP Commissioner or to the Director of CSIS.[300] In particular, financial service providers were required to disclose the existence of any property in their possession or control that belonged to designated persons—i.e., individuals or entities engaged in the blockade activities prohibited by the *Regulations*. This was required so that the GIC, and Parliament, could fulfill their ongoing obligations to assess the implementation and effectiveness of the emergency measures.

236. Section 6 authorized the disclosure of information by a federal, provincial, or territorial government institution to Canadian financial service providers.[301] The disclosing institution had to be satisfied that the disclosure would contribute to the application of the *Economic Order*. This allowed law enforcement agencies to share information that could help the financial service providers identify potential designated persons, in order to support them in carrying out their obligations to cease dealings with them as required by s. 2 of the *Economic Order*.[302] The *Economic Order* did not displace Canadian financial service providers' existing statutory obligations to protect personal privacy.

237. As noted above, contextually, these provisions were part of the special temporary measures that ss. 17 and 19 of the *EA* authorized the GIC to take to bring the public order emergency to a peaceful end.[303] They applied only to "designated persons"[304] while they

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[300] *Economic Order*, s. 5.
[301] *Economic Order*, s. 6.
[302] *Economic Order*, s. 2.
[303] *EA*, s. 17(1) and 19(1); s. 58 Explanation, AB, Vol 6, Tab 13.9.1.
[304] Defined as "any individual or entity (itself defined as a "corporation, trust, partnership, fund, unincorporated association or organization or foreign state") that is engaged directly or indirectly, in an activity prohibited by sections 2 to 5 of the *Regulations*.

were engaged in specified prohibited activities, as defined by the *Regulations*, and their sole purpose was to help discourage such participation. These measures were reasonable, and the application judge erred by failing to consider the significance of the limited scope, duration, and focus of the information sharing authorized by ss. 5 and 6 of the *Economic Order* in this non-criminal, emergency context. The *Economic Order* was in force for only 6 days, from February 15 to February 21, 2022, after which all accounts were unfrozen.

ii) Application judge erred by applying criminal law standards to this non-criminal context

238. The Supreme Court has recently emphasized that "[c]riminal law jurisprudence should not be indiscriminately imported into non-criminal matters."[305] The application judge fundamentally erred by doing so and relying on s. 8 standards and jurisprudence that apply to criminal investigations. Those standards, including the requirement of prior authorization by a neutral arbiter, apply where the state seeks to gather private information to support the prosecution of an offence and/or the imposition of criminal or penal liability. There were no such consequences under the *Economic Order* and those standards have no application here.

239. In particular, the application judge erred by failing to properly interpret the *Economic Order* before wrongly concluding that it did not "require that some objective standard be satisfied before the accounts were frozen".[306] He based this wrong conclusion on the mistaken view that the disclosing institution(s) did not need to apply any standard beyond bare subjective belief before disclosing names of protesters to the financial institutions, and that the receipt of the names was considered sufficient to trigger a financial institution's obligation to disclose financial information back to the police. It was also based on a reading of the *Economic Order* in isolation, and not in conjunction with the *Regulations.*

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[305] *York Region District School Board v Elementary Teachers' Federation of Ontario*, 2024 SCC 22 at para 99.
[306] *CFN* at para 341.

240. The application judge's approach blurs together the three provisions of the *Economic Order* and substitutes evidence of police *practice* for a legal interpretation of the impugned provisions, without any explanation of how he arrived at his conclusion that the *Economic Order* failed to incorporate an objective legal standard. The information-sharing provisions were based on an objective standard, as disclosure to the RCMP or CSIS Director pursuant to s. 5 of the *Economic Order*[307] required that financial institutions have "reason to believe" that the property in their possession or control was held by or on behalf of a designated person. This term had its own objective standard in s. 1, defined in reference to engagement in unlawful activities under ss. 2 to 5 of the *Regulations*.[308]

241. The expression "reason to believe" is not uncommon in federal statutes, including similar sanctions legislation.[309] Properly understood, it includes an objective component, hence the need for "reason" in support of the belief. The standard is not purely subjective or "bare belief," and not lower than a "reasonable suspicion." The application judge erred in reading the *Economic Order* based on criminal investigative standards rather than appreciating its unique, non-criminal law context.

242. Had the application judge properly interpreted the *Economic Order* in assessing the reasonableness of any search or seizure under s. 8 of the *Charter*, he would have come to the same conclusion as Commissioner Rouleau that these provisions were reasonable. As Commissioner Rouleau noted, "the asset freezing regime, while highly impactful on protesters, did not involve physical force of violence. By encouraging protesters to leave without having to resort to force, the [*Economic Order*] sought to achieve an end to the unlawful protests that did not place the physical well-being of protesters or others at risk. It was a proportionate response to the situation as it existed as of February 14, 2022."[310]

243. As noted above, outside the criminal context, the reasonableness of privacy intrusive measures is assessed with recourse to the *Goodwin* framework. The proper

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[307] *Economic Order*, s. 5.
[308] *Regulations*, ss. 2-5.
[309] E.g., *Justice for Victims of Corrupt Foreign Officials Act (Sergei Magnitsky Law)*, SC 2017, c 21 s. 6; *Freezing Assets of Corrupt Foreign Officials Act*, SC 2011, c 10, ss. 8-9.
[310] POEC Report, Vol 3, pp 264.

application of that framework in the instant case leads to the conclusion that the information-sharing provisions in ss. 5 and 6 struck a reasonable balance between participants' privacy rights and the important objectives of the *Economic Order* and that the disclosure of information gathered by the police for non-penal purposes did not run afoul of concerns related to the use of regulatory powers to circumvent the more robust protections that apply to the collection of information for criminal purposes.[311]

244. Contrary to the application judge's findings, the information that could be shared by financial service providers under s. 5 of the *Economic Order* was limited to basic information about financial assets controlled by individuals ("the existence of property," "transactions" involving that property) and was triggered only where those providers had reason to believe that property in their possession or control belonged to designated persons (and for so long as they were designated persons).

245. Moreover, the s. 6 authority of governments to disclose information to financial service providers was available only in circumstances where the disclosing institution was satisfied that the disclosure would contribute to the application of the *Economic Order*—and it was a discretion that had to be exercised in accordance with the *Charter*.[312] These measures were no more intrusive than necessary, and wholly reasonable in this non-criminal context in support of achieving the goals of the emergency measures.

*c) **The Economic Order was proportional***

246. Alternatively, any limit on s. 8 was proportional and justified under s. 1 of the *Charter*. As noted above, the application judge applied a combined s. 1 analysis to both ss. 2(b) and 8 of the *Charter*, despite the challenges on each ground relating to different instruments. While the *Regulations* restricted participation in and traveling to public assemblies that might reasonably be expected to breach the peace, the *Economic Order* required financial institutions to "cease dealing" with designated persons participating in those unlawful occupations and blockades.

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[311] *Law* at para 23.
[312] *EA*, Preamble.

247. Contrary to the application judge's findings, the *Economic Order* needed to apply across the country to be effective to disrupt the funding of the blockades and occupations. Convoy participants came from across the country, as did their financial support. Given the existence of local credit unions and non-federally registered financial institutions, it was reasonable for the GIC to believe that the entire Canadian financial system needed to be subject to the same rules. The application judge erred in holding the GIC to a standard of "concrete proof" rather than whether there was a "reasoned apprehension of harm."[313]

248. In this case, and particularly given the unique urgency and circumstances of the crisis at hand, the measures chosen by the GIC were minimally impairing. Parliament had a *reasonable basis* for concluding that the perceived harms existed (as just noted, a "reasoned apprehension of harm"). That is particularly the case in the unique context of a public order emergency. The GIC was entitled to act on the basis of evidence that might fall short of proof on a balance of probabilities to ensure participants could not continue to access funds or engage in crowdfunding activities in exempt provinces.[314]

249. The application judge also erred in finding that the *Economic Order* was not minimally impairing because it did not exempt joint account holders who were not directly implicated in the illegal activities. He did not identify how such an exemption would work in practice, and allowing for continued access to funds for joint account holders would have permitted ready circumvention of the *Economic Order* and undermined its deterrent effect. Insofar as the *Economic Order* limited s. 8 in this regard, it did so no more than reasonably necessary with regard to the practical realities and tensions bearing on the issue.[315] The refusal to create this exemption was a reasonable alternative.[316]

250. Finally, although the application judge criticized the *Economic Order* for failing to provide a standard for who would be the target of the freezing measures, he erred in that regard for the reasons noted above. While there was no express appeal provision by which individuals could challenge a decision to freeze their account, financial services providers

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[313] *Sharpe*, paras 85, 88, 89, 103.
[314] *Hutterian Brethren* at para 85.
[315] *Sharpe* at para 96 [underlining by SCC]; see also *Hutterian Brethren* at para 85.
[316] *Carter* at para 102; *Hutterian Brethren* at para 53; *JTI-Macdonald* at para 43.

were required to determine "on a continuous basis" if their customer was a "designated person."[317] Moreover, if an individual believed their account was frozen improperly, they could contact their financial institution to complain in the same manner as if their account were subject to a freeze for other reasons.

251. The freezing measures were intended to have a deterrent effect but were purposefully limited in duration, and the unfreezing process minimized the effects on account holders. Accounts frozen pursuant to the *Economic Order* were frozen for a matter of days before the measure was revoked and the accounts were unfrozen.[318] For example, Mr. Gircys' accounts were frozen for approximately four days, and Mr. Cornell's for approximately five days. Their accounts were unfrozen shortly after they ended their participation in the unlawful activities that gave rise to the proclamation of a public order emergency.[319]

252. In addition, the information-sharing provisions in ss. 5 and 6 of the *Economic Order* were structured to facilitate both the timely imposition of economic measures and the timely lifting of those measures. The RCMP supported financial institutions in carrying out their ongoing duty to determine whether designated individuals were still participating in the prohibited activities. They did so by contacting individuals and entities whose information was to be disclosed to financial service providers to confirm their ongoing participation in prohibited activities, and by updating financial service providers when they no longer believed individuals or entities were so engaged.[320]

253. Altogether, the GIC went to significant lengths to tailor the *Economic Order* to be proportional and minimally impairing. While other alternatives may have been conceivable, that alone does not establish a lack of proportionality or a *Charter* violation. The *Economic Order* fell within a range of reasonable alternatives, and its successful

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[317] Beaudoin Affidavit, para 29, Ex C, AB, Vol 8, Tab 13.12, pp 4675, 4691.
[318] Beaudoin Affidavit, paras 12, 30, 31, 33, AB, Vol 8, Tab 13.12, pp 4673, 4675-4676.
[319] Gircys Affidavit, paras 52-56, AB, Vol 11, Tab 16.8, pp 6384-6385; Cornell Affidavit, paras 21–26, AB, Vol 11, Tab 16.7, p 6364.
[320] Beaudoin Affidavit, paras 25, 26, 30, Exs C and D, AB, Vol 8, Tab 13.12, pp 4675, 4691, 4694.

deterrent benefits outweighed any deleterious effects. The application judge erred in finding any unjustified limit on s. 8.

E. COSTS

254. The appellant requests that the costs order below be vacated and that it be granted costs against the private interest litigants. Canada does not seek costs and requests costs not be awarded in any event of the cause *vis-à-vis* the public interest litigants CCLA and CCF.

PART IV – ORDER SOUGHT

255. The appellant requests that this appeal be granted and that the applications for judicial review be dismissed.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

Dated at Vancouver, Ottawa, and Toronto this 5th day of July, 2024.

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PART V – LIST OF AUTHORITIES

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95. House of Commons, Standing Committee on Justice and Legal Affairs, *Evidence*, 32-2, Vol. 1, No. 9, p 5 (Hon. Bob Kaplan, Solicitor General of Canada).

96. *Debates of the Senate*, 32–1, Vol 5 (3 November 1983) at 6147–6149 (Appendix: Report of the Special Senate Committee on the Canadian Security Intelligence Service, *Delicate Balance: A Security Intelligence Service in a Democratic Society* (November 1983)), paras 35–36

97. House of Commons, Standing Committee on Justice and Legal Affairs, *Evidence*, 32–2, No 12 (10 April 1984) at 12:17-12:21 (Hon. Warren Allmand, Notre-Dame-de-Grâce, Lachine East, L & Hon. Bob Kaplan, Solicitor General of Canada)

98. House of Commons, Legislative Committee on Bill C–77, *Evidence*, 33–2, Vol 1, No 7, p 32 (Mr. Crofton)

APPENDIX A – STATUTES AND REGULATIONS

Emergencies Act, RSC 1985, c 22, (4th Supp)	***Loi sur les mesures d'urgence,* L.R.C. (1985), ch. 22 (4e suppl.)**
Preamble	**Préambule**
WHEREAS the safety and security of the individual, the protection of the values of the body politic and the preservation of the sovereignty, security and territorial integrity of the state are fundamental obligations of government;	Attendu : que l'État a pour obligations primordiales d'assurer la sécurité des individus, de protéger les valeurs du corps politique et de garantir la souveraineté, la sécurité et l'intégrité territoriale du pays;
AND WHEREAS the fulfilment of those obligations in Canada may be seriously threatened by a national emergency and, in order to ensure safety and security during such an emergency, the Governor in Council should be authorized, subject to the supervision of Parliament, to take special temporary measures that may not be appropriate in normal times;	que l'exécution de ces obligations au Canada risque d'être gravement compromise en situation de crise nationale et que, pour assurer la sécurité en une telle situation, le gouverneur en conseil devrait être habilité, sous le contrôle du Parlement, à prendre à titre temporaire des mesures extraordinaires peut-être injustifiables en temps normal;
AND WHEREAS the Governor in Council, in taking such special temporary measures, would be subject to the *Canadian Charter of Rights and Freedoms* and the *Canadian Bill of Rights* and must have regard to the *International Covenant on Civil and Political Rights*, particularly with respect to those fundamental rights that are not to be limited or abridged even in a national emergency;	qu'en appliquant de pareilles mesures, le gouverneur en conseil serait assujetti à la *Charte canadienne des droits et libertés* ainsi qu'à la *Déclaration canadienne des droits* et aurait à tenir compte du *Pacte international relatif aux droits civils et politiques*, notamment en ce qui concerne ceux des droits fondamentaux auxquels il ne saurait être porté atteinte même dans les situations de crise nationale,
NOW THEREFORE, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:	Sa Majesté, sur l'avis et avec le consentement du Sénat et de la Chambre des communes du Canada, édicte :
National emergency	**Crise nationale**
3 For the purposes of this Act, a ***national emergency*** is an urgent and critical situation of a temporary nature that	**3** Pour l'application de la présente loi, une situation de crise nationale résulte d'un concours de circonstances critiques à caractère d'urgence et de nature temporaire, auquel il n'est pas possible de faire face adéquatement sous le régime des lois du Canada et qui, selon le cas :

(a) seriously endangers the lives, health or safety of Canadians and is of such proportions or nature as to exceed the capacity or authority of a province to deal with it, or **(b)** seriously threatens the ability of the Government of Canada to preserve the sovereignty, security and territorial integrity of Canada and that cannot be effectively dealt with under any other law of Canada.	**a)** met gravement en danger la vie, la santé ou la sécurité des Canadiens et échappe à la capacité ou aux pouvoirs d'intervention des provinces; **b)** menace gravement la capacité du gouvernement du Canada de garantir la souveraineté, la sécurité et l'intégrité territoriale du pays.
Definitions **16** In this Part, ***declaration of a public order emergency*** means a proclamation issued pursuant to subsection 17(1); (*déclaration d'état d'urgence*) ***public order emergency*** means an emergency that arises from threats to the security of Canada and that is so serious as to be a national emergency; (*état d'urgence*) ***threats to the security of Canada*** has the meaning assigned by section 2 of the *Canadian Security Intelligence Service Act*. (*menaces envers la sécurité du Canada*)	**Définitions** **16** Les définitions qui suivent s'appliquent à la présente partie. ***déclaration d'état d'urgence*** Proclamation prise en application du paragraph 17(1) ; (*declaration of a public order emergency*) ***état d'urgence*** Situation de crise causée par des menaces envers la sécurité du Canada d'une gravité telle qu'elle constitue une situation de crise nationale. (*public order emergency*) ***menaces envers la sécurité du Canada*** S'entend au sens de l'article 2 de la *Loi sur le service canadien du renseignement de sécurité*. (*threats to the security of Canada*)
Declaration of a public order emergency 17 **(1)** When the Governor in Council believes, on reasonable grounds, that a public order emergency exists and necessitates the taking of special temporary measures for dealing with the emergency, the Governor in Council, after such consultation as is required by section 25, may, by proclamation, so declare. **Contents** **(2)** A declaration of a public order emergency shall specify **(a)** concisely the state of affairs constituting the emergency;	**Proclamation** 17 **(1)** Le gouverneur en conseil peut par proclamation, s'il croit, pour des motifs raisonnables, qu'il se produit un état d'urgence justifiant en l'occurrence des mesures extraordinaires à titre temporaire et après avoir procédé aux consultations prévues par l'article 25, faire une déclaration à cet effet. **Contenu** **(2)** La déclaration d'état d'urgence comporte : **a)** une description sommaire de l'état d'urgence;

(b) the special temporary measures that the Governor in Council anticipates may be necessary for dealing with the emergency; and	**b)** l'indication des mesures d'intervention que le gouverneur en conseil juge nécessaires pour faire face à l'état d'urgence;
(c) if the effects of the emergency do not extend to the whole of Canada, the area of Canada to which the effects of the emergency extend.	**c)** si l'état d'urgence ne touche pas tout le Canada, la désignation de la zone touchée.
Effective date	**Prise d'effet**
18 **(1)** A declaration of a public order emergency is effective on the day on which it is issued, but a motion for confirmation of the declaration shall be laid before each House of Parliament and be considered in accordance with section 58.	18 **(1)** La déclaration d'état d'urgence prend effet à la date de la proclamation, sous réserve du dépôt d'une motion de ratification devant chaque chambre du Parlement pour étude conformément à l'article 58.
Expiration of declaration	**Cessation d'effet**
(2) A declaration of a public order emergency expires at the end of thirty days unless the declaration is previously revoked or continued in accordance with this Act.	**(2)** La déclaration cesse d'avoir effet après trente jours, sauf abrogation ou prorogation antérieure en conformité avec la présente loi.
Orders and regulations	**Gouverneur en conseil**
19 **(1)** While a declaration of a public order emergency is in effect, the Governor in Council may make such orders or regulations with respect to the following matters as the Governor in Council believes, on reasonable grounds, are necessary for dealing with the emergency:	19 **(1)** Pendant la durée de validité de la déclaration d'état d'urgence, le gouverneur en conseil peut, par décret ou règlement, prendre dans les domaines suivants toute mesure qu'il croit, pour des motifs raisonnables, fondée en l'occurrence :
(a) the regulation or prohibition of	**a)** la réglementation ou l'interdiction :
(i) any public assembly that may reasonably be expected to lead to a breach of the peace,	**(i)** des assemblées publiques dont il est raisonnable de penser qu'elles auraient pour effet de troubler la paix,
(ii) travel to, from or within any specified area, or	**(ii)** des déplacements à destination, en provenance ou à l'intérieur d'une zone désignée,
(iii) the use of specified property;	**(iii)** de l'utilisation de biens désignés;
(b) the designation and securing of protected places;	**b)** la désignation et l'aménagement de lieux protégés;

(c) the assumption of the control, and the restoration and maintenance, of public utilities and services;	**c)** la prise de contrôle ainsi que la restauration et l'entretien de services publics;
(d) the authorization of or direction to any person, or any person of a class of persons, to render essential services of a type that that person, or a person of that class, is competent to provide and the provision of reasonable compensation in respect of services so rendered; and	**d)** l'habilitation ou l'ordre donnés à une personne ou à une personne d'une catégorie de personnes compétentes en l'espèce de fournir des services essentiels, ainsi que le versement d'une indemnité raisonnable pour ces services;
(e) the imposition	**e)** en cas de contravention aux décrets ou règlements d'application du présent article, l'imposition, sur déclaration de culpabilité :
(i) on summary conviction, of a fine not exceeding five hundred dollars or imprisonment not exceeding six months or both that fine and imprisonment, or	**(i)** par procédure sommaire, d'une amende maximale de cinq cents dollars et d'un emprisonnement maximal de six mois ou de l'une de ces peines,
(ii) on indictment, of a fine not exceeding five thousand dollars or imprisonment not exceeding five years or both that fine and imprisonment, for contravention of any order or regulation made under this section.	**(ii)** par mise en accusation, d'une amende maximale de cinq mille dollars et d'un emprisonnement maximal de cinq ans ou de l'une de ces peines.
Idem	**Idem**
(3) The power under subsection (1) to make orders and regulations, and any powers, duties or functions conferred or imposed by or pursuant to any such order or regulation, shall be exercised or performed	**(3)** Les décrets et règlements d'application du paragraphe (1) et les pouvoirs et fonctions qui en découlent sont appliqués ou exercés :
(a) in a manner that will not unduly impair the ability of any province to take measures, under an Act of the legislature of the province, for dealing with an emergency in the province; and	**a)** sans que soit entravée la capacité d'une province de prendre des mesures en vertu d'une de ses lois pour faire face à un état d'urgence sur son territoire;
(b) with the view of achieving, to the extent possible, concerted action with each province with respect to which the power, duty or function is exercised or performed.	**b)** de façon à viser à une concertation aussi poussée que possible avec chaque province concernée.
Revocation by Governor in Council	**Abrogation par le gouverneur en conseil**
22 The Governor in Council may, by proclamation, revoke a declaration of a public order emergency either generally or with respect to any area of Canada effective on such day as is specified in the proclamation.	**22** Le gouverneur en conseil peut, par proclamation, abroger une déclaration d'état d'urgence soit de façon générale, soit pour une zone du Canada, à compter de la date fixée par la proclamation.

Consultation	**Consultation**
25 **(1)** Subject to subsections (2) and (3), before the Governor in Council issues, continues or amends a declaration of a public order emergency, the lieutenant governor in council of each province in which the effects of the emergency occur shall be consulted with respect to the proposed action.	25 **(1)** Sous réserve des paragraphes (2) et (3), le gouverneur en conseil, avant de faire, de proroger ou de modifier une déclaration d'état d'urgence, consulte le lieutenant-gouverneur en conseil de chaque province touchée par l'état d'urgence.
Idem	**Idem**
(2) Where the effects of a public order emergency extend to more than one province and the Governor in Council is of the opinion that the lieutenant governor in council of a province in which the effects of the emergency occur cannot, before the issue or amendment of a declaration of a public order emergency, be adequately consulted without unduly jeopardizing the effectiveness of the proposed action, the lieutenant governor in council of that province may be consulted with respect to the action after the declaration is issued or amended and before the motion for confirmation of the declaration or amendment is laid before either House of Parliament.	**(2)** Lorsque plus d'une province est touchée par un état d'urgence et que le gouverneur en conseil est d'avis que le lieutenant-gouverneur en conseil d'une province touchée ne peut être convenablement consulté, avant la déclaration ou sa modification, sans que soit compromise l'efficacité des mesures envisagées, la consultation peut avoir lieu après la prise des mesures mais avant le dépôt de la motion de ratification devant le Parlement.
Indication	**Pouvoirs ou capacité de la province**
(3) The Governor in Council may not issue a declaration of a public order emergency where the effects of the emergency are confined to one province, unless the lieutenant governor in council of the province has indicated to the Governor in Council that the emergency exceeds the capacity or authority of the province to deal with it.	**(3)** Le gouverneur en conseil ne peut faire de déclaration en cas d'état d'urgence se limitant principalement à une province que si le lieutenant-gouverneur en conseil de la province lui signale que l'état d'urgence échappe à la capacité ou aux pouvoirs d'intervention de la province.
Effect of expiration of declaration	**Cessation d'effet**
26 **(1)** Where, pursuant to this Act, a declaration of a public order emergency expires either generally or with respect to any area of Canada, all orders and regulations made pursuant to the declaration or all orders and regulations so made, to the extent that they	26 **(1)** Dans les cas où, en application de la présente loi, une déclaration d'état d'urgence cesse d'avoir effet soit de façon générale, soit à l'égard d'une zone du Canada, ses décrets ou règlements d'application, ainsi que les dispositions des autres décrets ou règlements qui

apply with respect to that area, as the case may be, expire on the day on which the declaration expires.	concernent cette zone, cessent d'avoir effet en même temps.
Effect of revocation of declaration **(2)** Where, pursuant to this Act, a declaration of a public order emergency is revoked either generally or with respect to any area of Canada, all orders and regulations made pursuant to the declaration or all orders and regulations so made, to the extent that they apply with respect to that area, as the case may be, are revoked effective on the revocation of the declaration.	**Abrogation** **(2)** Dans les cas où, en application de la présente loi, la déclaration est abrogée soit de façon générale, soit à l'égard d'une zone du Canada, ses décrets ou règlements d'application, ainsi que les dispositions des autres décrets ou règlements qui concernent cette zone, sont abrogés en même temps.
Effect of revocation of continuation **(3)** Where, pursuant to this Act, a proclamation continuing a declaration of a public order emergency either generally or with respect to any area of Canada is revoked after the time the declaration would, but for the proclamation, have otherwise expired either generally or with respect to that area, **(a)** the declaration and all orders and regulations made pursuant to the declaration, or **(b)** the declaration and all orders and regulations made pursuant to the declaration to the extent that the declaration, orders and regulations apply with respect to that area, as the case may be, are revoked effective on the revocation of the proclamation.	**Cas de prorogation** **(3)** Dans les cas où une proclamation de prorogation de la déclaration soit de façon générale, soit à l'égard d'une zone du Canada est abrogée après la date prévue à l'origine pour la cessation d'effet, générale ou pour la zone, de la déclaration, celle-ci, ses décrets ou règlements d'application, ainsi que les dispositions des autres décrets ou règlements qui concernent la zone, sont abrogés en même temps.
Effect of revocation of amendment **(4)** Where, pursuant to this Act, a proclamation amending a declaration of a public order emergency is revoked, all orders and regulations made pursuant to the amendment and all orders and regulations to the extent that they apply pursuant to the amendment are revoked effective on the revocation of the proclamation.	**Cas de modification** **(4)** Dans les cas où, en application de la présente loi, une proclamation de modification de la déclaration est abrogée, les décrets ou règlements consécutifs à la modification, ainsi que les dispositions des autres décrets et règlements qui lui sont consécutifs, sont abrogés en même temps.

Orders and regulations	**Gouverneur en conseil**
30 **(1)** While a declaration of an international emergency is in effect, the Governor in Council may make such orders or regulations with respect to the following matters as the Governor in Council believes, on reasonable grounds, are necessary for dealing with the emergency:	30 **(1)** Pendant la durée de validité de la déclaration de crise internationale, le gouverneur en conseil peut, par décret ou règlement, prendre dans les domaines suivants toute mesure qu'il croit, pour des motifs raisonnables, fondée en l'occurrence :
(b) the appropriation, control, forfeiture, use and disposition of property or services;	**b)** la réquisition, le contrôle, la confiscation et l'aliénation de biens ou de services, ou leur usage;
Tabling in Parliament when sitting	**Dépôt devant le Parlement en session**
58 **(1)** Subject to subsection (4), a motion for confirmation of a declaration of emergency, signed by a minister of the Crown, together with an explanation of the reasons for issuing the declaration and a report on any consultation with the lieutenant governors in council of the provinces with respect to the declaration, shall be laid before each House of Parliament within seven sitting days after the declaration is issued.	58 **(1)** Sous réserve du paragraphe (4), il est déposé devant chaque chambre du Parlement, dans les sept jours de séance suivant une déclaration de situation de crise, une motion de ratification de la déclaration signée par un ministre et accompagnée d'un exposé des motifs de la déclaration ainsi que d'un compte rendu des consultations avec les lieutenants-gouverneurs en conseil des provinces au sujet de celle-ci.
Consideration	**Étude**
(5) Where a motion is laid before a House of Parliament as provided in subsection (1) or (4), that House shall, on the sitting day next following the sitting day on which the motion was so laid, take up and consider the motion.	**(5)** La chambre du Parlement saisie d'une motion en application des paragraphes (1) ou (4) étudie celle-ci dès le jour de séance suivant celui de son dépôt.
Vote	**Mise aux voix**
(6) A motion taken up and considered in accordance with subsection (5) shall be debated without interruption and, at such time as the House is ready for the question, the Speaker shall forthwith, without further debate or amendment, put every question necessary for the disposition of the motion.	**(6)** La motion mise à l'étude conformément au paragraphe (5) fait l'objet d'un débat ininterrompu; le débat terminé, le président de la chambre met immédiatement aux voix toute question nécessaire pour décider de la motion.
Revocation of declaration	**Abrogation de la déclaration**
(7) If a motion for confirmation of a declaration of emergency is negatived by either House of Parliament, the declaration, to the extent that it has not previously expired or been revoked, is revoked effective on the day of the negative vote	**(7)** En cas de rejet de la motion de ratification de la déclaration par une des chambres du Parlement, la déclaration, sous réserve de sa cessation d'effet ou de son abrogation antérieure, est abrogée à

and no further action under this section need be taken in the other House with respect to the motion.	compter de la date du vote de rejet et l'autre chambre n'a pas à intervenir sur la motion.
Parliamentary Review Committee	**Comité d'examen parlementaire**
Review by Parliamentary Review Committee	**Examen**
62 (1) The exercise of powers and the performance of duties and functions pursuant to a declaration of emergency shall be reviewed by a committee of both Houses of Parliament designated or established for that purpose.	62 **(1)** L'exercice des attributions découlant d'une déclaration de situation de crise est examiné par un comité mixte de la Chambre des communes et du Sénat désigné ou constitué à cette fin.
Membership	**Composition du comité**
(2) The Parliamentary Review Committee shall include at least one member of the House of Commons from each party that has a recognized membership of 12 or more persons in that House and at least the Leader of the Government in the Senate or Government Representative in the Senate, or his or her nominee, the Leader of the Opposition in the Senate, or his or her nominee, and the Leader or Facilitator who is referred to in any of paragraphs 62.4(1)(c) to (e) of the *Parliament of Canada Act*, or his or her nominee.	**(2)** Siègent au comité d'examen parlementaire au moins un député de chaque parti dont l'effectif reconnu à la Chambre des communes comprend au moins douze personnes, et au moins le leader ou représentant du gouvernement au Sénat, ou son délégué, le leader de l'opposition au Sénat, ou son délégué, et le leader ou facilitateur visé à l'un ou l'autre des alinéas 62.4(1)c) à e) de la *Loi sur le Parlement du Canada*, ou son délégué.
Oath of secrecy	**Serment de secret**
(3) Every member of the Parliamentary Review Committee and every person employed in the work of the Committee shall take the oath of secrecy set out in the schedule.	**(3)** Les membres du comité d'examen parlementaire et son personnel prêtent le serment de secret figurant à l'annexe.
Meetings in private	**Réunions à huis clos**
(4) Every meeting of the Parliamentary Review Committee held to consider an order or regulation referred to it pursuant to subsection 61(2) shall be held in private.	**(4)** Les réunions du comité d'examen parlementaire en vue de l'étude des décrets ou règlements qui lui sont renvoyés en application du paragraphe 61(2) se tiennent à huis clos.

Revocation or amendment of order or regulation **(5)** If, within thirty days after an order or regulation is referred to the Parliamentary Review Committee pursuant to subsection 61(2), the Committee adopts a motion to the effect that the order or regulation be revoked or amended, the order or regulation is revoked or amended in accordance with the motion, effective on the day specified in the motion, which day may not be earlier than the day on which the motion is adopted.	**Abrogation ou modification** **(5)** Si, dans les trente jours suivant le renvoi prévu par le paragraphe 61(2), le comité d'examen parlementaire adopte une motion d'abrogation ou de modification d'un décret ou d'un règlement ayant fait l'objet du renvoi, cette mesure s'applique dès la date prévue par la motion; cette date ne peut toutefois pas être antérieure à celle de l'adoption de la motion.
Report to Parliament **(6)** The Parliamentary Review Committee shall report or cause to be reported the results of its review under subsection (1) to each House of Parliament at least once every sixty days while the declaration of emergency is in effect and, in any case, **(a)** within three sitting days after a motion for revocation of the declaration is filed under subsection 59(1); **(b)** within seven sitting days after a proclamation continuing the declaration is issued; and **(c)** within seven sitting days after the expiration of the declaration or the revocation of the declaration by the Governor in Council.	**Rapport au Parlement** **(6)** Le comité d'examen parlementaire dépose ou fait déposer devant chaque chambre du Parlement un rapport des résultats de son examen au moins tous les soixante jours pendant la durée de validité d'une déclaration de situation de crise, et, en outre, dans les cas suivants : **a)** dans les trois jours de séance qui suivent le dépôt d'une motion demandant l'abrogation d'une déclaration de situation de crise en conformité avec le paragraphe 59(1); **b)** dans les sept jours de séance qui suivent une proclamation de prorogation d'une situation de crise; **c)** dans les sept jours de séance qui suivent la cessation d'effet d'une déclaration ou son abrogation par le gouverneur en conseil.
Inquiry **63 (1)** The Governor in Council shall, within sixty days after the expiration or revocation of a declaration of emergency, cause an inquiry to be held into the circumstances that led to the declaration being issued and the measures taken for dealing with the emergency.	**Enquête** 63 **(1)** Dans les soixante jours qui suivent la cessation d'effet ou l'abrogation d'une déclaration de situation de crise, le gouverneur en conseil est tenu de faire faire une enquête sur les circonstances qui ont donné lieu à la déclaration et les mesures prises pour faire face à la crise.

Report to Parliament **(2)** A report of an inquiry held pursuant to this section shall be laid before each House of Parliament within three hundred and sixty days after the expiration or revocation of the declaration of emergency.	**Dépôt devant le Parlement** **(2)** Le rapport de l'enquête faite en conformité avec le présent article est déposé devant chaque chambre du Parlement dans un délai de trois cent soixante jours suivant la cessation d'effet ou l'abrogation de la déclaration de situation de crise.
Proclamation Declaring a Public Order Emergency*, SOR/2022-20** *a)* ***A Proclamation Whereas the Governor in Council believes, on reasonable grounds, that a public order emergency exists and necessitates the taking of special temporary measures for dealing with the emergency; Whereas the Governor in Council has, before declaring a public order emergency and in accordance with subsection 25(1) of the *Emergencies Act*, consulted the Lieutenant Governor in Council of each province, the Commissioners of Yukon and the Northwest Territories, acting with consent of their respective Executive Councils, and the Commissioner of Nunavut; Now Know You that We, by and with the advice of Our Privy Council for Canada, pursuant to subsection 17(1) of the *Emergencies Act*, do by this Our Proclamation declare that a public order emergency exists throughout Canada and necessitates the taking of special temporary measures for dealing with the emergency; And We do specify the emergency as constituted of **(a)** the continuing blockades by both persons and motor vehicles that is occurring at various locations throughout Canada and the continuing threats to oppose measures to remove the blockades, including by force, which blockades are being carried on in	***Proclamation déclarant une urgence d'ordre public*, DORS/2022-20** *b)* ***Proclamation*** Attendu que la gouverneure en conseil croit, pour des motifs raisonnables, qu'il se produit un état d'urgence justifiant en l'occurrence des mesures extraordinaires à titre temporaire; Attendu que la gouverneure en conseil a, conformément au paragraphe 25(1) de la *Loi sur les mesures d'urgence*, consulté le lieutenant-gouverneur en conseil de chaque province, les commissaires du Yukon et des Territoires du Nord-Ouest agissant avec l'agrément de leur conseil exécutif respectif et le commissaire du Nunavut avant de faire la déclaration de l'état d'urgence, Sachez que, sur et avec l'avis de Notre Conseil privé pour le Canada, Nous, en vertu du paragraphe 17(1) de la *Loi sur les mesures d'urgence*, par Notre présente proclamation, déclarons qu'il se produit dans tout le pays un état d'urgence justifiant en l'occurrence des mesures extraordinaires à titre temporaire; Sachez que Nous décrivons l'état d'urgence comme prenant la forme suivante : **a)** les blocages continus mis en place par des personnes et véhicules à différents endroits au Canada et les menaces continues proférées en opposition aux mesures visant à mettre fin aux blocages, notamment par l'utilisation de la force, lesquels blocages ont un lien avec des activités

conjunction with activities that are directed toward or in support of the threat or use of acts of serious violence against persons or property, including critical infrastructure, for the purpose of achieving a political or ideological objective within Canada,	qui visent à favoriser l'usage de la violence grave ou de menaces de violence contre des personnes ou des biens, notamment les infrastructures essentielles, dans le but d'atteindre un objectif politique ou idéologique au Canada,
(b) the adverse effects on the Canadian economy — recovering from the impact of the pandemic known as the coronavirus disease 2019 (COVID-19) — and threats to its economic security resulting from the impacts of blockades of critical infrastructure, including trade corridors and international border crossings,	**b)** les effets néfastes sur l'économie canadienne — qui se relève des effets de la pandémie de la maladie à coronavirus 2019 (COVID-19) — et les menaces envers la sécurité économique du Canada découlant des blocages d'infrastructures essentielles, notamment les axes commerciaux et les postes frontaliers internationaux,
(c) the adverse effects resulting from the impacts of the blockades on Canada's relationship with its trading partners, including the United States, that are detrimental to the interests of Canada,	**c)** les effets néfastes découlant des blocages sur les relations qu'entretient le Canada avec ses partenaires commerciaux, notamment les États-Unis, lesquels effets sont préjudiciables aux intérêts du Canada,
(d) the breakdown in the distribution chain and availability of essential goods, services and resources caused by the existing blockades and the risk that this breakdown will continue as blockades continue and increase in number, and	**d)** la rupture des chaînes de distribution et de la mise à disposition de ressources, de services et de denrées essentiels causée par les blocages existants et le risque que cette rupture se perpétue si les blocages continuent et augmentent en nombre,
(e) the potential for an increase in the level of unrest and violence that would further threaten the safety and security of Canadians;	**e)** le potentiel d'augmentation du niveau d'agitation et de violence qui menaceraient davantage la sécurité des Canadiens;
And We do further specify that the special temporary measures that may be necessary for dealing with the emergency, as anticipated by the Governor in Council, are	Sachez que Nous jugeons les mesures d'intervention ci-après nécessaires pour faire face à l'état d'urgence :
(a) measures to regulate or prohibit any public assembly — other than lawful advocacy, protest or dissent — that may reasonably be expected to lead to a breach of the peace, or the travel to, from or within any specified area, to regulate or prohibit the use of specified property, including goods to be used with respect to a blockade, and to designate and secure protected places, including critical infrastructure,	**a)** des mesures pour réglementer ou interdire les assemblées publiques — autre que les activités licites de défense d'une cause, de protestation ou de manifestation d'un désaccord — dont il est raisonnable de penser qu'elles auraient pour effet de troubler la paix, ou les déplacements à destination, en provenance ou à l'intérieur d'une zone désignée, pour réglementer ou interdire l'utilisation de biens désignés, notamment les biens utilisés dans le cadre d'un blocage, et pour désigner et aménager des lieux protégés, notamment les infrastructures essentielles,

(b) measures to authorize or direct any person to render essential services of a type that the person is competent to provide, including services related to removal, towing and storage of any vehicle, equipment, structure or other object that is part of a blockade anywhere in Canada, to relieve the impacts of the blockades on Canada's public and economic safety, including measures to identify those essential services and the persons competent to render them and the provision of reasonable compensation in respect of services so rendered,	**b)** des mesures pour habiliter toute personne compétente à fournir des services essentiels ou lui ordonner de fournir de tels services, notamment l'enlèvement, le remorquage et l'entreposage de véhicules, d'équipement, de structures ou de tout autre objet qui font partie d'un blocage n'importe où au Canada, afin de pallier les effets des blocages sur la sécurité publique et économique du Canada, notamment des mesures pour cerner ces services essentiels et les personnes compétentes à les fournir, ainsi que le versement d'une indemnité raisonnable pour ces services,
(c) measures to authorize or direct any person to render essential services to relieve the impacts of the blockade, including to regulate or prohibit the use of property to fund or support the blockade, to require any crowdfunding platform and payment processor to report certain transactions to the Financial Transactions and Reports Analysis Centre of Canada and to require any financial service provider to determine whether they have in their possession or control property that belongs to a person who participates in the blockade,	**c)** des mesures pour habiliter toute personne à fournir des services essentiels ou lui ordonner de fournir de tels services afin de pallier les effets des blocages, notamment des mesures pour réglementer ou interdire l'usage de biens en vue de financer ou d'appuyer les blocages, pour exiger de toute plateforme de sociofinancement et de tout fournisseur de traitement de paiement qu'il déclare certaines opérations au Centre d'analyse des opérations et déclarations financières du Canada et pour exiger de tout fournisseur de services financiers qu'il vérifie si des biens qui sont en sa possession ou sous son contrôle appartiennent à une personne qui participe à un blocage,
(d) measures to authorize the Royal Canadian Mounted Police to enforce municipal and provincial laws by means of incorporation by reference,	**d)** des mesures pour habiliter la Gendarmerie royale du Canada à appliquer les lois municipales et provinciales au moyen de l'incorporation par renvoi,
(e) the imposition of fines or imprisonment for contravention of any order or regulation made under section 19 of the *Emergencies Act*; and	**e)** en cas de contravention aux décrets ou règlements pris au titre de l'article 19 de la *Loi sur les mesures d'urgence*, l'imposition d'amendes ou de peines d'emprisonnement,
(f) other temporary measures authorized under section 19 of the *Emergencies Act* that are not yet known.	**f)** toute autre mesure d'intervention autorisée par l'article 19 de la *Loi sur les mesures d'urgence* qui est encore inconnue.
In testimony whereof, We have caused this Our Proclamation to be published and the Great Seal of Canada to be affixed to it.	En foi de quoi, Nous avons pris et fait publier Notre présente Proclamation et y avons fait apposer le grand sceau du Canada.

WITNESS: Our Right Trusty and Well-beloved Mary May Simon, Chancellor and Principal Companion of Our Order of Canada, Chancellor and Commander of Our Order of Military Merit, Chancellor and Commander of Our Order of Merit of the Police Forces, Governor General and Commander-in-Chief of Canada. At Our Government House, in Our City of Ottawa, this fourteenth day of February in the year of Our Lord two thousand and twenty-two and in the seventy-first year of Our Reign. BY COMMAND, Simon Kennedy Deputy Registrar General of Canada	TÉMOIN : Notre très fidèle et bien-aimée Mary May Simon, chancelière et compagnon principal de Notre Ordre du Canada, chancelière et commandeure de Notre Ordre du mérite militaire, chancelière et commandeure de Notre Ordre du mérite des corps policiers, gouverneure générale et commandante en chef du Canada. À Notre hôtel du gouvernement, en Notre ville d'Ottawa, ce quatorzième jour de février de l'an de grâce deux mille vingt-deux, soixante et onzième de Notre règne. PAR ORDRE, Le sous-registraire général du Canada, Simon Kennedy
***Emergency Measures Regulations* SOR/2022-21** **Prohibition — public assembly** 2 **(1)** A person must not participate in a public assembly that may reasonably be expected to lead to a breach of the peace by: **(a)** the serious disruption of the movement of persons or goods or the serious interference with trade; **(b)** the interference with the functioning of critical infrastructure; or **(c)** the support of the threat or use of acts of serious violence against persons or property. **Minor** **(2)** A person must not cause a person under the age of eighteen years to participate in an assembly referred to in subsection (1).	***Règlement sur les mesures d'urgences*, DORS/2022-21** **Interdiction – assemblée publique** 2 **(1)** Il est interdit de participer à une assemblée publique dont il est raisonnable de penser qu'elle aurait pour effet de troubler la paix par l'un des moyens suivants: **a)** en entravant gravement le commerce ou la circulation des personnes et des biens; **b)** en entravant le fonctionnement d'infrastructures essentielles; **c)** en favorisant l'usage de la violence grave ou de menaces de violence contre des personnes ou des biens. **Mineur** **(2)** Il est interdit de faire participer une personne âgée de moins de dix-huit ans à une assemblée visée au paragraphe (1).

Prohibition — entry to Canada — foreign national **3 (1)** A foreign national must not enter Canada with the intent to participate in or facilitate an assembly referred to in subsection 2(1). **Exemption** **(2)** Subsection (1) does not apply to **(a)** a person registered as an Indian under the *Indian Act*; **(b)** a person who has been recognized as a Convention refugee or a person in similar circumstances to those of a Convention refugee within the meaning of subsection 146(1) of the *Immigration and Refugee Protection Regulations* who is issued a permanent resident visa under subsection 139(1) of those regulations; **(c)** a person who has been issued a temporary resident permit within the meaning of subsection 24(1) of the *Immigration and Refugee Protection Act* and who seeks to enter Canada as a protected temporary resident under subsection 151.1(2) of the *Immigration and Refugee Protection Regulations*; **(d)** a person who seeks to enter Canada for the purpose of making a claim for refugee protection; **(e)** a protected person; **(f)** a person or any person in a class of persons whose presence in Canada, as determined by the Minister of Citizenship and Immigration or the Minister of Public Safety and Emergency Preparedness, is in the national interest. **Travel** 4 **(1)** A person must not travel to or within an area where an assembly referred to in subsection 2(1) is taking place.	**Interdiction – entrée au Canada – étranger** **3 (1)** Il est interdit à l'étranger d'entrer au Canada avec l'intention de participer à une assemblée visée au paragraphe 2(1) ou de faciliter une telle assemblée. **Exemption** **(2)** Le paragraphe (1) ne s'applique pas aux personnes suivantes : **a)** une personne inscrite à titre d'Indien sous le régime de la *Loi sur les Indiens*; **b)** la personne reconnue comme réfugié au sens de la Convention, ou la personne dans une situation semblable à celui-ci au sens du paragraphe 146(1) du *Règlement sur l'immigration et la protection des réfugiés*, qui est titulaire d'un visa de résident permanent délivré aux termes du paragraphe 139(1) de ce règlement; **c)** la personne qui est titulaire d'un permis de séjour temporaire au sens du paragraphe 24(1) de la *Loi sur l'immigration et la protection des réfugiés* et qui cherche à entrer au Canada à titre de résident temporaire protégé aux termes du paragraphe 151.1(2) du *Règlement sur l'immigration et la protection des réfugiés*; **d)** la personne qui cherche à entrer au Canada afin de faire une demande d'asile; **e)** la personne protégée; **f)** sa présence au Canada est, individuellement ou au titre de son appartenance à une catégorie de personnes, selon ce que conclut le ministre de la Citoyenneté et de l'Immigration ou le ministre de la Sécurité publique et de la Protection civile, dans l'intérêt national. **Déplacements** **4 (1)** Il est interdit de se déplacer à destination ou à l'intérieur d'une zone où se tient une assemblée visée au paragraphe 2(1).

Minor — travel near public assembly **(2)** A person must not cause a person under the age of eighteen years to travel to or within 500 metres of an area where an assembly referred to in subsection 2(1) is taking place.	**Déplacements à proximité d'une assemblée publique – mineur** **(2)** Il est interdit de faire déplacer une personne âgée de moins de dix-huit ans, à destination ou à moins de 500 mètres de la zone où se tient une assemblée visée au paragraphe 2(1).
Exemptions **(3)** A person is not in contravention of subsections (1) and (2) if they are	**Exemptions** **(3)** Ne contrevient pas aux paragraphes (1) et (2) :
(a) a person who, within of the assembly area, resides, works or is moving through that area for reasons other than to participate in or facilitate the assembly;	**a)** la personne qui réside, travaille ou circule dans la zone de l'assemblée, pour des motifs autres que de prendre part à l'assemblée ou la faciliter;
(b) a person who, within the assembly area, is acting with the permission of a peace officer or the Minister of Public Safety and Emergency Preparedness;	**b)** la personne qui, relativement à la zone d'assemblée, agit avec la permission d'un agent de la paix ou du ministre de la Sécurité publique et de la Protection civile;
(c) a peace officer; or	**c)** l'agent de la paix;
(d) an employee or agent of the government of Canada or a province who is acting in the execution of their duties.	**d)** l'employé ou le mandataire du gouvernement du Canada ou d'une province qui agit dans l'exercice de ses fonctions.
Use of property — prohibited assembly **5** A person must not, directly or indirectly, use, collect, provide make available or invite a person to provide property to facilitate or participate in any assembly referred to in subsection 2(1) or for the purpose of benefiting any person who is facilitating or participating in such an activity.	**Utilisation de biens – assemblée interdite** **5** Il est interdit, directement ou non, d'utiliser, de réunir, de rendre disponibles ou de fournir des biens — ou d'inviter une autre personne à le faire — pour participer à toute assemblée visée au paragraphe 2(1) ou faciliter une telle assemblée ou pour en faire bénéficier une personne qui participe à une telle assemblée ou la facilite.
Designation of protected places **6** The following places are designated as protected and may be secured:	**Désignation de lieux protégés** **6** Les lieux suivants sont protégés et peuvent être aménagés :
(a) critical infrastructures;	**a)** les infrastructures essentielles;

(b) Parliament Hill and the parliamentary precinct as they are defined in section 79.51 of the *Parliament of Canada Act*;	**b)** la cité parlementaire et la Colline parlementaire au sens de l'article 79.51 de la *Loi sur le Parlement du Canada*;
(c) official residences;	**c)** les résidences officielles;
(d) government buildings and defence buildings	**d)** les immeubles gouvernementaux et les immeubles de la défense;
(e) any property that is a building, structure or part thereof that primarily serves as a monument to honour persons who were killed or died as a consequence of a war, including a war memorial or cenotaph, or an object associated with honouring or remembering those persons that is located in or on the grounds of such a building or structure, or a cemetery;	**e)** tout ou partie d'un bâtiment ou d'une structure servant principalement de monument érigé en l'honneur des personnes tuées ou décédées en raison d'une guerre — notamment un monument commémoratif de guerre ou un cénotaphe —, d'un objet servant à honorer ces personnes ou à en rappeler le souvenir et se trouvant dans un tel bâtiment ou une telle structure ou sur le terrain où ceux-ci sont situés, ou d'un cimetière;
(f) any other place as designated by the Minister of Public Safety and Emergency Preparedness.	**f)** tout autre lieu désigné par le ministre de la Sécurité publique et de la Protection civile.
Direction to render essential goods and services	**Ordre de fournir des biens et services essentiels**
7 (1) Any person must make available and render the essential goods and services requested by the Minister of Public Safety and Emergency Preparedness, the Commissioner of the Royal Canadian Mounted Police or a person acting on their behalf for the removal, towing and storage of any vehicle, equipment, structure or other object that is part of a blockade.	**7 (1)** Toute personne doit rendre disponibles et fournir les biens et services essentiels demandés par le ministre de la Sécurité publique et de la Protection civile, du commissaire de la Gendarmerie royale du Canada, ou la personne agissant en leur nom pour l'enlèvement, le remorquage et l'entreposage de véhicules, d'équipement, des structures ou de tout autre objet qui composent un blocage.
Method of request	**Modalités**
(2) Any request made under subsection (1) may be made in writing or given verbally by a person acting on their behalf.	**(2)** La demande faite au titre du paragraphe (1) peut être faite par écrit ou communiquée verbalement ou la personne agissant en son nom.
Verbal request	**Demande verbale**
(3) Any verbal request must be confirmed in writing as soon as possible.	**(3)** La demande verbale est confirmée par écrit dès que possible.

Period of request	**Période de validité**
8 A person who, in accordance with these Regulations, is subject to a request under section 7 to render essential goods and services must comply immediately with that request until the earlier of any of the following:	**8** Quiconque fait l'objet d'une demande au titre de l'article 7 pour la fourniture de biens et de services essentiels est tenu de s'y conformer dans les plus brefs délais jusqu'à la première des dates suivantes :
(a) the day referred to in the request;	**a)** la date indiqué à la demande;
(b) the day on which the declaration of the public order emergency expires or is revoked; or	**b)** la date de l'abrogation ou la cessation d'effet de la déclaration d'état d'urgence;
(c) the day on which these Regulations are repealed.	**c)** la date de l'abrogation du présent règlement.
Compensation for essential goods and services	**Indemnisation pour les biens et services essentiels**
9 (1) Her Majesty in right of Canada is to provide reasonable compensation to a person for any goods or services that they have rendered at their request under section 7, which amount must be equal to the current market price for those goods or services of that same type, in the area in which the goods or services are rendered.	**9 (1)** Sa Majesté du chef du Canada accorde une indemnité raisonnable à la personne pour les biens fournis et les services rendus à sa demande aux termes de l'article 7 dont le montant équivaut au taux courant du marché pour les biens et services de même type, dans la région où les biens ont été fournis ou où les services ont été rendus.
Compensation	**Indemnisation**
(2) Any person who suffers loss, injury or damage as a result of anything done or purported to be done under these Regulations may make an application for compensation in accordance with Part V of the *Emergencies Act* and any regulations made under that Part, as the case may be.	**(2)** Toute personne qui subit des dommages corporels ou matériels entraînés par des actes accomplis, ou censés l'avoir été, en application du présent règlement peut, à cet égard, présenter une demande d'indemnisation conformément à la partie V de la *Loi sur les mesures d'urgence* et à ses règlements d'application, le cas échéant.
Compliance — peace officer	**Application des lois**
10 (1) In the case of a failure to comply with these Regulations, any peace officer may take the necessary measures to ensure the compliance with these Regulations and with any provincial or municipal laws and allow for the prosecution for that failure to comply.	**10 (1)** En cas de contravention au présent règlement, tout agent de la paix peut prendre les mesures nécessaires pour faire observer le présent règlement ou toutes lois provinciales ou municipales et permettre l'engagement de poursuites pour cette contravention.

Contravention of Regulations **(2)** In the case of a failure to comply with these Regulations, any peace officer may take the necessary measures to ensure the compliance and allow for the prosecution for that failure to comply **(a)** on summary conviction, to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months or to both; or **(b)** on indictment, to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding five years or to both.	**Pénalités** **(2)** Quiconque contrevient au présent règlement est coupable d'une infraction passible, sur déclaration de culpabilité : **a)** par procédure sommaire, d'une amende maximale de 500 $ et d'un d'emprisonnement maximal de six mois, ou de l'une de ces peines; **b)** par mise en accusation, d'une amende maximale de 5 000 $ et d'un emprisonnement maximal de cinq ans, ou de l'une de ces peines.
***Emergency Economic Measures Order*, SOR/2022-22** Definitions **1** The following definitions apply to this Order: *designated person* means any individual or entity that is engaged, directly or indirectly, in an activity prohibited by sections 2 to 5 of the Emergency Measures Regulations. (personne désignée) *entity* includes a corporation, trust, partnership, fund, unincorporated association or organization or foreign state. (entité) **2 (1)** Any entity set out in section 3 must, upon the coming into force of this Order, cease **(a)** dealing in any property, wherever situated, that is owned, held or controlled, directly or indirectly, by a designated person or by a person acting on behalf of or at the direction of that designated person; **(b)** facilitating any transaction related to a dealing referred to in paragraph (a);	***Décret sur les mesures économiques d'urgence*, DORS/2022-22** Définitions **1** Les définitions qui suivent s'appliquent au présent décret : entité S'entend notamment d'une personne morale, d'une fiducie, d'une société de personne, d'un fonds, d'une organisation ou d'une association dotée de la personnalité morale ou d'un État étranger. (entity) personne désignée Toute personne physique ou entité qui participe, même indirectement, à l'une ou l'autre des activités interdites au titre des articles 2 à 5 du Règlement sur les mesures d'urgence. (designated person) **2 (1)** Dès l'entrée en vigueur du présent décret, les entités visées à l'article 3 doivent cesser : **a)** toute opération portant sur un bien, où qu'il se trouve, appartenant à une personne désignée ou détenu ou contrôlé par elle ou pour son compte ou suivant ses instructions; **b)** toute transaction liée à une opération visée à l'alinéa a) ou d'en faciliter la conclusion;

(c) making available any property, including funds or virtual currency, to or for the benefit of a designated person or to a person acting on behalf of or at the direction of a designated person; or	**c)** de rendre disponible des biens — notamment des fonds ou de la monnaie virtuelle — à une personne désignée ou à une personne agissant pour son compte ou suivant ses instructions, ou au profit de l'une ou l'autre de ces personnes;
(d) providing any financial or related services to or for the benefit of any designated person or acquire any such services from or for the benefit of any such person or entity.	**d)** de fournir des services financiers ou connexes à une personne désignée ou à son profit ou acquérir de tels services auprès d'elle ou à son profit.
(2) Paragraph 2(1)(d) does not apply in respect of any insurance policy which was valid prior to the coming in force of this Order other than an insurance policy for any vehicle being used in a public assembly referred to in subsection 2(1) of the Emergency Measures Regulations.	**(2)** Toutefois, l'alinéa 2(1)d) ne s'applique pas à l'égard d'une police d'assurance effective — au moment de l'entrée en vigueur du présent décret — portant sur un véhicule autre que celui utilisé lors d'une assemblée publique visée au paragraphe **2(1)** du Règlement sur les mesures d'urgence.
3 The following entities must determine on a continuing basis whether they are in possession or control of property that is owned, held or controlled by or on behalf of a designated person:	**3** Il incombe aux entités mentionnées ci-après de vérifier de façon continue si des biens qui sont en leur possession ou sous leur contrôle appartiennent à une personne désignée ou sont détenus ou contrôlés par elle ou pour son compte :
(a) *authorized foreign banks*, as defined in section 2 of the Bank Act, in respect of their business in Canada, and banks regulated by that Act;	**a)** les banques étrangères autorisées, au sens de l'article 2 de la Loi sur les banques, dans le cadre de leurs activités au Canada, et les banques régies par cette loi;
(b) cooperative credit societies, savings and credit unions and caisses populaires regulated by a provincial Act and associations regulated by the Cooperative Credit Associations Act;	**b)** les coopératives de crédit, caisses d'épargne et de crédit et caisses populaires régies par une loi provinciale et les associations régies par la Loi sur les associations coopératives de crédit;
(c) *foreign companies*, as defined in subsection 2(1) of the Insurance Companies Act, in respect of their insurance business in Canada;	**c)** les sociétés étrangères, au sens du paragraphe **2(1)** de la Loi sur les sociétés d'assurances, dans le cadre de leurs activités d'assurance au Canada;
(d) *companies*, *provincial companies* and *societies*, as those terms are defined in subsection 2(1) of the Insurance Companies Act;	**d)** les sociétés, les sociétés de secours et les sociétés provinciales, au sens du paragraphe 2(1) de la Loi sur les sociétés d'assurances;
(e) fraternal benefit societies regulated by a provincial Act in respect of their insurance activities and insurance companies and other entities regulated by a provincial Act that are engaged in the business of insuring risks;	**e)** les sociétés de secours mutuel régies par une loi provinciale, dans le cadre de leurs activités d'assurance, et les sociétés d'assurances et autres entités régies par une loi provinciale qui exercent le commerce de l'assurance;

(f) companies regulated by the Trust and Loan Companies Act;	**f)** les sociétés régies par la Loi sur les sociétés de fiducie et de prêt;
(g) trust companies regulated by a provincial Act;	**g)** les sociétés de fiducie régies par une loi provinciale;
(h) loan companies regulated by a provincial Act;	**h)** les sociétés de prêt régies par une loi provinciale;
(i) entities that engage in any activity described in paragraphs 5(h) and (h.1) of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act;	**i)** les entités qui se livrent à une activité visée aux alinéas 5h) et h.1) de la Loi sur le recyclage des produits de la criminalité et le financement des activités terroristes;
(j) entities authorized under provincial legislation to engage in the business of dealing in securities or to provide portfolio management or investment counselling services;	**j)** les entités autorisées en vertu de la législation provinciale à se livrer au commerce des valeurs mobilières ou à fournir des services de gestion de portefeuille ou des conseils en placement;
(k) entities that provide a platform to raise funds or virtual currency through donations; and	**k)** les plateformes collaboratives et celles de monnaie virtuelle qui sollicitent des dons;
(l) entities that perform any of the following payment functions:	**l)** toute entité qui exécute l'une ou l'autre de fonctions suivantes :
(i) the provision or maintenance of an account that, in relation to an electronic funds transfer, is held on behalf of one or more end users,	**(i)** la fourniture ou la tenue d'un compte détenu au nom d'un ou de plusieurs utilisateurs finaux en vue d'un transfert électronique de fonds,
(ii) the holding of funds on behalf of an end user until they are withdrawn by the end user or transferred to another individual or entity,	**(ii)** la détention de fonds au nom d'un utilisateur final jusqu'à ce qu'ils soient retirés par celui-ci ou transférés à une personne physique ou à une entité,
(iii) the initiation of an electronic funds transfer at the request of an end user,	**(iii)** l'initiation d'un transfert électronique de fonds à la demande d'un utilisateur final,
(iv) the authorization of an electronic funds transfer or the transmission, reception or facilitation of an instruction in relation to an electronic funds transfer, or	**(iv)** l'autorisation de transfert électronique de fonds ou la transmission, la réception ou la facilitation d'une instruction en vue d'un transfert électronique de fonds,
(v) the provision of clearing or settlement services.	**(v)** la prestation de services de compensation ou de règlement.
4 (1) The entities referred to in paragraphs **3(k)** and **(l)** must register with the Financial Transactions and Reports Analysis Centre of Canada established by section 41 of	**4 (1)** Les entités visées aux alinéas 3k) et l) doivent s'inscrire auprès du Centre d'analyse des opérations et déclarations financières du Canada constitué par l'article 41 de la Loi sur le

the Proceeds of Crime (Money Laundering) and Terrorist Financing Act if they are in possession or control of property that is owned, held or controlled by or on behalf of a designated person.	recyclage des produits de la criminalité et le financement des activités terroristes s'ils ont en leur possession un bien appartenant à une personne désignée ou détenu ou contrôlé par elle ou pour son compte ou suivant ses instructions.
(2) Those entities must also report to the Centre every financial transaction that occurs or that is attempted in the course of their activities and in respect of which there are reasonable grounds to suspect that	**(2)** Elles doivent également déclarer au Centre toute opération financière effectuée ou tentée dans le cours de ses activités et à l'égard de laquelle il y a des motifs raisonnables de soupçonner qu'elle est liée à la perpétration — réelle ou tentée — par à une personne désignée :
(a) the transaction is related to the commission or the attempted commission of a money laundering offence by a designated person; or	**a)** soit d'une infraction de recyclage des produits de la criminalité;
(b) the transaction is related to the commission or the attempted commission of a terrorist activity financing offence by a designated person.	**b)** soit d'une infraction de financement des activités terroristes.
(3) Those entities must also report to the Centre the transactions and information set out in subsections 30(1) and 33(1) of the Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations.	**(3)** Elles doivent également déclarer au Centre les opérations visées aux paragraphes 30(1) ou 33(1) du Règlement sur le recyclage des produits de la criminalité et le financement des activités terroristes.
5 Every entity set out in section 3 must disclose without delay to the Commissioner of the Royal Canadian Mounted Police or to the Director of the Canadian Security Intelligence Service	**5** Toute entité visée à l'article 3 est tenue de communiquer, sans délai, au commissaire de la Gendarmerie royale du Canada ou au directeur du Service canadien du renseignement de sécurité :
(a) the existence of property in their possession or control that they have reason to believe is owned, held or controlled by or on behalf of a designated person; and	**a)** le fait qu'elle croit que des biens qui sont en sa possession ou sous son contrôle appartiennent à une personne désignée ou sont détenus ou contrôlés par elle ou pour son compte;
(b) any information about a transaction or proposed transaction in respect of property referred to in paragraph (a).	b) tout renseignement portant sur une transaction, réelle ou projetée, mettant en cause des biens visés à l'alinéa a).
6 A Government of Canada, provincial or territorial institution may disclose information to any entity set out in section 3, if the disclosing institution is satisfied that the disclosure will contribute to the application of this Order.	**6** Toute institution fédérale, provinciale ou territoriale peut communiquer des renseignements au responsable d'une entité visée à l'article 3, si elle est convaincue que les renseignements aideront à l'application du présent décret.

7 No proceedings under the Emergencies Act and no civil proceedings lie against an entity for complying with this Order. **8** This Order comes into force on the day on which it is registered.	**7** Aucune poursuite en vertu de la Loi sur les mesures d'urgence ni aucune procédure civile ne peuvent être intentées contre une entité qui se conforme au présent décret. **8** Le présent décret entre en vigueur à la date de son enregistrement.
Canadian Security Intelligence Service Act,* RSC 1985, c C-23** **Definitions** **2** In this Act, ***threats to the security of Canada means **(c)** activities within or relating to Canada directed toward or in support of the threat or use of acts of serious violence against persons or property for the purpose of achieving a political, religious or ideological objective within Canada or a foreign state, but does not include lawful advocacy, protest or dissent, unless carried on in conjunction with any of the activities referred to in paragraphs (a) to (d). **Collection, analysis and retention** 12 **(1)** The Service shall collect, by investigation or otherwise, to the extent that it is strictly necessary, and analyse and retain information and intelligence respecting activities that may on reasonable grounds be suspected of constituting threats to the security of Canada and, in relation thereto, shall report to and advise the Government of Canada.	***Loi sur le Service canadien du renseignement de sécurité* LRC (1985), ch C-23** **Définitions** **2** Les définitions qui suivent s'appliquent à la présente loi. ***menaces envers la sécurité du Canada*** Constituent des menaces envers la sécurité du Canada les activités suivantes : (c) les activités qui touchent le Canada ou s'y déroulent et visent à favoriser l'usage de la violence grave ou de menaces de violence contre des personnes ou des biens dans le but d'atteindre un objectif politique, religieux ou idéologique au Canada ou dans un État étranger, La présente définition ne vise toutefois pas les activités licites de défense d'une cause, de protestation ou de manifestation d'un désaccord qui n'ont aucun lien avec les activités mentionnées aux alinéas a) à d). **Informations et renseignements** 12 **(1)** Le Service recueille, au moyen d'enquêtes ou autrement, dans la mesure strictement nécessaire, et analyse et conserve les informations et renseignements sur les activités dont il existe des motifs raisonnables de soupçonner qu'elles constituent des menaces envers la sécurité du Canada; il en fait rapport au gouvernement du Canada et le conseille à cet égard.

Application for warrant 21 **(1)** If the Director or any employee designated by the Minister for the purpose believes, on reasonable grounds, that a warrant under this section is required to enable the Service to investigate, within or outside Canada, a threat to the security of Canada or to perform its duties and functions under section 16, the Director or employee may, after having obtained the Minister's approval, make an application in accordance with subsection (2) to a judge for a warrant under this section.	**Demande de mandat** 21 **(1)** Le directeur ou un employé désigné à cette fin par le ministre peut, après avoir obtenu l'approbation du ministre, demander à un juge de décerner un mandat en conformité avec le présent article s'il a des motifs raisonnables de croire que le mandat est nécessaire pour permettre au Service de faire enquête, au Canada ou à l'extérieur du Canada, sur des menaces envers la sécurité du Canada ou d'exercer les fonctions qui lui sont conférées en vertu de l'article 16.
***The Constitution Act, 1867,* 30 & 31 Vict, c 3** **Declaration of Executive Power in the Queen** **9** The Executive Government and Authority of and over Canada is hereby declared to continue and be vested in the Queen. **10** The Provisions of this Act referring to the Governor General extend and apply to the Governor General for the Time being of Canada, or other the Chief Executive Officer or Administrator for the Time being carrying on the Government of Canada on behalf and in the Name of the Queen, by whatever Title he is designated. **11** There shall be a Council to aid and advise in the Government of Canada, to be styled the Queen's Privy Council for Canada; and the Persons who are to be Members of that Council shall be from Time to Time chosen and summoned by the Governor General and sworn in as Privy Councillors, and Members thereof may be from Time to Time removed by the Governor General. **All Powers under Acts to be exercised by Governor General with Advice of Privy Council, or alone** **12** All Powers, Authorities, and Functions which under any Act of the Parliament of Great Britain, or of the Parliament of the United	***Loi* constitutionnelle *de 1867*, 30 & 31 Vict, ch 3** **La Reine est investie du pouvoir exécutif** **9** À la Reine continueront d'être et sont par la présente attribués le gouvernement et le pouvoir exécutifs du Canada. **10** Les dispositions de la présente loi relatives au gouverneur général s'étendent et s'appliquent au gouverneur général du Canada, ou à tout autre Chef Exécutif ou Administrateur pour le temps d'alors, administrant le gouvernement du Canada au nom de la Reine, quel que soit le titre sous lequel il puisse être désigné. **11** Il y aura, pour aider et aviser, dans l'administration du gouvernement du Canada, un conseil dénommé le Conseil Privé de la Reine pour le Canada; les personnes qui formeront partie de ce conseil seront, de temps à autre, choisies et mandées par le Gouverneur-Général et assermentées comme Conseillers Privés; les membres de ce conseil pourront, de temps à autre, être révoqués par le gouverneur-général. **Pouvoirs conférés au gouverneur-général, en conseil ou seul** **12** Tous les pouvoirs, attributions et fonctions qui, — par une loi du parlement de la Grande-Bretagne, ou du parlement du Royaume-Uni de la Grande-Bretagne et d'Irlande, ou de la

Kingdom of Great Britain and Ireland, or of the Legislature of Upper Canada, Lower Canada, Canada, Nova Scotia, or New Brunswick, are at the Union vested in or exerciseable by the respective Governors or Lieutenant Governors of those Provinces, with the Advice, or with the Advice and Consent, of the respective Executive Councils thereof, or in conjunction with those Councils, or with any Number of Members thereof, or by those Governors or Lieutenant Governors individually, shall, as far as the same continue in existence and capable of being exercised after the Union in relation to the Government of Canada, be vested in and exerciseable by the Governor General, with the Advice or with the Advice and Consent of or in conjunction with the Queen's Privy Council for Canada, or any Members thereof, or by the Governor General individually, as the Case requires, subject nevertheless (except with respect to such as exist under Acts of the Parliament of Great Britain or of the Parliament of the United Kingdom of Great Britain and Ireland) to be abolished or altered by the Parliament of Canada. Marginal note: Application of Provisions referring to Governor General in Council	législature du Haut-Canada, du Bas-Canada, du Canada, de la Nouvelle-Écosse ou du Nouveau-Brunswick, lors de l'union, — sont conférés aux gouverneurs ou lieutenants-gouverneurs respectifs de ces provinces ou peuvent être par eux exercés, de l'avis ou de l'avis et du consentement des conseils exécutifs de ces provinces, ou avec la coopération de ces conseils, ou d'aucun nombre de membres de ces conseils, ou par ces gouverneurs ou lieutenants-gouverneurs individuellement, seront, — en tant qu'ils continueront d'exister et qu'ils pourront être exercés, après l'union, relativement au gouvernement du Canada, — conférés au gouverneur-général et pourront être par lui exercés, de l'avis ou de l'avis et du consentement ou avec la coopération du Conseil Privé de la Reine pour le Canada ou d'aucun de ses membres, ou par le gouverneur-général individuellement, selon le cas; mais ils pourront, néanmoins (sauf ceux existant en vertu de lois de la Grande-Bretagne ou du parlement du Royaume-Uni de la Grande-Bretagne et d'Irlande), être révoqués ou modifiés par le parlement du Canada.Note de fin de page(7)
13 The Provisions of this Act referring to the Governor General in Council shall be construed as referring to the Governor General acting by and with the Advice of the Queen's Privy Council for Canada.	**13** Les dispositions de la présente loi relatives au gouverneur-général en conseil seront interprétées de manière à s'appliquer au gouverneur-général agissant de l'avis du Conseil Privé de la Reine pour le Canada.
Powers of the Parliament **Legislative Authority of Parliament of Canada**	**Pouvoirs du parlement** **Autorité législative du parlement du Canada**
91 It shall be lawful for the Queen, by and with the Advice and Consent of the Senate and House of Commons, to make Laws for the Peace, Order, and good Government of Canada, in relation to all Matters not coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the	**91** Il sera loisible à la Reine, de l'avis et du consentement du Sénat et de la Chambre des Communes, de faire des lois pour la paix, l'ordre et le bon gouvernement du Canada, relativement à toutes les matières ne tombant pas dans les catégories de sujets par la présente loi exclusivement assignés aux législatures des

Provinces; and for greater Certainty, but not so as to restrict the Generality of the foregoing Terms of this Section, it is hereby declared that (notwithstanding anything in this Act) the exclusive Legislative Authority of the Parliament of Canada extends to all Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say,	provinces; mais, pour plus de garantie, sans toutefois restreindre la généralité des termes ci-haut employés dans le présent article, il est par la présente déclaré que (nonobstant toute disposition contraire énoncée dans la présente loi) l'autorité législative exclusive du parlement du Canada s'étend à toutes les matières tombant dans les catégories de sujets ci-dessous énumérés, savoir :
1. Repealed.	**1.** Abrogé.
1A. The Public Debt and Property.	**1A.** La dette et la propriété publiques.
2. The Regulation of Trade and Commerce.	**2.** La réglementation du trafic et du commerce.
2A. Unemployment insurance.	**2A**. L'assurance-chômage.
3. The raising of Money by any Mode or System of Taxation.	**3.** Le prélèvement de deniers par tous modes ou systèmes de taxation.
4. The borrowing of Money on the Public Credit.	**4.** L'emprunt de deniers sur le crédit public.
5. Postal Service.	**5.** Le service postal.
6. The Census and Statistics.	**6.** Le recensement et les statistiques.
7. Militia, Military and Naval Service, and Defence.	**7.** La milice, le service militaire et le service naval, et la défense du pays.
8. The fixing of and providing for the Salaries and Allowances of Civil and other Officers of the Government of Canada.	**8.** La fixation et le paiement des salaires et honoraires des officiers civils et autres du gouvernement du Canada.
9. Beacons, Buoys, Lighthouses, and Sable Island.	**9.** Les amarques, les bouées, les phares et l'île de Sable.
10. Navigation and Shipping.	**10.** La navigation et les bâtiments ou navires (shipping).
11. Quarantine and the Establishment and Maintenance of Marine Hospitals.	**11.** La quarantaine et l'établissement et maintien des hôpitaux de marine.
12. Sea Coast and Inland Fisheries.	**12.** Les pêcheries des côtes de la mer et de l'intérieur.

13. Ferries between a Province and any British or Foreign Country or between Two Provinces. **14.** Currency and Coinage. **15.** Banking, Incorporation of Banks, and the Issue of Paper Money. **16.** Savings Banks. **17.** Weights and Measures. **18.** Bills of Exchange and Promissory Notes. **19.** Interest. **20.** Legal Tender. **21.** Bankruptcy and Insolvency. **22.** Patents of Invention and Discovery. **23.** Copyrights. **24.** Indians, and Lands reserved for the Indians. **25.** Naturalization and Aliens. **26.** Marriage and Divorce. **27.** The Criminal Law, except the Constitution of Courts of Criminal Jurisdiction, but including the Procedure in Criminal Matters. **28.** The Establishment, Maintenance, and Management of Penitentiaries. **29.** Such Classes of Subjects as are expressly excepted in the Enumeration of the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces. And any Matter coming within any of the Classes of Subjects enumerated in this Section shall not be deemed to come within the Class of Matters of a local or private Nature	**13.** Les passages d'eau (ferries) entre une province et tout pays britannique ou étranger, ou entre deux provinces. **14.** Le cours monétaire et le monnayage. **15.** Les banques, l'incorporation des banques et l'émission du papier-monnaie. **16.** Les caisses d'épargne. **17.** Les poids et mesures. **18.** Les lettres de change et les billets promissoires. **19.** L'intérêt de l'argent. **20.** Les offres légales. **21.** La banqueroute et la faillite. **22.** Les brevets d'invention et de découverte. **23.** Les droits d'auteur. **24.** Les Indiens et les terres réservées pour les Indiens. **25.** La naturalisation et les aubains. **26.** Le mariage et le divorce. **27.** La loi criminelle, sauf la constitution des tribunaux de juridiction criminelle, mais y compris la procédure en matière criminelle. **28.** L'établissement, le maintien, et l'administration des pénitenciers. **29.** Les catégories de sujets expressément exceptés dans l'énumération des catégories de sujets exclusivement assignés par la présente loi aux législatures des provinces.

comprised in the Enumeration of the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces.	Et aucune des matières énoncées dans les catégories de sujets énumérés dans le présent article ne sera réputée tomber dans la catégorie des matières d'une nature locale ou privée comprises dans l'énumération des catégories de sujets exclusivement assignés par la présente loi aux législatures des provinces.
General Court of Appeal, etc. **101** The Parliament of Canada may, notwithstanding anything in this Act, from Time to Time provide for the Constitution, Maintenance, and Organization of a General Court of Appeal for Canada, and for the Establishment of any additional Courts for the better Administration of the Laws of Canada.	**Cour générale d'appel, etc.** **101** Le parlement du Canada pourra, nonobstant toute disposition contraire énoncée dans la présente loi, lorsque l'occasion le requerra, adopter des mesures à l'effet de créer, maintenir et organiser une cour générale d'appel pour le Canada, et établir des tribunaux additionnels pour la meilleure administration des lois du Canada.
Federal Courts Act*, RSC, 1985, c F-7** **Definitions** **2 (1)** In this Act, **[**…] ***federal board, commission or other tribunal means any body, person or persons having, exercising or purporting to exercise jurisdiction or powers conferred by or under an Act of Parliament or by or under an order made under a prerogative of the Crown, other than the Tax Court of Canada or any of its judges or associate judges, any such body constituted or established by or under a law of a province or any such person or persons appointed under or in accordance with a law of a province or under section 96 of the *Constitution Act, 1867*; (*office fédéral*) […] **Application for judicial review** **18.1 (1)** An application for judicial review may be made by the Attorney General of Canada or	***Loi sur les Cours Fédérales LRC*, 1985, ch F-7** **Définitions** **2 (1)** Les définitions qui suivent s'appliquent à la présente loi. […] ***office fédéral*** Conseil, bureau, commission ou autre organisme, ou personne ou groupe de personnes, ayant, exerçant ou censé exercer une compétence ou des pouvoirs prévus par une loi fédérale ou par une ordonnance prise en vertu d'une prérogative royale, à l'exclusion de la Cour canadienne de l'impôt et ses juges et juges adjoints, d'un organisme constitué sous le régime d'une loi provinciale ou d'une personne ou d'un groupe de personnes nommées aux termes d'une loi provinciale ou de l'article 96 de la *Loi constitutionnelle de 1867*. (*federal board, commission or other tribunal*) […] **Demande de contrôle judiciaire** **18.1 (1)** Une demande de contrôle judiciaire peut être présentée par le procureur général du Canada

by anyone directly affected by the matter in respect of which relief is sought.	ou par quiconque est directement touché par l'objet de la demande.
Time limitation	**Délai de présentation**
(2) An application for judicial review in respect of a decision or an order of a federal board, commission or other tribunal shall be made within 30 days after the time the decision or order was first communicated by the federal board, commission or other tribunal to the office of the Deputy Attorney General of Canada or to the party directly affected by it, or within any further time that a judge of the Federal Court may fix or allow before or after the end of those 30 days.	**(2)** Les demandes de contrôle judiciaire sont à présenter dans les trente jours qui suivent la première communication, par l'office fédéral, de sa décision ou de son ordonnance au bureau du sous-procureur général du Canada ou à la partie concernée, ou dans le délai supplémentaire qu'un juge de la Cour fédérale peut, avant ou après l'expiration de ces trente jours, fixer ou accorder.
Powers of Federal Court	**Pouvoirs de la Cour fédérale**
(3) On an application for judicial review, the Federal Court may	**(3)** Sur présentation d'une demande de contrôle judiciaire, la Cour fédérale peut :
(a) order a federal board, commission or other tribunal to do any act or thing it has unlawfully failed or refused to do or has unreasonably delayed in doing; or	**a)** ordonner à l'office fédéral en cause d'accomplir tout acte qu'il a illégalement omis ou refusé d'accomplir ou dont il a retardé l'exécution de manière déraisonnable;
(b) declare invalid or unlawful, or quash, set aside or set aside and refer back for determination in accordance with such directions as it considers to be appropriate, prohibit or restrain, a decision, order, act or proceeding of a federal board, commission or other tribunal.	**b)** déclarer nul ou illégal, ou annuler, ou infirmer et renvoyer pour jugement conformément aux instructions qu'elle estime appropriées, ou prohiber ou encore restreindre toute décision, ordonnance, procédure ou tout autre acte de l'office fédéral.
Grounds of review	**Motifs**
(4) The Federal Court may grant relief under subsection (3) if it is satisfied that the federal board, commission or other tribunal	**(4)** Les mesures prévues au paragraphe (3) sont prises si la Cour fédérale est convaincue que l'office fédéral, selon le cas :
(a) acted without jurisdiction, acted beyond its jurisdiction or refused to exercise its jurisdiction;	**a)** a agi sans compétence, outrepassé celle-ci ou refusé de l'exercer;
(b) failed to observe a principle of natural justice, procedural fairness or other procedure that it was required by law to observe;	**b)** n'a pas observé un principe de justice naturelle ou d'équité procédurale ou toute autre procédure qu'il était légalement tenu de respecter;

(c) erred in law in making a decision or an order, whether or not the error appears on the face of the record; **(d)** based its decision or order on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it; **(e)** acted, or failed to act, by reason of fraud or perjured evidence; or **(f)** acted in any other way that was contrary to law. **Defect in form or technical irregularity** **(5)** If the sole ground for relief established on an application for judicial review is a defect in form or a technical irregularity, the Federal Court may **(a)** refuse the relief if it finds that no substantial wrong or miscarriage of justice has occurred; and **(b)** in the case of a defect in form or a technical irregularity in a decision or an order, make an order validating the decision or order, to have effect from any time and on any terms that it considers appropriate.	**c)** a rendu une décision ou une ordonnance entachée d'une erreur de droit, que celle-ci soit manifeste ou non au vu du dossier; **d)** a rendu une décision ou une ordonnance fondée sur une conclusion de fait erronée, tirée de façon abusive ou arbitraire ou sans tenir compte des éléments dont il dispose; **e)** a agi ou omis d'agir en raison d'une fraude ou de faux témoignages; **f)** a agi de toute autre façon contraire à la loi. **Vice de forme** **(5)** La Cour fédérale peut rejeter toute demande de contrôle judiciaire fondée uniquement sur un vice de forme si elle estime qu'en l'occurrence le vice n'entraîne aucun dommage important ni déni de justice et, le cas échéant, valider la décision ou l'ordonnance entachée du vice et donner effet à celle-ci selon les modalités de temps et autres qu'elle estime indiquées.
***FEDERAL COURTS RULES*, (SOR/98-106)** **312** With leave of the Court, a party may **(a)** file affidavits additional to those provided for in rules 306 and 307; **(b)** conduct cross-examinations on affidavits additional to those provided for in rule 308; or **(c)** file a supplementary record.	***RÈGLES DES COURS FÉDÉRALES*, (DORS/98-106)** **312** Une partie peut, avec l'autorisation de la Cour : **a)** déposer des affidavits complémentaires en plus de ceux visés aux règles 306 et 307; **b)** effectuer des contre-interrogatoires au sujet des affidavits en plus de ceux visés à la règle 308; **c)** déposer un dossier complémentaire.

Privacy Act, **RSC 1985, c P-21**	*Loi sur la protection des renseignements personnels*, **LRC 1985, c P-21**
Disclosure of personal information	**Communication des renseignements personnels**
8 **(1)** Personal information under the control of a government institution shall not, without the consent of the individual to whom it relates, be disclosed by the institution except in accordance with this section.	8 **(1)** Les renseignements personnels qui relèvent d'une institution fédérale ne peuvent être communiqués, à défaut du consentement de l'individu qu'ils concernent, que conformément au présent article.
Where personal information may be disclosed	**Cas d'autorisation**
(2) Subject to any other Act of Parliament, personal information under the control of a government institution may be disclosed	**(2)** Sous réserve d'autres lois fédérales, la communication des renseignements personnels qui relèvent d'une institution fédérale est autorisée dans les cas suivants :
(e) to an investigative body specified in the regulations, on the written request of the body, for the purpose of enforcing any law of Canada or a province or carrying out a lawful investigation, if the request specifies the purpose and describes the information to be disclosed;	**e)** communication à un organisme d'enquête déterminé par règlement et qui en fait la demande par écrit, en vue de faire respecter des lois fédérales ou provinciales ou pour la tenue d'enquêtes licites, pourvu que la demande précise les fins auxquelles les renseignements sont destinés et la nature des renseignements demandés;

***Softwood Lumber Products Export Charge Act*, 2006, SC 2006, c 13**	***Loi de 2006 sur les droits d'exportation de produits de bois d'œuvre*, LC 2006, c 13**
Sale, etc. **88 (8)** Despite any other law of Canada or law of a province, a sheriff or other person shall not, without the written consent of the Minister, sell or otherwise dispose of any property or publish any notice or otherwise advertise in respect of any sale or other disposition of any property pursuant to any process issued or charge, lien, priority or binding interest created in any proceeding to collect an amount certified in a certificate made under subsection (1), interest on the amount or costs, but if that consent is subsequently given, any property that would have been affected by such a process, charge, lien, priority or binding interest if the Minister's consent had been given at the time the process was issued or the charge, lien, priority or binding interest was created, as the case may be, shall be bound, seized, attached, charged or otherwise affected as it would be if that consent had been given at the time the process was issued or the charge, lien, priority or binding interest was created, as the case may be. […]	**Interdiction de vendre** **(8)** Malgré les autres lois fédérales et les lois provinciales, ni le shérif ni aucune autre personne ne peut, sans le consentement écrit du ministre, vendre un bien ou autrement en disposer ou publier un avis concernant la vente ou la disposition d'un bien ou autrement l'annoncer, par suite de l'émission d'un bref ou de la création d'une sûreté, d'une priorité ou d'une autre charge dans le cadre de la procédure de recouvrement d'une somme attestée dans un certificat fait en application du paragraphe (1), des intérêts afférents et des dépens et autres frais. Toutefois, si ce consentement est obtenu ultérieurement, tout bien sur lequel un tel bref ou une telle sûreté, priorité ou charge aurait une incidence si ce consentement avait été obtenu au moment de l'émission du bref ou de la création de la sûreté, priorité ou charge, selon le cas, est saisi ou autrement grevé comme si le consentement avait été obtenu à ce moment. […]
Details in certificates and memorials **(12)** Despite any other law of Canada or law of the legislature of a province, in any certificate in respect of a debtor, any memorial evidencing a certificate or any writ or document issued for the purpose of collecting an amount certified, it is sufficient for all purposes **(a)** to set out, as the amount payable by the debtor, the total of amounts payable by the debtor without setting out the separate amounts making up that total; and **(b)** to refer to the rate of interest to be charged on the separate amounts making up the amount payable in general terms as interest at the specified rate applicable from time to time on amounts payable to the Receiver General, without indicating the specific rates of interest to be charged on each of the separate amounts or to be charged for any period.	**Contenu des certificats et extraits** **(12)** Malgré les autres lois fédérales et les lois provinciales, dans le certificat fait à l'égard d'un débiteur, dans l'extrait faisant preuve du contenu d'un tel certificat ou encore dans le bref ou document délivré en vue du recouvrement d'une somme attestée dans un tel certificat, il suffit, à toutes fins utiles : **a)** d'une part, d'indiquer, comme somme exigible du débiteur, le total des sommes exigibles de celui-ci et non les sommes distinctes qui forment ce total; **b)** d'autre part, d'indiquer de façon générale le taux d'intérêt déterminé applicable sur les sommes à payer au receveur général comme étant le taux applicable aux sommes distinctes qui forment la somme exigible, sans détailler les taux applicables à chaque somme distincte ou pour une période donnée.

***Justice for Victims of Corrupt Foreign Officials Act (Sergei Magnitsky Law)*, SC 2017, c 21**	***Loi Sur la justice pour les victimes de dirigeants étrangers corrompus (loi de Sergueï Magnitski)*, L.C. 2017, ch. 21**
[…]	[…]
B. DUTY TO DETERMINE	**H. OBLIGATION DE VÉRIFICATION**
Determination	**Vérification**
6 Each of the following entities must determine on a continuing basis whether it is in possession or control of property that it has reason to believe is the property of a foreign national who is the subject of an order or regulation made under section 4:	**6** Il incombe aux entités ci-après de vérifier de façon continue si elles ont en leur possession ou sous leur contrôle des biens qui, à leur connaissance, sont des biens d'un étranger visé par un décret ou règlement pris en vertu de l'article 4 :
(a) authorized foreign banks, as defined in section 2 of the *Bank Act*, in respect of their business in Canada or banks to which that Act applies;	**a)** les banques étrangères autorisées, au sens de l'article 2 de la *Loi sur les banques*, dans le cadre des activités qu'elles exercent au Canada, et les banques régies par cette loi;
(b) cooperative credit societies, savings and credit unions and *caisses populaires* regulated by a provincial Act and associations regulated by the *Cooperative Credit Associations Act*;	**b)** les coopératives de crédit, caisses d'épargne et de crédit et caisses populaires régies par une loi provinciale et les associations régies par la *Loi sur les associations coopératives de crédit*;
(c) foreign companies, as defined in subsection 2(1) of the *Insurance Companies Act*, in respect of their insurance business in Canada;	**c)** les sociétés étrangères, au sens du paragraphe 2(1) de la *Loi sur les sociétés d'assurances*, dans le cadre des activités d'assurance qu'elles exercent au Canada;
(d) companies, provincial companies and societies, as those terms are defined in subsection 2(1) of the *Insurance Companies Act*;	**d)** les sociétés, les sociétés provinciales et les sociétés de secours, au sens du paragraphe 2(1) de la *Loi sur les sociétés d'assurances*;
(e) fraternal benefit societies regulated by a provincial Act in respect of their insurance activities and insurance companies and other entities engaged in the business of insuring risks that are regulated by a provincial Act;	**e)** les sociétés de secours mutuel régies par une loi provinciale, dans le cadre de leurs activités d'assurance, et les sociétés d'assurances et autres entités régies par une loi provinciale qui exercent le commerce de l'assurance;
(f) companies to which the *Trust and Loan Companies Act* applies;	**f)** les sociétés régies par la *Loi sur les sociétés de fiducie et de prêt*;
(g) trust companies regulated by a provincial Act;	**g)** les sociétés de fiducie régies par une loi provinciale;

(h) loan companies regulated by a provincial Act;	**h)** les sociétés de prêt régies par une loi provinciale;
(i) entities that engage in any activity described in paragraph 5(h) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* if the activity involves the opening of an account for a client;	**i)** les entités qui se livrent à une activité visée à l'alinéa 5h) de la *Loi sur le recyclage des produits de la criminalité et le financement des activités terroristes*, si l'activité comporte l'ouverture d'un compte pour un client;
(j) entities authorized under provincial legislation to engage in the business of dealing in securities or to provide portfolio management or investment counselling services; and	**j)** les entités autorisées en vertu de la législation provinciale à se livrer au commerce des valeurs mobilières ou à la fourniture de services de gestion de portefeuille ou de conseils en placement;
(k) other entities of a prescribed class of entities.	**k)** toute autre entité faisant partie d'une catégorie d'entités réglementaire.

***Freezing Assets of Corrupt Foreign Officials Act*, SC 2011, c 10**	***Loi sur le blocage des biens de dirigeants étrangers corrompus*, L.C. 2011, ch. 10**
[…]	**[…]**
DUTY TO DETERMINE	**OBLIGATION DE VÉRIFICATION**
Determination	**Vérification**
8 Each of the following entities must determine on a continuing basis whether it is in possession or control of property that they have reason to believe is the property of a politically exposed foreign person who is the subject of an order or regulation made under section 4:	**8** Il incombe aux entités ci-après de vérifier de façon continue l'existence de biens qui sont en leur possession ou sous leur contrôle et qui, à leur connaissance, sont des biens d'un étranger politiquement vulnérable visé par un décret ou règlement pris en vertu de l'article 4 :
(a) authorized foreign banks, as defined in section 2 of the *Bank Act*, in respect of their business in Canada or banks to which that Act applies;	**a)** les banques régies par la *Loi sur les banques* et les banques étrangères autorisées, au sens de l'article 2 de cette loi, dans le cadre des activités que ces dernières exercent au Canada;
(b) cooperative credit societies, savings and credit unions and caisses populaires regulated by a provincial Act and associations regulated by the *Cooperative Credit Associations Act*;	**b)** les coopératives de crédit, caisses d'épargne et de crédit et caisses populaires régies par une loi provinciale et les associations régies par la *Loi sur les associations coopératives de crédit*;
(c) foreign companies, as defined in subsection 2(1) of the *Insurance Companies Act*, in respect of their insurance business in Canada;	**c)** les sociétés étrangères, au sens du paragraphe 2(1) de la *Loi sur les sociétés d'assurances*, dans le cadre des activités d'assurance qu'elles exercent au Canada;
(d) companies, provincial companies and societies, as those terms are defined in subsection 2(1) of the *Insurance Companies Act*;	**d)** les sociétés, les sociétés de secours et les sociétés provinciales, au sens du paragraphe 2(1) de la *Loi sur les sociétés d'assurances*;
(e) fraternal benefit societies regulated by a provincial Act in respect of their insurance activities and insurance companies and other entities engaged in the business of insuring risks that are regulated by a provincial Act;	**e)** les sociétés de secours mutuel régies par une loi provinciale, dans le cadre de leurs activités d'assurance, et les sociétés d'assurances et autres entités régies par une loi provinciale qui exercent le commerce de l'assurance;
(f) companies to which the *Trust and Loan Companies Act* applies;	**f)** les sociétés régies par la *Loi sur les sociétés de fiducie et de prêt*;
(g) trust companies regulated by a provincial Act;	**g)** les sociétés de fiducie régies par une loi provinciale;
(h) loan companies regulated by a provincial Act;	**h)** les sociétés de prêt régies par une loi provinciale;

(i) entities that engage in any activity described in paragraph 5(h) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* if the activity involves the opening of an account for a client;	**i)** les entités qui se livrent à une activité visée à l'alinéa 5h) de la *Loi sur le recyclage des produits de la criminalité et le financement des activités terroristes*, si l'activité comporte l'ouverture d'un compte pour un client;
(j) entities authorized under provincial legislation to engage in the business of dealing in securities or to provide portfolio management or investment counselling services; and	**j)** les entités autorisées en vertu de la législation provinciale à se livrer au commerce des valeurs mobilières ou à la fourniture de services de gestion de portefeuille ou de conseils en placement;
(k) other entities of a prescribed class of entities.	**k)** toute autre entité faisant partie d'une catégorie d'entités réglementaire.
DISCLOSURE	**COMMUNICATION**
9 (1) Every person in Canada and every Canadian outside Canada must, without delay, disclose to the Commissioner of the Royal Canadian Mounted Police	**9 (1)** Toute personne se trouvant au Canada et tout Canadien se trouvant à l'étranger est tenu de communiquer sans délai au commissaire de la Gendarmerie royale du Canada :
(a) the existence of property in their possession or control that they have reason to believe is the property of any politically exposed foreign person who is the subject of an order or regulation under section 4; and	**a)** l'existence de biens qui sont en sa possession ou sous son contrôle et qui, à sa connaissance, sont des biens d'un étranger politiquement vulnérable visé par un décret ou règlement pris en vertu de l'article 4;
(b) information about a transaction or proposed transaction in respect of property referred to in paragraph (a).	**b)** tout renseignement portant sur une opération, réelle ou projetée, mettant en cause des biens visés à l'alinéa a).
(2) No criminal or civil proceedings lie against a person for disclosure made in good faith under subsection (1).	**(2)** Nul ne peut être poursuivi pour avoir fait de bonne foi une communication au titre du paragraphe (1).