



Supreme Court of Canada  
Year in Review

2022



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# Contents

|                                |    |
|--------------------------------|----|
| Message from the Chief Justice | 3  |
| Canada's Top Court             | 4  |
| Judges of the Supreme Court    | 6  |
| Quebec City Hearings           | 8  |
| Message from the Registrar     | 14 |
| Here for You                   | 16 |
| Canada's Legal Library         | 20 |
| International Engagement       | 22 |
| Decisions                      | 24 |
| A Landmark Decision            | 26 |
| Caseload                       | 27 |
| Ten-Year Trends                | 31 |





The Court's flag is raised when the Court is in session



## Message from the Chief Justice


It is my pleasure to present the Supreme Court's fifth *Year in Review*. This initiative grew out of my commitment to make Canada's top court **more accessible** to everyone – counsel, self-represented litigants, legal researchers, students and all those interested in the justice system. The theme for this year's report is "**Here for You**", as 2022 offered people more opportunities to connect with the Court.

For me, the highlight was the Court's week-long visit to Quebec City in September. The Bench heard cases outside Ottawa for the second time in its 147-year history. Hundreds of people attended two hearings and saw how the Supreme Court is **open, impartial and independent**. It is also a **modern institution** where anyone may watch hearings online or follow the Court's new Instagram account.

In Ottawa, **the building reopened** for in-person tours and members of the public returned to the courtroom for hearings. The Court heard many criminal law appeals in 2022 and overall, there were 52 hearings and the Court delivered 53 judgments.

As Canada's Chief Justice, I chair the National Judicial Institute. It provides education for judges across the country and delivers judicial training around the world. In that capacity, I co-hosted an international judicial conference in Ottawa in early November. I pointed out how **an investment in judicial education is an investment in democracy and the rule of law**.

Such occasions certainly bolster my own commitment to the fundamental democratic principle of **judicial independence**. That means judges decide cases based on the facts and the law, without interference from outside influences. Around the world, attacks on this independence and on the rule of law are growing. In Canada, we are fortunate to live in a **strong and stable democracy**, but it is something none of us should ever take for granted.



**The Right Honourable Richard Wagner**  
Chief Justice of Canada







# Canada's Top Court

The Supreme Court makes significant contributions to Canada's strong and secure democracy, founded on the rule of law. Created in 1875, the Court is **open, impartial and independent**. As the country's final court of appeal, it has jurisdiction over disputes in every area of the law. It is the guardian of the Constitution and *Canadian Charter of Rights and Freedoms*. Working together, the nine judges decide Canada's most important and complex legal questions. They hear and decide cases in both French and English. The Court is also **bijural**, which means it applies the law according to common law and civil law legal traditions.

Cases most often come to the Supreme Court of Canada from provincial and territorial appeal courts. Appeals may also originate at the Federal Court of Appeal and the Court Martial Appeal Court of Canada. Most cases are presented as requests for a hearing called an **application for leave to appeal**. Supreme Court judges will only hear cases they consider to be of national importance. There are exceptions in some criminal cases for **automatic appeals** where, for instance, a judge of an appeal court has dissented on a point of law. Supreme Court judges also answer **reference questions** that arise when a government asks the Court for an advisory legal opinion. Reference cases often ask if a proposed or existing legislation is constitutional, for example whether the federal government has the right to legislate certain activities. The Supreme Court has answered a wide variety of reference questions over the years, on topics such as same-sex marriage, Senate reform and medical assistance in dying.

In 2022, the Court heard many criminal law appeals, as well as cases concerning everything from taxation to child custody. There are **no trials or juries** at the Supreme Court. No one testifies or introduces new evidence. Judges consider written and oral arguments from lawyers for the main parties, and ask them questions. They may also hear from **interveners** who often represent members of the public with a special interest on a legal issue.

The Supreme Court of Canada is an active and valued member of several international judicial organizations, and it regularly participates in professional exchanges with top courts around the world.



A view of the Supreme Court of Canada from the Ottawa River





Current bench of the Supreme Court of Canada  
Back row: Justices Jamal, Martin, Kasirer and O'Bonsawin  
Front row: Justices Brown and Karakatsanis, Chief Justice Wagner, Justices Côté and Rowe





# Judges of the Supreme Court



**Chief Justice Richard Wagner**

Appointed Chief Justice in 2017  
Appointed from Quebec in 2012



**Justice Andromache Karakatsanis**

Appointed from Ontario in 2011



**Justice Suzanne Côté**

Appointed from Quebec in 2014



**Justice Russell Brown**

Appointed from Alberta in 2015



**Justice Malcolm Rowe**

Appointed from Newfoundland and Labrador in 2016



**Justice Sheilah L. Martin**

Appointed from Alberta in 2017



**Justice Nicholas Kasirer**

Appointed from Quebec in 2019



**Justice Mahmud Jamal**

Appointed from Ontario in 2021



**Justice Michelle O'Bonsawin**

Appointed from Ontario in 2022



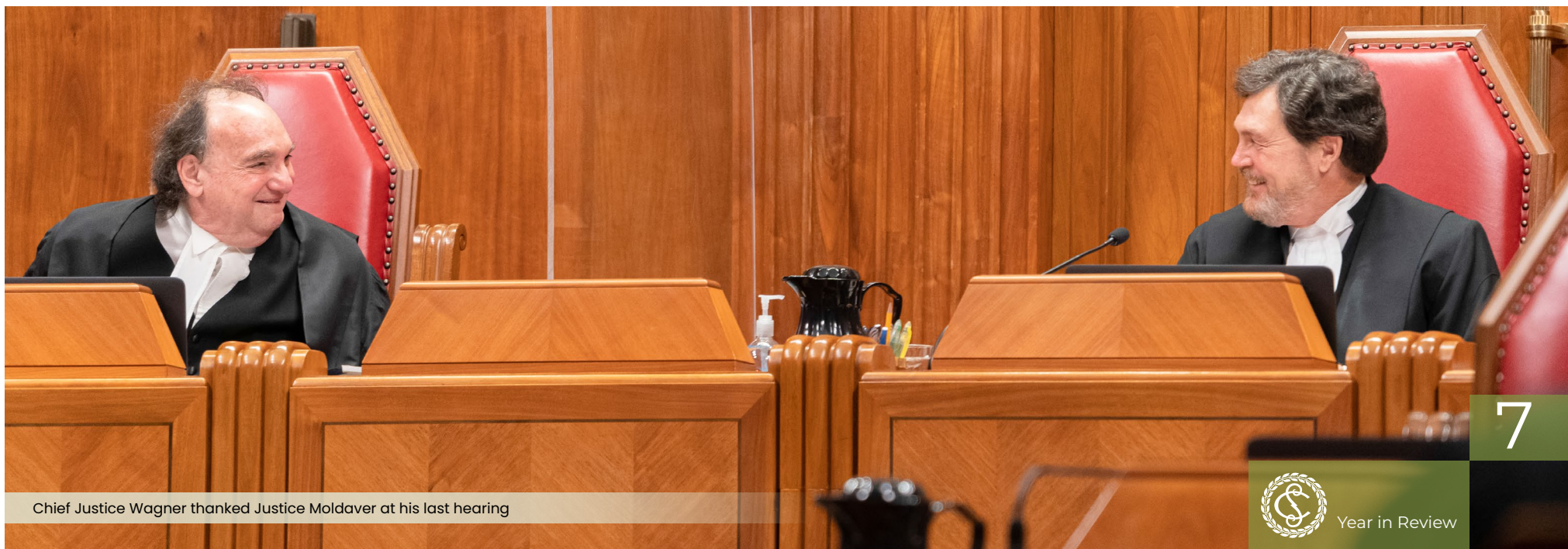


Justice O'Bonsawin takes her oath of office at her September swearing-in ceremony

## Transitions at the Court

With an eagle feather in her hand, Justice Michelle O'Bonsawin took her oath during her swearing-in ceremony on September 1st before her new colleagues, family and friends. That same day, Justice Michael Moldaver retired, just a few months shy of his 75th birthday. He had served as a judge for 32 years, with the last 11 at the Supreme Court. At Justice Moldaver's final appeal hearing, Chief Justice Wagner remarked that, "Canadians have benefited from his humanity and deep commitment to fair and just results."

At the end of November, during the traditional welcome ceremony for Justice O'Bonsawin, several speakers expressed their appreciation for her legal expertise and scholarship, as well as her collegiality and commitment to access to justice. Chief Justice Wagner highlighted how, "Justice O'Bonsawin's appointment helps ensure that our country's democratic institutions, including the Supreme Court, are even more reflective of Canadian society."



Chief Justice Wagner thanked Justice Moldaver at his last hearing







# Quebec City Hearings

The Supreme Court's fall session got off to an early start in September when the judges traveled to the capital of Quebec to hear two important cases and meet with people across the region.

**Hundreds of people attended two hearings** at the bright and airy Quebec City courthouse. Both appeals came from the Quebec Court of Appeal. In ***His Majesty the King v. Pascal Breault***, Supreme Court judges considered how long police should be allowed to hold someone suspected of impaired driving, while they wait for the delivery of a breathalyzer. The next day, the Court heard ***Janick Murray-Hall v. Attorney General of Quebec***. The Court was asked to decide whether the provincial ban on homegrown cannabis plants is constitutional.



Supreme Court staff who supported the hearings and activities in Quebec City



Chief Justice Wagner arriving at Collège François-de-Laval



Members of the public asked judges questions





Members of the Court on the steps of Quebec City Hall

During the week, every judge traveled to a different **local high school** to speak to teenagers and answer their questions. Students at all nine schools asked judges about their backgrounds, life experiences, education and how they decide challenging legal questions. Members of the Court also met with law students at **Université Laval**, along with members of Quebec’s legal and judicial communities. These opportunities help Canadians learn about the Court, its activities and its role in Canada’s democracy.

Members of the Court also hosted a **free public event** at the city’s engaging Musée de la civilisation. More than 200 people showed up, eager to learn more about what the Court does and how it operates. The **judges answered questions** from members of the public and moderator Isabelle Richer on topics such as judicial appointments, policing, Indigenous rights and Canada’s *Charter of Rights and Freedoms*.

One woman who attended with her two young children said she appreciated being able to hear directly from the judges, especially when it can be hard to distinguish fact from fiction online.

This was the second time the judges heard cases outside Ottawa, with the first trip to Winnipeg, Manitoba in 2019. These initiatives are **inspired by the principle of access to justice**. As Chief Justice Wagner told the audience, “It is important that people understand how and why the Court makes its decisions. After all, it’s hard for anyone to trust something they don’t understand.”





Court employees testing equipment before the hearings



Justices Côté and Rowe



Justice Rowe participated in a panel discussion with Marie-Claire Belleau at Université Laval



Justices Martin and Kasirer find their seats in the Quebec City courtroom





The judges answered questions at the Musée de la civilisation







Chief Justice Wagner in discussion with Quebec Chief Justice Manon Savard



Registry Case Manager Mark Waito advises the public to silence their phones before a hearing







Chief Justice Wagner answering questions from the public



Justice Jamal participated in a panel discussion with Salomé Paradis at Université Laval



Chief Justice Wagner with Huron-Wendat Grand Chief Rémy Vincent





## Message from the Registrar

After my first full year as Registrar, I had the opportunity to witness the **dedication and professionalism** of the employees of the Court. I feel incredibly proud of our team and how each member contributes to our success and makes this institution an outstanding place to work. Employees are crucial to improving **access to justice**, modernizing court operations and supporting the nine Supreme Court judges. From one sector to the other, we work together to make sure the Supreme Court of Canada is a world-class institution.

In 2022, the Court processed 650 case files and heard 52 appeals. We also welcomed 121 parties and 219 interveners to appear remotely and in person before the Court. When parties or judges were unable to attend a hearing in person, Court employees made sure they were able to **connect remotely**, avoiding delays and backlogs.

Access to justice and court modernization go hand-in-hand. At the beginning of 2023, the Court will launch its **secure electronic filing portal** for counsel and self-represented litigants. This will further improve public access to information online and contribute to an open, impartial and independent Court.

The courtroom **re-opened to the public** and the media this year and the building re-opened for in-person guided tours. Everyone should have the opportunity to visit our beautiful heritage building and deepen their understanding of Canada's justice system. Over the past two years, we have heard that our virtual tours inspired people across Canada to learn about the Court. I am happy to share that we will continue to offer both in-person and remote tours for the foreseeable future.

Easing our way back into in-person activities at the Court was very positively received by many employees. In June, we celebrated National Public Service Week with an employee barbecue. This was the best attended employee event in the Court's history. Through the Court's creative annual charitable campaign, **employees raised \$38,330**. Events such as these provided employees, including me, with overdue opportunities to connect and socialize with colleagues.

Coming up this year, I foresee a greater focus on employee well-being as well as further physical and IT security enhancements. In addition, we will continue with the considerable planning for our move to the West Memorial Building while the Supreme Court of Canada Building undergoes significant rehabilitation. I am proud of our achievements throughout the year and look forward to continuing to work collaboratively in providing excellent services for our judges and our institution in 2023.



*C. Carbonneau*

**Chantal Carbonneau**  
Registrar of the  
Supreme Court of Canada





Justice Moldaver speaks to law clerks on the grounds of the Court



Chief Justice Wagner speaks to employees at the Long Service Awards ceremony



The Registrar and Chief Justice with some of the Court's longest-serving employees



New law clerks on a tour of the Supreme Court library





## Here for You

The Supreme Court of Canada is a **modern institution** approaching its 150th anniversary. From 1875 to today, it continues to meet the evolving needs and expectations of Canadians. Whether you make arguments before the judges, wish to tour the building or want to understand the role of the Court in Canada’s democracy – the judges and its employees are **here for you**.

In 2022, registry employees continued to exceed the expectations of lawyers who appear before the Court. In post-hearing surveys, counsel have said registry employees are responsive, friendly and knowledgeable. The registry also offers assistance to self-represented litigants, those who do not want or cannot afford to hire a lawyer. Last year staff **managed 650 case files** and **answered 5,000 phone calls**. Self-represented litigants and counsel each made up 40% of those calls, while members of the public accounted for the remaining 20% of calls to the registry.

In early 2023, the Court will launch its **secure electronic filing portal**. Modern and efficient, it allows counsel and self-represented litigants to register and file their documents online. “The technology that supports the portal will allow us, in the future, to further enhance access to Court documents,” said General Counsel Barbara Kincaid.

The Supreme Court of Canada is an internationally-recognized leader when it comes to upholding the **open courts principle**. In the courtroom, specialized interpreters provide **simultaneous translation** so anyone may listen to hearings in the official language of their choice. This serves people attending a hearing in-person, those tuning in online to watch the **live webcast** as well as those who watch the archived recording.

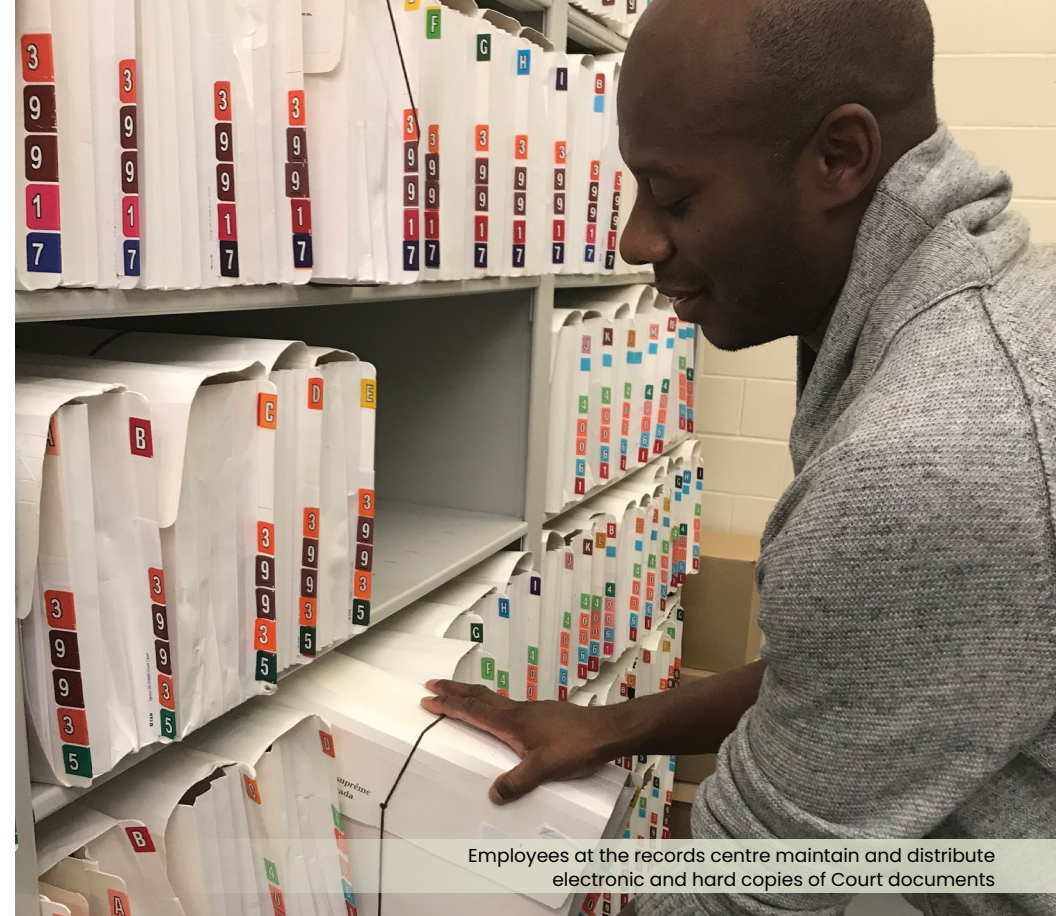
For the general public, the Court makes its judgments easier to understand by publishing plain language **Cases in Brief** that explain the context and judicial reasoning for its decisions. It briefs journalists on judgments and directs them to video clips of oral decisions from the bench. Every June, Chief Justice Richard Wagner takes questions from reporters at his **annual news conference**.

The Court also caters to anyone wanting to know more about the institution’s history, its role in Canada’s democracy and the building, with **in-person** and **virtual tours**. The Supreme Court also joined **Instagram** in 2022 to share more of its activities outside the courtroom. As the world continues to change, the Supreme Court will continue to find new ways to honour its **core values** of justice, independence, integrity, transparency and bilingualism.





Chief Justice Wagner at his annual news conference



Employees at the records centre maintain and distribute electronic and hard copies of Court documents



Interpreters provide simultaneous interpretation in both official languages



Registry employees





## Connect with us!

It has never been easier to access the Supreme Court of Canada. All hearings are **webcast live** and later **archived** on our website. The Court also expanded its social media presence in 2022. In addition to being active on Twitter, LinkedIn and Facebook, the Court launched an Instagram account.

Touring the Supreme Court is a great activity for students, friends and families - no matter where you live. Expert tour interpreters guide in-person and remote visitors through the building in English or French, while explaining the history and crucial role of the Court in Canada's democracy. The building is **accessible to people of all abilities**.





## Ask a Tour Interpreter

Supreme Court tour interpreters are law students with a passion for sharing their knowledge about the Court, judges and the building. Whether speaking to visitors in-person or on virtual tours, they answer many questions from curious Canadians, such as:

► **What is the difference between civil law and common law?**

Civil law applies only in Quebec to most non-criminal matters. It recognizes legislation as the primary source of law. Common law applies in all other provinces and territories. There, judicial decisions are based on precedent and previous court judgments.

► **Is there a specific ratio that needs to be maintained between men and women judges on the bench?**

The only rule relating to the composition of the Supreme Court deals with geography, not gender. The *Supreme Court Act* says three judges must come from Quebec. Of the nine Members, four are women.

► **Are all SCC decisions publicly available?**

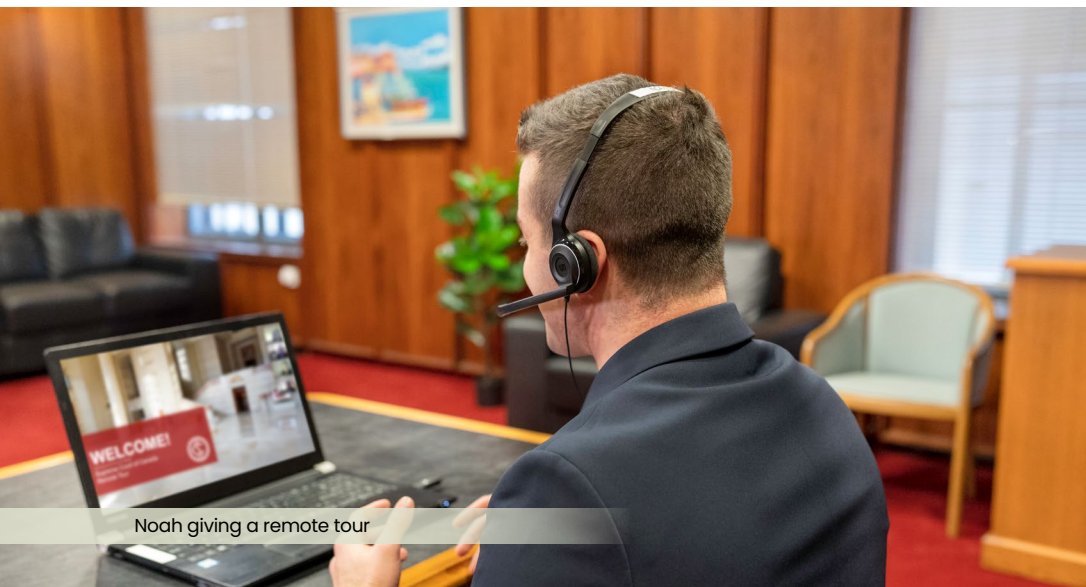
All Supreme Court judgments dating from 1877 are available on our website. New decisions are always posted in both official languages at 09:45 ET, along with a Case in Brief. This is a one-page, plain-language summary of the judgment. The open courts principle is crucial in a healthy democracy.

► **Does the Chief Justice write all the decisions?**

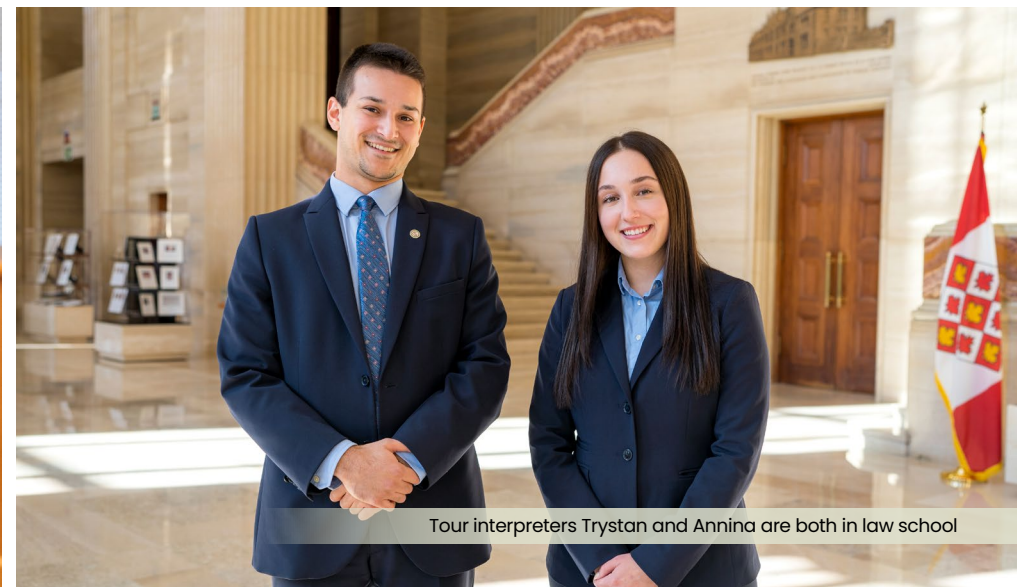
Every judge has the opportunity to write decisions. Sometimes, two or more judges will choose to write together.

► **Why is there no jury at the Supreme Court?**

Jury trials are held at lower courts across Canada. The Supreme Court does not hear from witnesses, and lawyers do not introduce evidence. Appeals made to the Supreme Court are primarily focused on complicated legal questions of national importance.



Noah giving a remote tour



Tour interpreters Trystan and Annina are both in law school





# Canada's Legal Library

The Supreme Court is home to one of Canada's deepest and most varied collection of legal reading materials. From centuries-old rare books to an online selection of the most recent journal articles, the library is a rich source of information for the Court's lawyers, judges and their clerks.

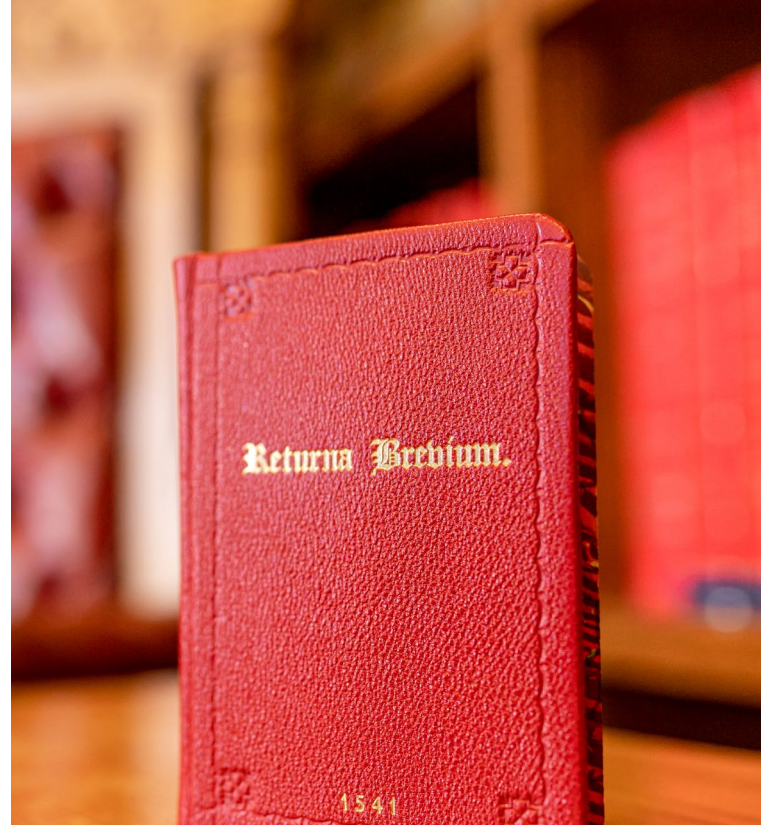
More valuable though, are the experienced librarians and technicians who know how and where to help people find **jurisprudence, historical precedence or commentary**. "If we don't have it, we'll know where to find it," says Michel-Adrien Sheppard, manager of reference and research. He describes library employees as resourceful, dynamic and eager to take on challenging research requests.

"One thing most people do not know is that when there is a judgment, you can see all of the research about the cases and legislation from secondary sources such as textbooks and legal journals. **The library is the infrastructure for that research, which feeds into the process of writing a decision.**"

Library Director Alicia Loo is especially proud of how her team has implemented **new technologies** to make individual research easier and more efficient. "We provide the same services that you would find in a world-class university," says Loo. Converging access to both print and digital, the library has excellent breadth of coverage in the major areas of Canadian common law and Quebec civil law, as well as the laws of the United States, United Kingdom, France and Australia.

The Supreme Court library also serves lower court judges, members of any bar association, law professors and anyone with special authorization to access the library collection. The Court's **interlibrary loan technician** responds to requests for the loan of physical and digital materials to other courts, universities and public libraries.

During the pandemic, the library hired a conservator to audit the condition of the **rare book collection**. The specialist treated any items with evidence of deterioration. "Our collection is very rich," says Sheppard, "because we have not gotten rid of all of our older products." He adds that it is especially helpful with research requests from those seeking the origins of a law or legal practice.



The oldest book in the Court's library is *Returna Brevium*, published in 1541







Natalie Bisson collecting books for an interlibrary loan



Michel-Adrien Sheppard helps a law clerk with her research



Alicia Loo leading a meeting with library employees





# International Engagement

The Supreme Court of Canada is proud to be an active member of the international judicial community. Judges are committed to several organizations, such as the Association of Francophone Constitutional Courts (ACCF), the Association des Hautes Juridictions de Cassation des pays ayant en partage l'usage du Français, the International Association of Supreme Administrative Jurisdictions and the World Conference on Constitutional Justice.

In May 2022, Chief Justice Richard Wagner participated in the Congress of the ACCF in Dakar, Senegal. The theme was, "The constitutional judge and human rights". This Congress marked the end of Chief Justice Wagner's **three-year presidency** of the organization.

Throughout the year, Chief Justice Wagner participated in events in Singapore, Finland, France, the United States and Ireland. Justices Sheilah Martin and Nicholas Kasirer joined the Chief Justice for a judicial exchange with the **Supreme Court of Ireland**. Meeting with their Irish counterparts, they discussed court modernization, bilingualism and comparative law. Members of Canada's Supreme Court were equally pleased to host a delegation from the **Supreme Court of Israel** in Ottawa. Chief Justice Wagner also had a number of virtual meetings with his counterparts, including with the Chief Justices of Japan and South Africa.

In October 2022, Chief Justice Wagner met with the President of the Supreme Court of Ukraine Vsevolod Kniaziev, at an **international judicial conference** organized by the National Judicial Institute in Ottawa. Chief Justice Kniaziev explained what it was like for judges to administer justice during a war. Later, he and his delegation visited the Supreme Court of Canada. The judges were deeply moved by Chief Justice Kniaziev's resolve to uphold the **rule of law**, which is itself under attack in Ukraine.

Judicial exchanges offer members of the Supreme Court opportunities to share best practices and discuss topics of mutual interest, such as post-pandemic modernization, judicial independence and equality rights. They contribute to promoting a **culture of judicial excellence** and a strong and independent judiciary.



Chief Justice Wagner met virtually with Chief Justice Saburo Tokura of Japan



Delegation from the Supreme Court of Israel



Singapore Academy of Law annual lecture



Public discussion about justice and democracy, Paris, France



Supreme Court of Canada delegation to the Supreme Court of Ireland, Dublin



Association of Francophone Constitutional Courts, Dakar, Senegal









# Decisions

## Notable Decisions by Date of Delivery

### **Anderson v. Alberta**

The Supreme Court rules that an Alberta First Nation could qualify to have its legal fees paid in advance by the government despite having funds of its own.

### **R. v. Brown**

The Supreme Court restores an Alberta man's acquittal for attacking a woman while in a state of automatism.

### **R. v. Bissonnette**

The Supreme Court finds unconstitutional the section of the *Criminal Code* that permits consecutive parole ineligibility periods of 25 years in cases involving multiple first degree murders.

### **B.J.T. v. J.D.**

The Supreme Court rules a grandmother should have custody over a child despite the father's closer biological tie.

### **British Columbia (Attorney General) v. Council of Canadians with Disabilities**

The Supreme Court rules that the Council of Canadians with Disabilities can challenge British Columbia's mental health laws.

### **R. v. J.J.**

The Supreme Court finds constitutional a new procedure in the *Criminal Code* for deciding if a complainant's private documents can be used by an accused in a sexual offence trial.

### **Society of Composers, Authors and Music Publishers of Canada v. Entertainment Software Association**

The Supreme Court rules the *Copyright Act* only requires users to pay one royalty fee to stream works online.

### **R. v. Kirkpatrick**

The Supreme Court rules that when someone is required by their partner to wear a condom during sex but they do not, they could be guilty of sexual assault.

### **R. v. Ndhlovu**

The Supreme Court finds the mandatory and lifetime registration on the sex offender registry unconstitutional.

### **R. v. Sharma**

The Supreme Court rules that banning conditional sentences for certain offences is constitutional.

### **R. v. Ramelson**

The Supreme Court rules that an online police investigation targeting people searching for sex with children was not entrapment.

### **F. v. N.**

The Supreme Court rules that a court in the United Arab Emirates can decide the custody of two resident children who travelled to Ontario with their Canadian mother.



# All Decisions

|    | Case Name  | Origin | Decision Date |
|----|--|--------|---------------|
| 1  | R. v. Ali  | Alta.  | Jan. 14       |
| 2  | R. v. Boulanger  | Que.   | Feb. 9        |
| 3  | R. v. Ste-Marie  | Que.   | Feb. 10       |
| 4  | R. v. A.E.*  | Alta.  | Feb. 15       |
| 5  | R. v. Brunelle   | Que.   | Mar. 15       |
| 6  | Anderson v. Alberta  | Alta.  | Mar. 18       |
| 7  | R. v. White  | N.L.   | Mar. 18       |
| 8  | R. v. Pope   | N.L.   | Mar. 21       |
| 9  | R. v. Samaniego  | Ont.   | Mar. 25       |
| 10 | R. v. Vallières  | Que.   | Mar. 31       |
| 11 | R. v. Stairs   | Ont.   | Apr. 8        |
| 12 | R. v. Tim  | Alta.  | Apr. 14       |
| 13 | R. v. Gerrard  | N.S.   | Apr. 19       |
| 14 | R. v. Alas   | Ont.   | Apr. 21       |
| 15 | R. v. J.D.   | Que.   | Nov. 10, 2021 |
|    | Decision rendered from the bench (written reasons Apr. 22, 2022) |        |               |
| 16 | R. v. Dussault   | Que.   | Apr. 29       |
| 17 | R. v. J.F.   | Que.   | May 6         |
| 18 | R. v. Brown  | Alta.  | May 13        |
| 19 | R. v. Sullivan   | Ont.   | May 13        |
| 20 | R. v. Badger   | Sask.  | May 16        |
| 21 | R. v. Safdar   | Ont.   | May 18        |
| 22 | Barendregt v. Grebliunas   | B.C.   | Dec. 2, 2021  |
|    | Decision rendered from the bench (written reasons May 20, 2022)  |        |               |
| 23 | R. v. Bissonnette  | Que.   | May 27        |
| 24 | B.J.T. v. J.D.   | P.E.I. | Dec. 2, 2021  |
|    | Decision rendered from the bench (written reasons June 3, 2022)  |        |               |

|    | Case Name  | Origin    | Decision Date |
|----|--|-----------|---------------|
| 25 | R. v. Goforth  | Sask.     | Dec. 7, 2021  |
|    | Decision rendered from the bench (written reasons June 10, 2022)                                   |           |               |
| 26 | Canada (Attorney General) v. Collins Family Trust  | B.C.      | June 17       |
| 27 | British Columbia (Attorney General) v. Council of Canadians with Disabilities                      | B.C.      | June 23       |
| 28 | R. v. J.J.*  | B.C. Ont. | June 30       |
| 29 | Law Society of Saskatchewan v. Abrametz  | Sask.     | July 8        |
| 30 | Society of Composers, Authors and Music Publishers of Canada v. Entertainment Software Association | F.C.A.†   | July 15       |
| 31 | R. v. Sundman  | B.C.      | July 21       |
| 32 | R. v. Lafrance   | Alta.     | July 22       |
| 33 | R. v. Kirkpatrick  | B.C.      | July 29       |
| 34 | R. v. Schneider  | B.C.      | Oct. 7        |
| 35 | R. v. Tessier  | Alta.     | Oct. 14       |
| 36 | Annapolis Group Inc. v. Halifax Regional Municipality  | N.S.      | Oct. 21       |
| 37 | R. v. Nahanee  | B.C.      | Oct. 27       |
| 38 | R. v. Ndhlovu  | Alta.     | Oct. 28       |
| 39 | R. v. Sharma   | Ont.      | Nov. 4        |
| 40 | R. v. Doxtator   | Ont.      | Nov. 9        |
| 41 | Peace River Hydro Partners v. Petrowest Corp.  | B.C.      | Nov. 10       |
| 42 | Des Groseillers v. Quebec (Agence du revenu)   | Que.      | Nov. 17       |
| 43 | Nova Chemicals Corp. v. Dow Chemical Co.   | F.C.A.†   | Nov. 18       |
| 44 | R. v. Ramelson   | Ont.      | Nov. 24       |

|    | Case Name   | Origin | Decision Date |
|----|---|--------|---------------|
| 45 | R. v. Jaffer  | Ont.   | Nov. 24       |
| 46 | R. v. Haniffa   | Ont.   | Nov. 24       |
| 47 | R. v. Dare  | Ont.   | Nov. 24       |
| 48 | Canada (Transportation Safety Board) v. Carroll-Byrne | N.S.   | Nov. 25       |
| 49 | R. v. Clark   | Sask.  | Nov. 30       |
| 50 | R. v. D.R.  | N.L.   | Dec. 1        |
| 51 | F. v. N.  | Ont.   | Dec. 2        |
| 52 | R. v. Furey   | N.L.   | Dec. 2        |
| 53 | R. v. Vernelus  | Que.   | Dec. 6        |
| 54 | R. v. Beaver*   | Alta.  | Dec. 9        |



The statue Veritas

See Notable Decisions on page 24.

†F.C.A. is the abbreviation for “Federal Court of Appeal”.

\*This decision covers more than one case.







# A Landmark Decision

On the evening of January 29, 2017, 46 people gathered at the Islamic Cultural Centre in Quebec City for an evening of prayer. A stranger armed with a semi-automatic rifle and a pistol entered the mosque and opened fire. He killed six people and seriously injured five others. This **despicable act of violence** left the survivors, victims' loved ones and many other Canadians with deep psychological scars.

Alexandre Bissonnette pled guilty to 12 charges including six counts of first degree murder and was automatically sentenced to life in prison. In determining when the man could apply for parole, the Crown urged the trial judge to apply **section 745.51 of the Criminal Code**, which permitted back-to-back 25-year periods of parole ineligibility. The judge ordered the offender to serve 40 years in prison before he could apply for parole – five 25-year sentences to be served at the same time, plus another 15 years for the sixth murder.

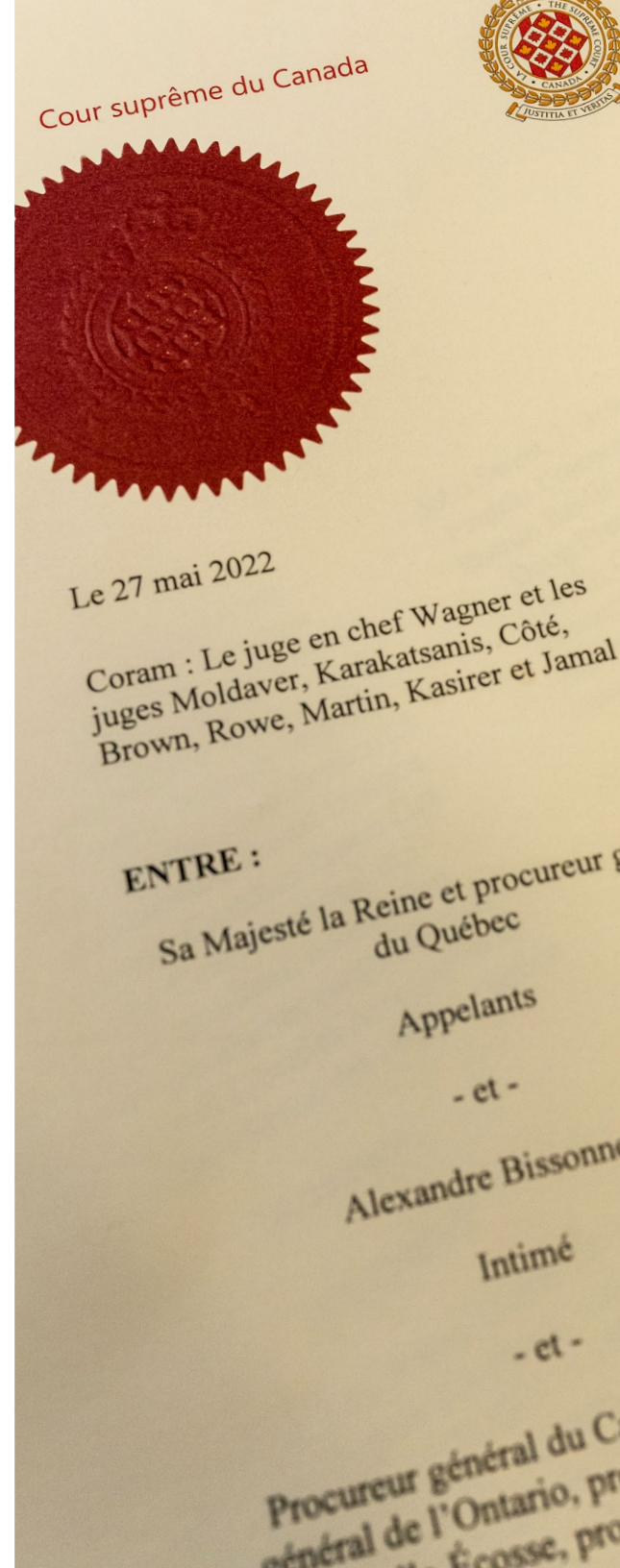
The offender appealed to the Quebec Court of Appeal. It found the law unconstitutional, yet sentenced the offender to six 25-year sentences at the same time. The Crown appealed to the Supreme Court of Canada.

In its **unanimous decision**, the Supreme Court declared **section 745.51 unconstitutional**. It said the provision violates Canadians' rights under the *Charter of Rights and Freedoms* to not be subjected to cruel and unusual punishment. It said a life sentence without a realistic possibility of parole presupposes the offender is beyond redemption and cannot be rehabilitated. This is degrading in nature and **incompatible with human dignity**.

Writing for the Court, Chief Justice Wagner said imposing imprisonment for 50, 75, 100 or 150 years, "authorizes a court to order an offender to serve an ineligibility period that exceeds the life expectancy of any human being, a sentence so absurd that it would bring the administration of justice into disrepute."

The Court also said its decision, "**must not be seen as devaluing the life of each innocent victim**" and that, "eligibility for parole is not a right to parole."

The decision to declare section 745.51 **invalid from the time it was enacted in 2011** means the offender in this case, and others, may apply for parole after serving 25 years in prison.





# Caseload

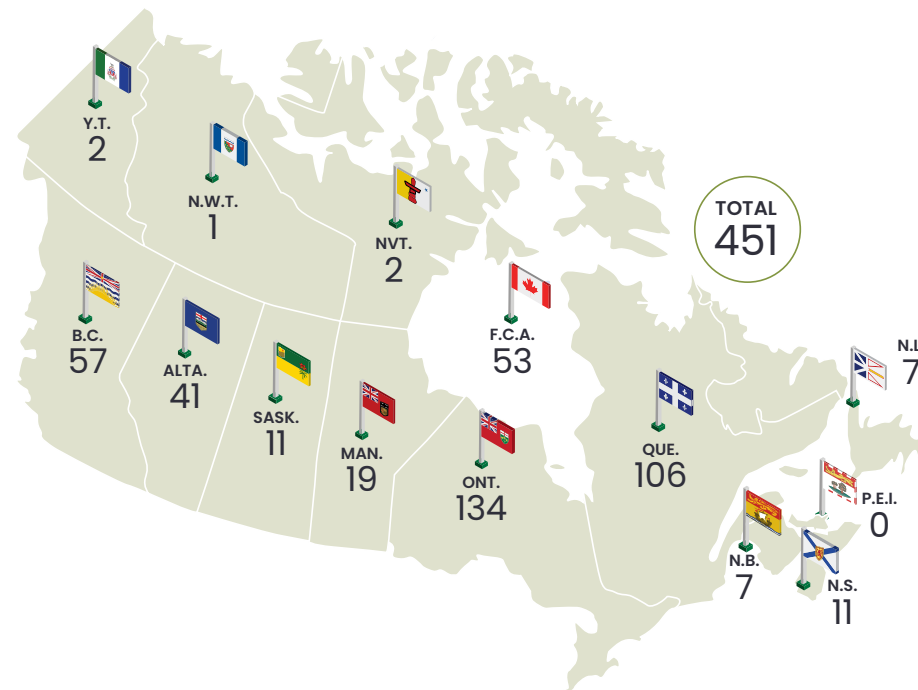
The Court's caseload continued the decline noted since the start of the pandemic. For the third year in a row, the number of leave applications filed was below **500** and fewer than **35** leave applications were granted. The Court received **23** appeals as of right in 2022 but no reference questions. Judges heard **52** appeals and rendered **53** judgments.

Most of the applications for leave to appeal were filed by lawyers on behalf of their clients, but **28%** were brought by self-represented litigants. This is an increase compared to 2021 when **22%** of leave applications were filed by self-represented litigants. In 2022, **32%** of the appeal judgments were delivered from the bench, immediately after the hearing. A majority of the appeal judgments were unanimous, and the average time between hearing of an appeal and judgment declined to less than **five** months.

## Applications for Leave Referred for Decision

### Number of Applications by Origin

From provinces, territories and the federal level



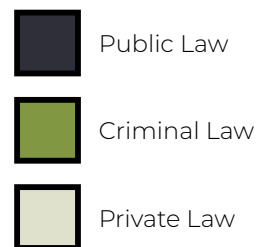
### Categories of Law

**Public law** includes constitutional and administrative legal matters. In constitutional cases, the Court interprets Canada's Constitution, including the *Canadian Charter of Rights and Freedoms*. Administrative law appeals come from non-court decisions by governments or their agencies and tribunals in areas such as labour relations, taxation and human rights.

**Criminal law** appeals come from prosecutions under the *Criminal Code*, or any other law that prohibits specific conduct, and impose fines or imprisonment upon those who break the law. These appeals may raise issues such as consent, sentencing and the admissibility of evidence.

**Private law** cases arise from disputes between individuals that are taken to a court for determination. Recent cases in the private law category in 2022 raised issues of expropriation, defamation and family law.

### Applications by Category







# Appeals As of Right

## Number of Appeals As of Right by Origin

From provinces, territories and the federal level



Alberta  
7



British Columbia  
2



Manitoba  
0



New Brunswick  
0



Newfoundland  
and Labrador  
2



Northwest  
Territories  
0



Nova Scotia  
0



Nunavut  
0



Ontario  
6



Prince Edward Island  
0



Quebec  
5



Saskatchewan  
1



Yukon  
0



Court Martial  
Appeal Court  
0

TOTAL  
23

## Definitions

- **As of right:** an appeal where the Court's permission isn't required, that is, the right is automatic
- **By leave:** an appeal that needs the Court's permission to be heard
- **Leave application / application for leave to appeal:** the documents filed to ask permission for an appeal to be heard
- **Notice of appeal:** the documents filed to tell the Court that a party will appeal, this will be the first document filed for an "as of right" appeal, and will be filed after an application for leave to appeal is granted
- **Granted (leave application):** when the Court gives permission for an appeal to be heard
- **Dismissed (leave application):** when the Court does not give permission for an appeal to go forward
- **Allowed (appeal):** when the Court overturns the lower-court decision
- **Dismissed (appeal):** when the Court agrees with the lower-court decision
- **Decision:** the final judgment that ends the appeal; it can be given orally (from the bench) or through written reasons (reserved). Once in a while, a decision from the bench will be followed by written reasons later.
- **On reserve:** appeals that haven't been decided yet
- **Reasons:** text where a judge or sometimes more than one judge explains how they arrived at a certain decision

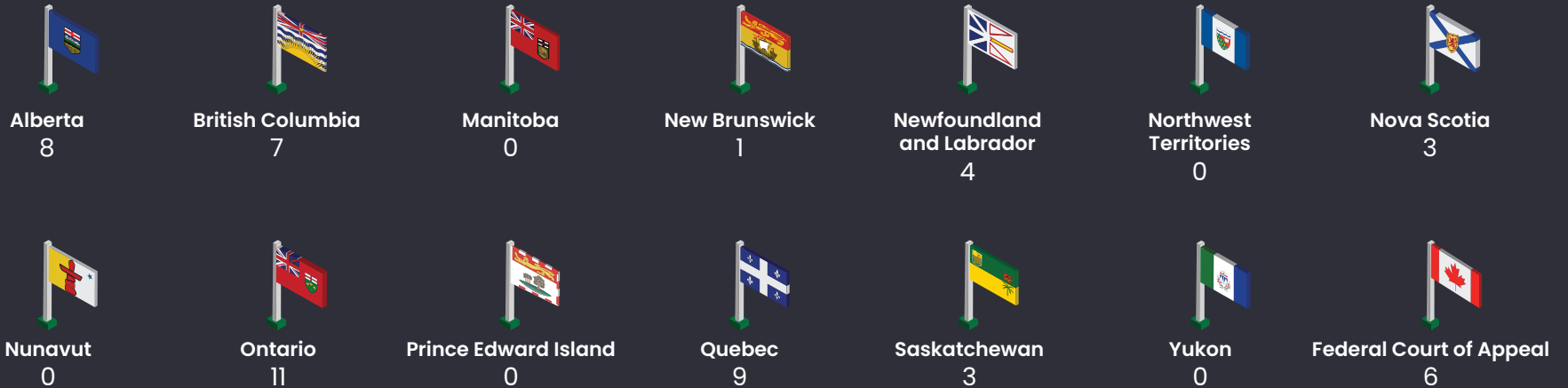


# Appeals Heard

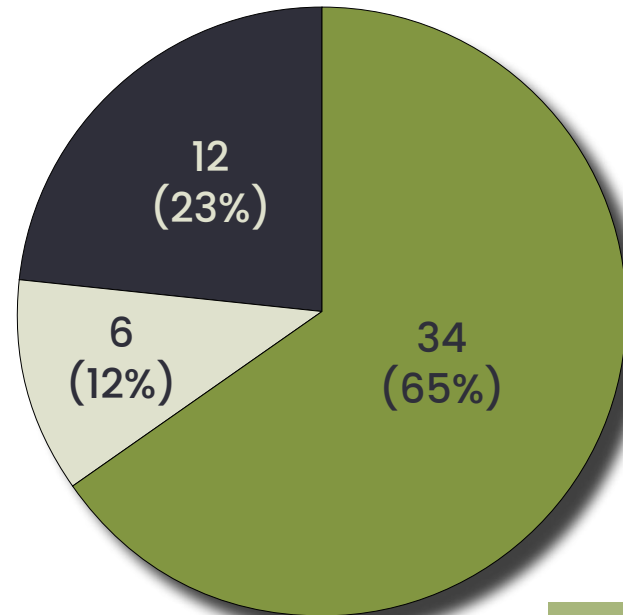
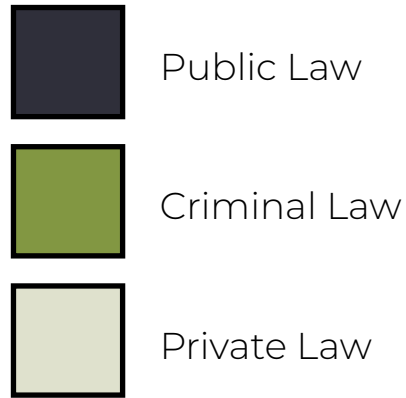
## Number of Appeals Heard by Origin

From provinces, territories and the federal level

TOTAL  
52



## Appeals Heard by Category



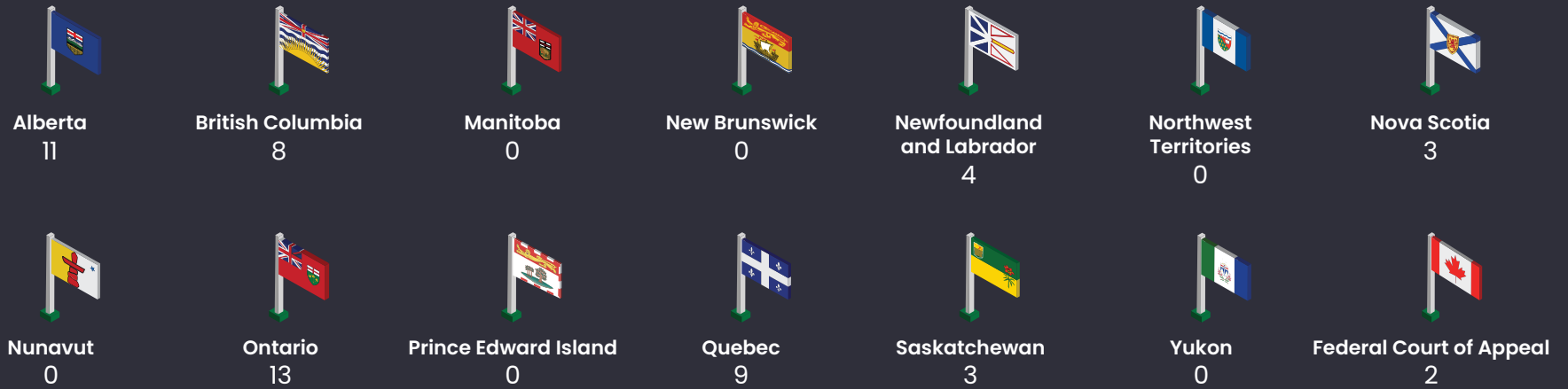


# Appeals Decided

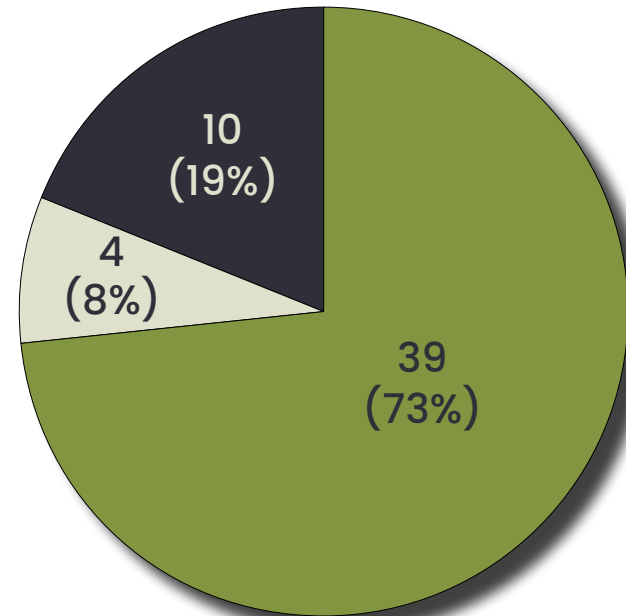
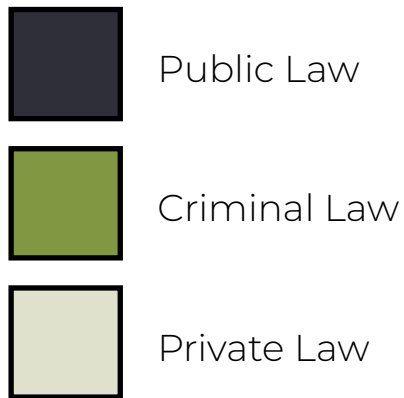
## Number of Appeals Decided by Origin

From provinces, territories and the federal level

TOTAL  
53



## Appeals Decided by Category





# Ten-Year Trends

This report sets out a statistical view of the work of the Supreme Court of Canada over the last decade, from 2013 to 2022. It is worth noting that due to widespread pandemic court closures across Canada in 2020 and 2021, some of the most recent data are irregular.

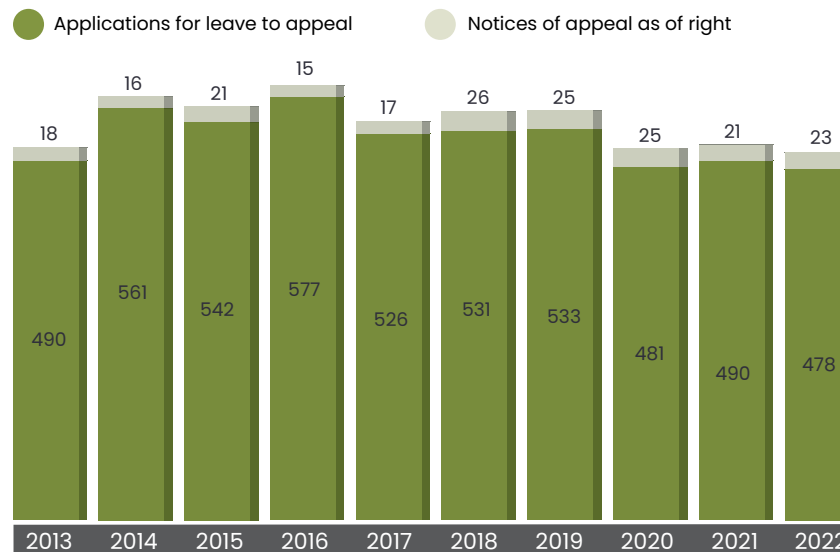
The first category of data shows how many applications were filed at the Court for applications for **leave to appeal** and notices of **appeal as of right**. The data also indicate how many of those cases the Court dismissed and granted. On page 32, there are two tables. The first represents the number of cases heard by the Court that were **as of right**, and **by leave**. The second table establishes the caseload status at the end of the 2022 calendar year by showing how many appeals were dismissed, allowed or remained **on reserve** at the end of the 2022 calendar year.

There are four tables on page 33. The first provides a 10-year view on how many appeals the Court has allowed and dismissed. The second table indicates how many decisions the Court delivered **from the bench** or **reserved** for further deliberation. The final two tables illustrate how often the judges agree on their reasons for a judgment.

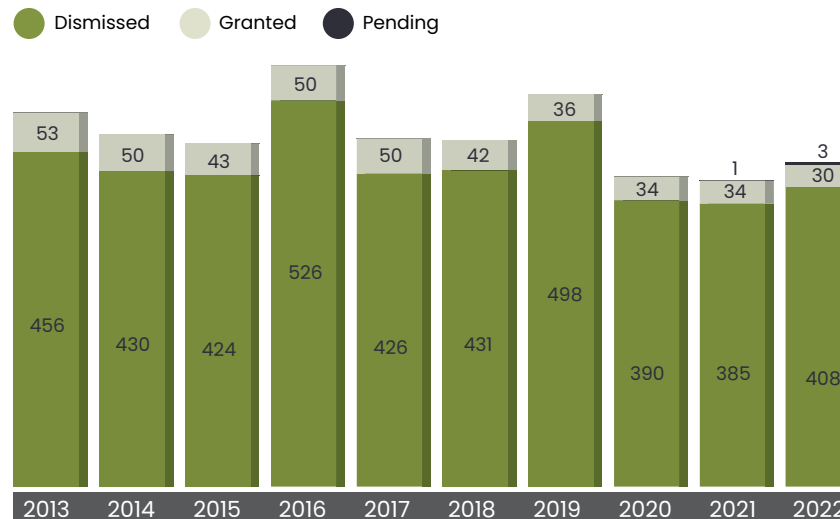
For information about the number of hearing days, head to page 34 where you will also find a table explaining how long it takes cases to make their way through different processes at the Supreme Court of Canada.

## Breakdown of Cases Filed at the Court

### Types of Cases



### Outcomes of Leave Applications Referred for Decision



**Note:**

Statistics do not include cases that were sent back to a lower court, discontinued, quashed, adjourned, or where there was a request for more time that wasn't allowed.



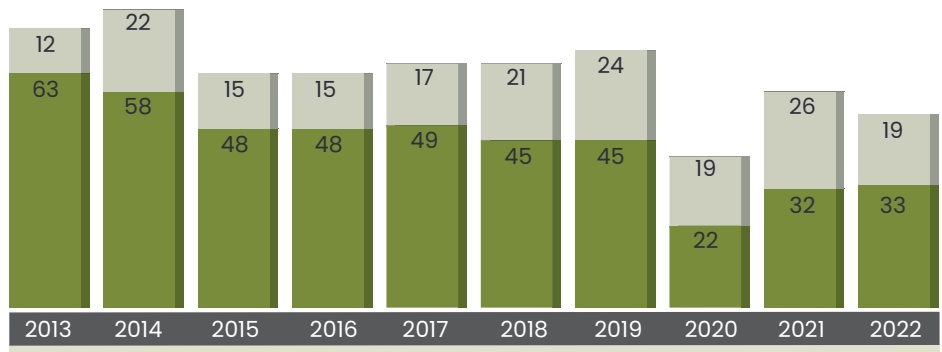




# Breakdown of Appeals Heard

## Types of Appeals

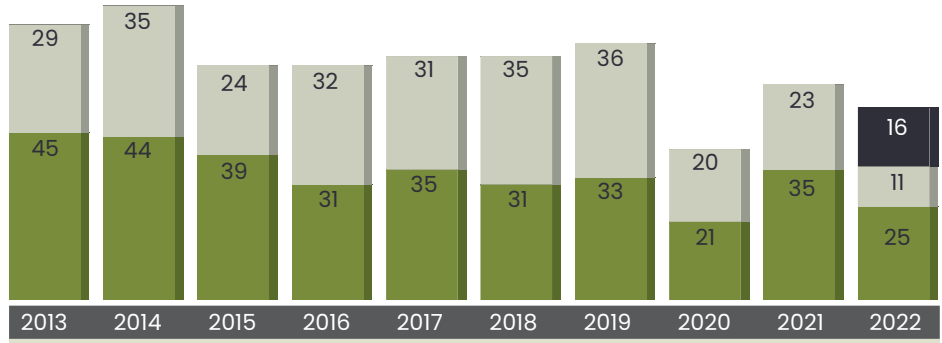
● By Leave   ● As of Right



**Note:**  
 Not all appeals heard in one year were decided in that year. Some cases were decided in the calendar year after the hearing. For example, most appeals heard in the fall of one year are decided in the winter or spring of the following year. This means statistics about appeals heard and appeals decided are slightly different.  
 Appeals with issues in common may be decided in the same reasons, even if the Court hears them separately.

## Outcomes of Appeals Heard

● Dismissed   ● Allowed   ● On Reserve



**Note:**  
 Appeals aren't counted in these statistics if there was a rehearing or remand ordered, or they were discontinued after the hearing, or they were references under s. 53 of the *Supreme Court Act*. There were no situations like this in 2022.

Supreme Court of Canada

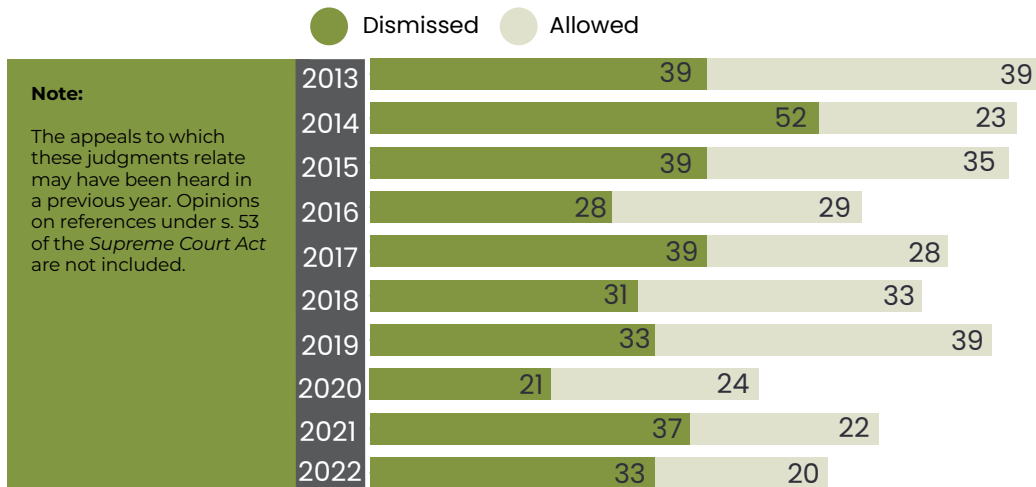


Ceremonial robes in the judges' robing room

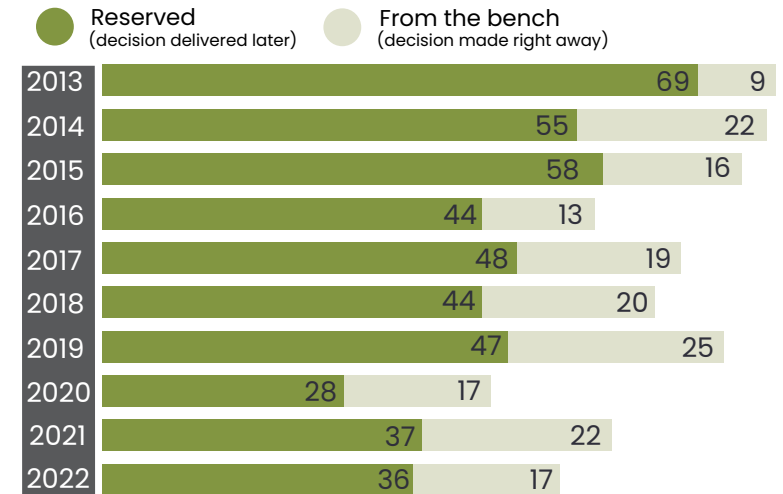


# Breakdown of Decisions

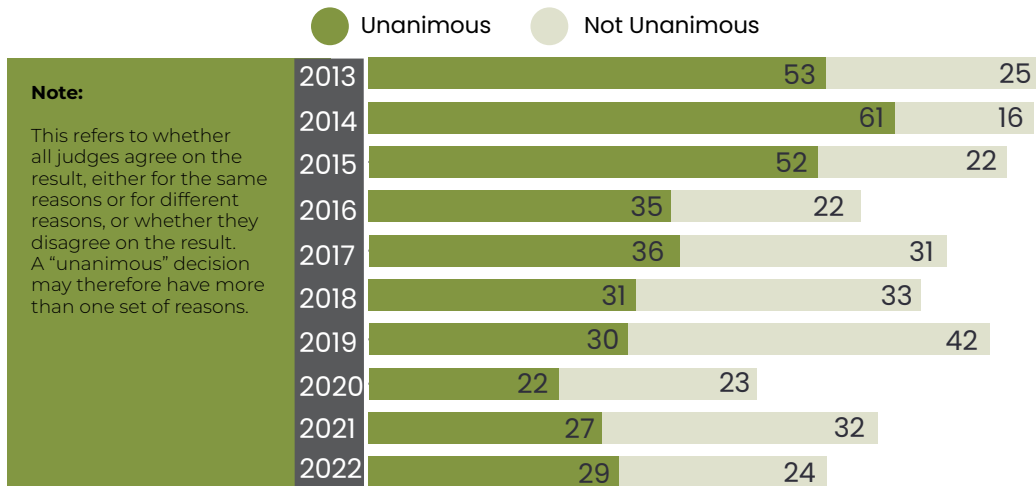
## Outcomes of Appeals Decided



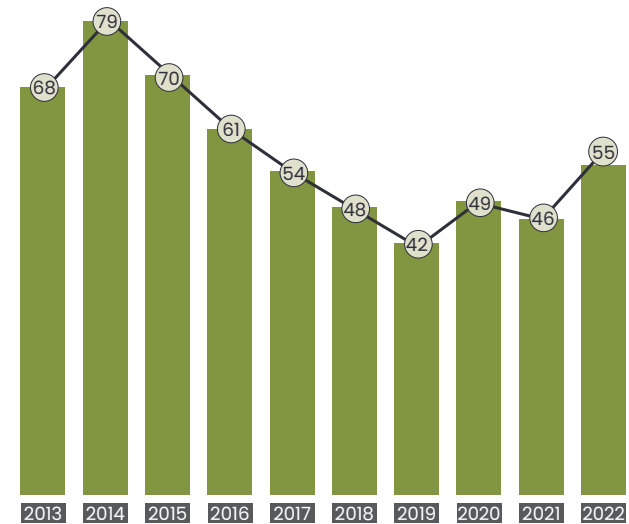
## Delivery of Decisions



## Agreement of Decisions



## Percentage of Unanimous Decisions







# Timing

## Number of Hearing Days



## Average Time of Process Leading to Judgment in months

