Federal Court Strategic Plan 2020-2025

EQUITY DROIT ADMIRALTY

JULY 15, 2020

Message from Chief Justice Paul Crampton and Associate Chief Justice Jocelyne Gagné

The Court's *2020-2025 Strategic Plan* is being issued contemporaneously with the gradual reopening of the Court's facilities across Canada, following the first wave of the COVID-19 pandemic. That wave caused enormous personal hardship, tragedy and general disruption of virtually all aspects of our day-to-day lives.

But it has also had some silver linings, including the acceleration of the Court's shift towards being a more digital national institution.

As the saying goes: "Necessity is the mother of invention."

The suspension of the Court's regular operations spurred the Court to redouble its efforts to shift away from being a paper-based organisation. As a result, virtual hearings have now been "normalized." This followed extensive internal and external training, which included several externally focused webinars and the preparation of a broad range of electronic resources for members of the bar and the general public, including webinars and guides such as *E-filing in Federal Court – Practical Tips and Best Practices*.

There will be no going back.

Instead, the Court is getting used to a new "normal," which is requiring much greater flexibility and adaptability than ever before. This includes more "hybrid" trials, which will be held partially in-person and partially remotely. In the past, these were more often the exception – primarily used to deal with situations where a party was in detention or a witness was outside Canada. Going forward, the Court is expecting to see more use of this hybrid approach.

These changes are enhancing access to justice by yielding earlier hearings, significantly reduced legal costs and more streamlined procedures.

On the eve of the Federal Courts' 50th anniversary, we can think of no better way to usher in the future.

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Introduction

This *2020-2025 Strategic Plan* addresses the steps that the Court intends to take in the pursuit of two principal objectives: (i) significantly increasing access to justice, and (ii) enhancing the ability of the Court to serve the public across Canada.

The primary focus of the first principal objective will be upon accelerating the Court's shift away from being a paper-based organization, towards being a more accessible digital court.

That shift was given added stimulus in the wake of the outbreak of the recent COVID-19 pandemic, when the Court rapidly expanded its capability to conduct virtual hearings with participants situated in their respective homes, by telephone and video conference.

As the Court continues to expand its digital capabilities, its principal areas of focus will include:

- making more broad-based use of e-filing and electronic service
- moving toward treating electronically filed materials as the official court record
- making more widespread use of electronic courtroom software, during in-person and "virtual" hearings
- enhancing its internal and outward-facing electronic scheduling capabilities
- providing the parties to disputes before the Court with an ability to electronically access non-restricted documents in the Court's record
- providing the public and the media with electronic access to non-confidential Court records, as well as to the non-confidential portion of electronic hearings, and
- making increased use of web-based virtual hearings and webcasting.

To assist parties and their legal counsel to become more familiar and comfortable with e-filing, electronic proceedings within the courtroom and virtual hearings over a web-based platform, the Court has been developing various online training materials. This initiative significantly expanded in the wake of the outbreak of the COVID-19 pandemic. At the time of writing, the materials available at the "e-filing resources" tab of the Court's website include an e-filing guide, three "how-to" video recordings, a Power Point Presentation entitled *E-filing in Federal Court – Practical Tips and Best Practices*, a sample Applicant's record with electronic tabs, and FAQs. The Court has also issued a *General Policy Statement re: Virtual Hearings*, as well as a *User Guide for Participants and a User Guide for the Public and the Media*.

The Court is very mindful of the need to cultivate and maintain public confidence and trust in its digital initiatives. In this regard, the Court has put a range of safeguards and measures in place to reduce the cyber-security risks that might otherwise be associated with e-filing and virtual hearings.

In keeping with its flexible approach, and in recognition of the fact that there is no "one size that fits all," the Court will remain sensitive over the near and medium terms to situations where individuals may need or prefer to deal with paper. To the extent that those individuals can be assisted in transitioning to the new digital environment, every reasonable effort will be made to provide such

assistance. Once again, this will include offering various online tools and well as providing assistance at each of the Court's facilities across the country, as they are reopened to the public. In any event, the Court will continue to make every effort to facilitate access to the Court by individuals who need or prefer to deal in paper.

Regarding the Court's second principal objective, enhancing its ability to serve the public, the Court's efforts over the 2020-2025 period will focus upon:

- promoting a better understanding and a clarification of the Court and its jurisdiction
- moving from commercial facilities to Crown-owned (and preferably dedicated) buildings located in judicial precincts across the country
- attracting more candidates of diverse backgrounds from across the country to apply for appointment to the Court
- assisting the Courts Administration Service (**CAS**) to obtain greater independence in the budget process, and
- advocating for a review of CAS's structure and mandate.

CAS was established in 2003 to provide administrative services to the Federal Court, the Federal Court of Appeal, the Court Martial Appeal Court of Canada and the Tax Court of Canada.[1] In the intervening period, the needs of those courts have continued to evolve. In addition, the shortcomings involved in CAS's structure have manifested themselves in ways that have an adverse impact upon the Federal Court. Accordingly, the Court considers that the time has come to review CAS's structure, mandate and funding mechanism.

It bears underscoring that the Court's ability to achieve some of the goals identified in this strategic plan will be a function of the resources available to the Court and to CAS, and its success in working with other stakeholders. If, for example, funding is not received for some of the initiatives described below, the prospects for the Court to realize its objectives will be seriously compromised. Likewise, the duration of the COVID-19 pandemic and the manner in which it evolves may significantly limit the Court's ability to achieve those initiatives within the 2020-2025 period.

This strategic plan builds on the Court's *2014-2019 Strategic Plan*. In that prior plan, the Court focused on two challenges: improving access to justice and modernizing. Regarding access to justice, the Court identified various ways in which it would seek to reduce time, costs and barriers to interfacing with the Court. The Court was successful in making substantial progress in achieving each of these goals. (See Appendix 1 - *Update: Implementation of the Court's 2014-2019 Strategic Plan*.)

Concerning modernization, the Court identified eight specific initiatives that it planned to pursue, subject to the receipt of the required funding. Those initiatives were:

- Rolling-out a national digital audio recording system (**DARS**), integrated into the Court's IT network

[1] CAS provides services to the Courts in a manner that is at arm's length from the Government of Canada and that enhances public accountability for the use of public funds in support of court administration, while safeguarding the independence of the judiciary. Additional information regarding CAS is available on its website. See: https://www.cas-satj.gc.ca/en/about/mandate.shtml.

- Installing electronic courtrooms across the country
- Establishing an enhanced video conferencing system
- Adopting electronic communication as the default mode of communication with the Court
- Replacing the existing, antiquated, court and registry management system (**CRMS**) with a state-of-the-art system
- Launching a more robust e-filing system that would be integrated with the new CRMS
- Providing the public with greater electronic access to the Court's records, and
- Providing the members of the Court with improved technological tools.

With the support of CAS, the Court was successful in making good progress with respect to many of these modernization initiatives.

In brief, DARS technology that is integrated with the Court's national IT network has been installed across the country. At least one state-of-the-art electronic courtroom has been installed in the Court's facilities in Quebec City, Montreal and Toronto, and will very soon be installed in Vancouver and Ottawa. Upgraded video conferencing equipment has been installed in most of the Court's facilities across the country. Electronic communications are increasingly common between the Court and the parties. The Court's e-filing portal has been modernized, and members of the Court have been provided with upgraded computers, smartphones and other tools. And the Court has begun to provide electronic access to some of its records.

In addition, the Court has overhauled its website to make it more user-friendly, to provide much more information regarding the Court and its processes, and to add new tools. Those include checklists, interactive forms, procedural roadmaps, a timelines calculator and a calendar of hearings. The Court has also developed the various "how-to" online tools discussed above, in connection with e-filing and virtual hearings. Moreover, the Court launched its Twitter account and began to webcast certain of its proceedings.

However, limitations exposed during the recent COVID-19 pandemic reveal that much remains to be done. In brief, the Court and many others within its ecosystem need to expand their digital capabilities.

Fortunately, in mid-2019, CAS received approval for funding of $52 million over five years, and $6.7 million ongoing, to acquire and implement a new CRMS system. That system will be critical to integrating and more effectively leveraging the digital initiatives described above. It will also permit the Court to significantly enhance and expand its capabilities in relation to e-filing, electronic hearings, document management and electronic access to Court records. In addition to increasing access to justice in various ways, this will permit CAS to support the Court much more efficiently, including by freeing up resources to be redeployed to better serve the public. The new CRMS system will also play a critical role in assisting the Court to achieve several of the other main objectives identified in this strategic plan.

Statutory Mandate

The Federal Court is a national, bilingual and bijural superior court.

The Court was established under section 101 of the *Constitution Act, 1867* for "the better Administration of the Laws of Canada." Pursuant to section 4 of the *Federal Courts Act*, the Federal Court is "an additional court of law, equity and admiralty in and for Canada" and is a "superior court of record having civil and criminal jurisdiction." Its jurisdiction[2] is exclusive in a number of areas and concurrent in others.

The Court schedules regular sittings in the capital cities of each province and territory, as well as in Montreal, Ottawa, Saskatoon, Calgary and Vancouver. It also sits upon request in other locations and increasingly holds hearings by video conference and telephone conference.

As a statutory court, the Federal Court has jurisdiction over the matters described in sections 17-26 of the *Federal Courts Act* as well as over those matters assigned to it by other federal statutes.[3] Broadly speaking, the Court spends most of its time adjudicating and resolving the following types of matters:

- Applications for judicial review of decisions made by federal boards, commissions or other tribunals – this includes decisions made by ministers of the federal Crown and persons exercising delegated ministerial authority. Some of the more common types of decisions reviewed by the Court relate to:
    - immigration and refugee protection
    - citizenship
    - federal elections and First Nations band elections
    - official languages
    - privacy and access to information
    - prisoners in federal institutions
    - veterans
    - human rights
    - environmental assessments
    - public works
    - national defence
    - public service employment
    - private sector employment in federal works, undertakings and businesses
    - aeronautics and transportation, and
    - oceans and fisheries

[2] See: https://www.fct-cf.gc.ca/en/pages/about-the-court/jurisdiction.
[3] There are over one hundred federal statutes that assign jurisdiction to the Federal Court. See: https://www.fct-cf.gc.ca/en/pages/law-and-practice/acts-and-rules/federal-court.

- Applications for injunctions, *mandamus* and declaratory relief against federal boards, commissions or other tribunals.

- Actions against and by the federal Crown; for example, relating to asserted Aboriginal and treaty rights, contractual disputes involving the provision of goods and services to the federal government, and civil claims for injury caused by agents of the federal government.

- Legal disputes involving intellectual property:

    - patents and patented medicines
    - copyright
    - trademarks
    - industrial designs
    - integrated circuits

- Legal disputes involving navigation and shipping, as well as a broad range of other matters that fall within the scope of Canadian maritime law, including disputes related to the ownership of vessels, the carriage of goods, charter-parties, damage or injury or loss of life caused by a ship, salvage and towage, general average, marine mortgages, liens and claims, ship construction and repair, marine insurance and ship source pollution.

- National security matters, including reviews of security certificates and classified information that a party may want to introduce as evidence in proceedings before the Federal Court or another court. The Court's designated judges also have exclusive jurisdiction to issue warrants to the Canadian Security and Intelligence Service to use intrusive methods in investigations, threat-reduction activities and the collection of information concerning foreign states and persons. Likewise, the Court's designated judges have exclusive jurisdiction to judicially review a broad range of decisions by Ministers and officials with respect to threats to the security of Canada.

Some members of the Court also sit on the Court Martial Appeal Court of Canada, the Competition Tribunal and the Public Servants Disclosure Protection Tribunal.

Mission

To deliver justice and assist parties to resolve their legal disputes throughout Canada, in either official language, in a manner that upholds the rule of law and that is independent, impartial, equitable, accessible, responsive, timely and efficient.

Vision

As the world in which the Court functions becomes increasingly digital, the Court will keep pace. Parties who come before the Court will be able to deal with the Court using the same types of technological tools that they use in their dealings with each other. The same will be true for members of the general public and the media.

As the Court evolves in that direction, it will continue to place a high priority on promoting increased access to justice and on enhancing the Court's ability to serve the public across the country. In pursuing these two objectives, the Court will:

- Safeguard its independence and impartiality
- Conduct its business in accordance with the *Official Languages Act* and actively cultivate the bilingual and bijural nature of the Court
- Be accessible, both electronically and physically, in all regions of the country
- Be committed to excellence
- Facilitate the just, expeditious and efficient resolution of matters, among other things by:
    - pursuing innovative ways to reduce the time, costs and other barriers associated with resolving legal disputes in the Court
    - being more digitally connected with the public across Canada
    - making greater and timely use of mediation and other dispute-resolution tools
    - issuing its decisions more expeditiously, on average
    - simplifying the Court's processes
    - embracing increased flexibility and responsiveness, and
    - ensuring that pre-trial processes and the time allocated for hearings are not disproportionate to what is at stake in a dispute before the Court.

Part I – Access to Justice

Access to justice, an essential pillar of the rule of law, remains the single biggest challenge facing courts across Canada. The time and cost associated with resolving disputes through conventional litigation remain great. Likewise, interacting with the Court is not as simple and straightforward as it should be. The Court continues to be committed to addressing these challenges as an urgent and top priority.

For the duration of the COVID-19 pandemic, this priority will be pursued within a framework that ensures the health and safety of parties to proceedings, their legal counsel, CAS staff and the members of the Court.

Over the last five years, the Court made significant progress in facilitating access to justice by focusing on the following areas:

1. Advancing work within the Rules Committee to revise and simplify the *Federal Courts Rules*.
2. Intensifying its efforts to streamline the scope of disputes and the pre-trial process through case management.
3. Technologically modernizing, as explained in the *Introduction* above.
4. Increasing flexibility, by introducing greater informality into many of the Court's processes.
5. Placing greater emphasis on mediation and other forms of resolving disputes outside the courtroom.
6. Reducing the average time taken to issue decisions.
7. Providing substantially more information regarding the Court and its processes, as well as new tools, on the Court's new website.
8. Adapting to the unique needs of particular practice areas.
9. Increasing physical accessibility.
10. Promoting greater awareness of the Court through enhanced outreach with law schools, bar associations, the media and the general public.

Additional information regarding the Court's progress in these areas is provided in Appendix 1.

Over the course of the 2020-2025 timeframe, the Court will continue to focus on many of the areas identified above. However, its principal focus will be upon a shifting away from being a paper-based organization to being a more digital court. This principal focus is described below. Although the Court continues to make significant progress with respect to several aspects of its digital shift, its ability to

become a truly digital Court will depend to a large degree on the ability of the CAS to source and implement a new CRMS system.

A. A digital court

(i) E-filing and electronic service

In 2015, the *Federal Courts Rules* were amended to make them technology-neutral. Among other things, those amendments included the elimination of the requirement to file paper copies, unless the Court states otherwise. Rule 71(1) now states: "A document may be sent to the Registry for the purposes of filing by delivery, mail, fax or electronic transmission." Language permitting the filing of electronic copies of materials was also added to several other provisions of the Rules.

A principal rationale underlying those amendments was to facilitate the electronic filing of documentation with the Court. In the intervening period, the Court has continued to develop its e-filing portal.

However, in the absence of a modern CRMS system, the Court has refrained from pursuing a full shift towards e-filing. This is in part because electronically filed documents do not get automatically posted to the court's filing system. As a result, staff in the Registry have been required to print everything that has been filed electronically, and then deal with the printed material as if it had been initially filed in hard copy. Moreover, in cases where the Court has preferred to deal with an electronic version of the document, Registry staff have had to manually transfer the e-filed documents from the temporary e-filing portal into the Court's permanent document database. As a consequence, e-filing continues to give rise to a significant increase in work for staff in the Registry. Files are still being dealt with in paper format, and they are handled many different times as they proceed through the filing process and prepared for case management (if applicable) and prior review by the assigned judicial officer(s).

Having regard to this practical reality, the Court refrained, until recently, from generally encouraging those who frequently appear before it to file their documentation electronically. As a result, the typical practice for most parties who come to the Court continued to be that they filed three or more paper copies of all submissions, evidence, books of authorities and documentation.

Three important exceptions to the Court's cautious approach with respect to the filing of electronic documentation have been (i) the Court's immigration law e-process pilot project in Toronto (launched in the Fall of 2018), (ii) the more limited electronic trial pilot projects that the Court has pursued in several specific proceedings, and (iii) the Court's recent encouragement of e-filing and the exchange of electronic documentation that have been required for the virtual hearings, teleconference hearings, and the adjudication of matters in writing that have occurred since the outbreak of the COVID-19 pandemic.

In addition, over the last several years, individual members of the Court have been increasingly requesting that parties provide electronic versions of documents initially filed in hard copy. This has facilitated preparation for the hearing, the running of the hearing itself, and the issuance of a more timely decision than would otherwise have been possible.

The recent need to adjudicate a broader range of matters involving parties, legal counsel, registry staff and members of the Court who are all working from locations outside the Court's facilities underscores the urgent need for the Court to shift towards a more widespread use of e-filing and electronic service.

Among other things, a shift to more widespread e-filing will permit parties to avoid having to file multiple paper copies of their written submissions, evidence, books of authorities and other materials. It will also permit such documentation to be linked directly to the Court's filing system, where it can be accessed by Registry staff, judicial officers, law clerks and judicial assistants from anywhere in the country. In due course, some of that documentation will also be available to the public electronically.

The increasing shift towards a digital court will save significant costs for the parties and will permit judicial officers and others to work with the file much more efficiently. It will also enable the Court's Registrar to make more efficient use of Registry staff, who will no longer be required to physically handle files many times. In addition, increased digitization will reduce storage costs and the risk of documents being lost, damaged or misfiled. All of the foregoing will remain true even where some use of paper documentation continues to be made in some proceedings.

Pending the implementation of a new CRMS system, CAS will continue to pursue a series of initiatives that will increase electronic access to the Court. These include the development of an application that will enable Registry staff to more efficiently review and accept incoming electronic documents and move them into the Court's database. In addition, CAS is working to create a new web-based interface that would allow administrative tribunals, the Department of Justice, law firms and other organizations employing different web services to establish a direct connection to the Court's e-filing portal, and thereby make the e-filing process much more efficient for such tribunals and parties. As recent events have demonstrated, the Court's ability to transition to a more digital environment in a timely manner will be dependent upon the extent to which those organizations, as well as private parties to disputes and their legal counsel, are able to modernize their own internal processes.

Other initiatives that CAS has been diligently pursuing include the upgrading of its national IT infrastructure and the equipment that is used by members of the Court and CAS's staff. This has included the elimination of outdated infrastructure and the addition of backup "redundancy" to ensure a more reliable and secure support for the business of the Court. In addition, connectivity has been upgraded to provide a foundation for the envisioned digital environment, including through increased bandwidth. State-of-the-art infrastructure has also been added to support electronic hearings across the country.

The Court recognizes that originating documentation is still required to be served in-person and that this requirement has reduced the attractiveness of e-filing for some parties. The Court will revisit this requirement with the Federal Courts' Rules Committee. In the meantime, until risks associated with the COVID-19 pandemic have been significantly reduced, the Court will continue to relieve parties other than the Crown from the requirement to effect personal service of originating documents on the Crown, in proceedings brought under the *Immigration and Refugee Protection Act* or the *Citizenship Act*.

A further challenge that will need to be addressed will be to ensure that confidential and private personal information is redacted from the Court's records before they are made available to the public.

Finally, as the Court accelerates its digital shift, it will remain sensitive to the barriers that may be faced by some parties or their counsel, including sole practitioners and self-represented litigants. As

the Court gradually resumes the holding of more regularized in-person hearings, after it becomes safe for more people to return to work, the Court will endeavour to accommodate those parties and legal counsel who prefer to deal with the Court in paper.

(ii) Electronic court files as the official records

To reinforce the shift towards a digital Court, the Court will treat all electronically filed applications, actions and motions as the official court file for the purposes of its records and archives.

As noted above, the Court is aware that some counsel, some self-represented litigants, and some members of the Court may need or prefer to continue to deal primarily or entirely with paper documents. Indeed, the Court expects that the requests for both paper and electronic copies of *compendia*, consisting of the most important evidence filed in a proceeding, will continue to be commonplace over the near-to-mid-term.

In keeping with its flexible approach and its recognition of the fact that there is no "one size that fits all," the Court will endeavour to continue to accommodate any preferences that self-represented litigants or legal counsel may have to work with paper documentation over the near and medium terms. At the same time, it will continue to augment the significant training and other resources that it has developed and uploaded to its website for these individuals. In addition, when the risks associated with COVID-19 further subside, it will establish kiosks or other spaces close to its registry counters, where a range of helpful resources will be made available.

(iii) Electronic courtrooms

In its *2014-2019 Strategic Plan*, the Court identified a strategic priority of increasingly moving towards electronic proceedings. In furtherance of that goal, the Court conducted pilot projects in several proceedings. For example, in *Alderville First Nation v Canada*, the Court estimated that the electronic trial format saved approximately 20% of Court time each day. In *Southwind v Canada*, the electronic proceeding was identified as the principal factor that enabled the trial to be shorted from the initially estimated 100 days, to 72 days. The Court's experience with the electronic trial format in other proceedings has also produced significant savings for the parties, the Court and CAS.

In recognition of this, CAS began to roll out state-of-the-art electronic courtrooms across the country prior to the onset of the COVID-19 pandemic. At the present time, there are one or more such courtrooms in Quebec City, Montreal and Toronto. In the coming months, similar courtrooms will be established in each of the Court's other facilities, beginning with Ottawa and Vancouver. At that time, the Court intends to resume encouraging parties to actively consider having their matter dealt with as a fully or partially electronic hearing within the courtroom. In the meantime, the Court is encouraging parties to use the Court's electronic document platform in virtual hearings.

(iv) Electronic scheduling

Historically, parties seeking trial dates had to communicate by telephone with one of the trial coordinators in the Office of the Chief Justice. Given the delays associated with reaching all parties and the need to confirm the availability of judicial officers, registry officers and courtrooms, multiple telephone contacts were often required.

The Court has moved to address this inefficient approach by working toward the development of an electronic scheduling system. This system will permit parties to indicate their availability for potential hearing dates directly on the Court's website, without the need to verbally communicate with the Court's trial coordinators. Of course, in specially managed proceedings it will be necessary to continue to deal directly with the Case Management Judge.

In 2018, CAS completed the initial phase of its electronic scheduling initiative when it replaced its internal antiquated, paper-based internal scheduling system with an electronic system. In 2019, it significantly advanced work on the second phase, when the system was upgraded to include various search functionalities and links to internal information, including in relation to courtroom availability across the country.

The launch of the third phase of the initiative, which will offer an outward-facing functionality, has been delayed by the COVID-19 pandemic. Having regard to the redeployment of financial and IT resources that was necessitated by the pandemic, the timing of this third phase remains somewhat uncertain.

(v) Electronic access to Court records

The principle of open and accessible court proceedings is inextricably tied to the rights guaranteed in section 2(b) of the *Canadian Charter of Rights and Freedoms* (the "*Charter*").[4] It is also the foundation upon which the judicial process is scrutinized and criticized. Justice must not only be done, it must also be seen to be done.

Accordingly, anyone seeking to limit the scope of court documentation that is accessible to the public bears the burden of demonstrating two things: (i) that a confidentiality order is *necessary* to prevent a serious risk to an important interest because reasonable alternative measures will not prevent that risk, and (ii) the salutary effects of the order outweigh its deleterious effects, including on access to justice and on the public interest in open and accessible court proceedings.[5]

Currently, the legal community and members of the general public who want to obtain copies of one or more documents that have been filed with the Court must physically travel to the regional Registry office where the file is located or to the central Registry in Ottawa. Then they must pay 40¢ per page for each document they wish to have copied. In addition, costs are incurred by the Registry to send files to various locations for viewing and photocopying by the public.

In 2020, this is unacceptable.

The Court is actively exploring how to provide electronic access to non-confidential documentation in its records. (As with paper copies, the public's electronic access to Court records may be constrained by one or more confidentiality orders.)

[4] Section 2(b) of the Charter guarantees the "freedom of thought, belief, opinion and expression, including the freedom of the press and other media of communication".

[5] Sierra Club of Canada v Canada (Minister of Finance), [2002] SCR 522 at paras 52-53.

In recognition of the increased risks associated with making certain types of information available on the Internet, the Court intends to proceed cautiously.

Initially, the Court will begin to offer electronic access to all of its public decisions, directions and other communications. Where reasonably possible, the Court will endeavour to write those documents in a manner that does not include confidential information that then needs to be redacted.

At this first phase, and subject to the special considerations discussed below, the Court will also begin to provide electronic access to non-confidential legal submissions received from parties or interveners. As it does so, it will encourage counsel and self-represented litigants to draft their submissions in a way that does not include such information, particularly where it can readily be provided in a confidential annex. However, where this is not reasonably possible, parties will be required to provide redacted versions of any submissions that may contain confidential or private personal information.

Over the longer term, the Court will work with interested stakeholders to expand the scope of its electronic access initiative to include evidence and other documentation.

The Court recognizes that special considerations, including those related to personal safety and privacy rights, *may* justify a more cautious approach in making its files electronically accessible in certain limited types of cases. These include those involving (i) minors, (ii) refugee applicants, (iii) persons applying for immigration status, in certain circumstances, and (iv) self-represented litigants.

During the public consultation process that preceded the release of the *2020-2025 Strategic Plan*, very divergent views on this issue were expressed. The Court will work with interested stakeholders, including the immigration bar, refugee organizations, the privacy law bar and members of the media law bar, to arrive at an appropriate approach to increasing electronic access to its records, while protecting private or otherwise confidential information. This includes information that might identify a minor, breach privacy rights or reasonably expose an individual to a risk of persecution or harm in his or her country of origin.

Ultimately, the approach adopted by the Court will have to be consistent with the open court principle and the Supreme Court of Canada's jurisprudence in this area, including as it relates to presumptions and burdens.

(vi) Increased use of web-based video conferencing and webcasting

As has been noted, during the 2014-2019 timeframe, CAS upgraded the Court's video conferencing equipment in most of its facilities across the country. This significantly increased the Court's ability to use video conferencing for case management conferences, judicial review proceedings, some trials, webcasting and internal purposes, where appropriate.

Following the outbreak of the COVID-19 pandemic, the Court significantly expanded its use of web-based video conferencing. Indeed, as it gradually resumed operations across the country, the default mode of proceeding in respect of applications for judicial review was by virtual hearing.

Initially, such hearings have been conducted over the Zoom platform. That platform has enabled the Court to effectively address cyber-security, confidentiality and privacy concerns, particularly with the additional internal safeguards protocol that the Court has developed. Over the longer term, the Court intends to adopt a video conferencing solution that will be integrated into its new CRMS system.

During the 2020-2025 timeframe, the Court will continue to explore ways in which it can increase access to justice by making greater use of regular and web-based video conference platforms, while maintaining an appropriate balance between the Court's virtual presence and its physical presence across the country. The Court also intends to make greater use of webcasting, both to permit the public to follow its proceedings from remote locations, as well as to provide information to its stakeholders.

(vii) Online resolution for certain types of proceedings

In recent years, other courts and tribunals in Canada and abroad have increasingly embraced online approaches to resolving legal disputes in an effort to reduce the time and costs associated with certain types of disputes. For example, the Civil Resolution Tribunal in British Columbia uses online dispute resolution to resolve small claims up to $5,000, motor vehicle injury disputes up to $50,000, condominium disputes of any amount, disputes involving societies that are registered with the British Columbia Corporate Registry, and disputes involving housing and community service cooperative associations. In Nova Scotia, parties to uncontested divorces are able to obtain their divorces online.

Over the course of the 2020-2025 timeframe, the Court will actively explore whether and to what extent interactive online tools can be utilized to facilitate access to justice.

(viii) Potential use of artificial intelligence (A.I.)

An additional tool that the Court will explore using is A.I. At this point in time, A.I. is not being considered to assist with the adjudication of contested disputes. Rather, the Court is exploring how A.I. may assist it to streamline certain of its processes (e.g., the completion of online "smart forms") and may be a potential aid in mediation and other types of alternative dispute resolution.

B. Increased proportionality

In 2015, the Court issued a Notice to the Parties and the Profession entitled *Case Management: Increased Proportionality in Complex Litigation before the Federal Court*. Among other things, that document contemplates the involvement of trial judges earlier in the case management process and establishes guidelines for oral and documentary discovery, refusals motions, and the provision of notice with respect to demonstrative evidence at trial. In addition, that notice announced the establishment of a stand-by list for parties who already have a hearing date and are interested in obtaining an earlier date on short notice. The Court also announced that it would become more proactive in raising the possibility of alternative dispute resolution, including mediation, throughout the case management process.

Over the 2020-2025 timeframe, the Court will continue to place a high priority on achieving greater proportionality between what is at stake in legal disputes and the extent of Court resources that are allocated to the resolution of those disputes.

To this end, the Court is working with the Federal Courts Rules Committee to finalize amendments to the *Federal Courts Rules* that would enshrine proportionality as a substantive principle in Rule 3 of the *Rules*. That provision currently requires the *Rules* to "be interpreted and applied so as to secure the just, most expeditious and least expensive determination of every proceeding on its merits."

More generally, the Court will continue to proactively seek new ways to streamline and increase the efficiency of the pre-hearing and hearing phases of its proceedings.

C. Shorter trials

In tandem with the pursuit of greater proportionality and a more streamlined pre-trial process, the Court will also continue to work with representatives of the legal community and other stakeholders to shift the existing litigation culture away from trials that are longer than necessary.

To this end, and following extensive consultations with the intellectual property law bar, the Court announced in its September 2017 *Guidelines for Actions under the Amended PMNOC Regulations* that it "will expect parties to complete trials within two weeks, unless the Court determines that additional time is required." Since that time, the Court has been case managing actions under the amended *PMNOC Regulations* with a view to ensuring that trials are completed within 10 days, except in exceptional circumstances, such as where multiple patents or process patents are involved. At the time of writing, each of the actions that proceeded to trial were conducted in under 10 days.

In applying this approach, the Court will remain flexible regarding how the allocated trial time is scheduled. For example, the Court will engage with the parties in each case to ascertain whether they would prefer to give their final written and oral submissions immediately following the evidentiary phase of trial, or to provide those submissions after a short break. The Court will also actively explore with parties the extent to which certain matters that may historically have been dealt with during trials can be dealt with prior to trial. This includes deposing experts on matters that are more appropriately addressed before the trial. The Court intends to avail itself of the experience it acquires in achieving shorter trials under the amended *PMNOC Regulations*, when dealing with actions brought in relation to other matters.

In addition, the Court will apply its 2017 *Trial Management Guidelines* in a manner that minimizes the time and costs associated with the pre-hearing and hearing phases of proceedings, while ensuring a just determination of every proceeding on its merits.

D. Mediation and other forms of alternative dispute resolution

Over the 2014-2019 period, the Court made a concerted effort to assist more parties to resolve their disputes through mediation and other forms of alternative dispute resolution.

In this regard, the Court launched an early triage pilot project in the Aboriginal law area to identify those matters that appeared to be potentially amenable to out-of-court resolution. The success that the Court achieved with this pilot project led to it being adopted as a permanent feature of the manner in which all Aboriginal law proceedings are now handled.

In 2019, the Court extended this approach to all matters that are filed.

The Court's workflow is comprised of three streams: (i) matters that are specially managed by a Case Management Judge, (ii) requests for leave to apply for judicial review under the *Immigration and Refugee Protection Act* and the *Citizenship Act*, and (iii) all other matters. All applications, motions and actions falling into the latter category are triaged by a member of the Court prior to being assigned for a hearing by the Chief Justice's office.

Part of the mandate of each of the Case Management Judge, the "leave" judge and the file review judge is to identify the potential to resolve the matter in question through mediation or an alternative form of dispute resolution. The Court is hopeful that those triage efforts will assist it to increase the extent to which it is able to assist parties to resolve their disputes out of Court.

A further initiative that the Court launched in this regard is its *Pilot Project for Settlement Discussions in Proceedings under the Immigration and Refugee Protection Act*. Currently, this pilot project is limited to matters filed in Toronto. However, given the success that has been achieved to date, this initiative will be extended nationwide. That success included the settlement of a substantial percentage of matters at a much earlier point in time, such that the Court was able to replace the settled matters with other matters. This avoided the waste of scarce public resources that are generally associated with "last minute" settlements, namely, the Court's inability to reschedule judicial officers, registry staff and courtrooms to alternative matters.

More generally, over the 2020-2025 period, the Court will continue to proactively assist parties to resolve their legal disputes in a manner that avoids conventional litigation.

E. Consistent practices across Canada

Historically, the Court has provided Registry staff in its various facilities across the country with a degree of flexibility in their working practices.

However, as the volume and complexity of the Court's workload have grown, and as new technologies have permitted judicial officers in one location to draw on Registry resources in other locations, the need for greater national consistency has increased.

This need is being accentuated by the fact that the recent increase in the Court's complement of prothonotaries in Toronto and Ottawa has permitted the Court to send a prothonotary from each of those offices to assist the single prothonotary in each of Montreal and Vancouver, one week per month.

Accordingly, over the 2020-2025 timeframe, the Court will strive to achieve greater consistency with respect to Registry practices across the country.

Achieving greater consistency in Registry practices across the country will also help to avoid potential problems as the Court moves to being a digital court, with official electronic court files, as described in *Part I. A.* above.

F. The Court's decisions

One of the most important ways in which the Court serves the public is through the issuance of its decisions.

Over the course of the 2020-2025 period, the Court will strive to (i) reduce the average time taken to issue its decisions and (ii) make its decisions more accessible, through the greater use of plain language. The Court will also issue continue to pursue its objective of increasing the transparency of its decisions in the national security area, subject to the parameters established by law.

G. Translations of decisions

As a bilingual, bijural national court, it is important for all of the Court's judgments to be available in both official languages on a timely basis. The ability to access the Court's jurisprudence is an essential component of access to justice.

Over the 2014-2019 timeframe, the Court made significant progress in reducing the time required to issue translations of decisions that are not required to be released simultaneously in both official languages.[6]

In the Aboriginal law area, the Court also began a pilot project to issue written and oral summaries of selected decisions in the Indigenous language of the parties, to make those decisions more accessible to Indigenous people in Canada.

In Budget 2017, CAS received $1 million in new translation funding for each of fiscal years (FY) 2017-2018 and 2018-2019. This fell well short of the Federal Court's needs.

In Budget 2019, CAS received $1.7 million in ongoing funding for translation services. For FY 2019-2020 and FY 2020-2021, this will represent an increase of approximately $700,000 per year, which is approximately 10% of the $7 million in annual funding that CAS had requested for translation.

The Court will continue to work with CAS to reduce the time required to issue translations of its judgments, and to increase the extent to which it is able to provide summaries of its decisions in Indigenous languages.

H. Quebec pilot project (*Code of Civil Procedure*)

In the Fall of 2019, the Court launched a pilot project to provide parties to actions filed in Quebec with the option to use that province's *Code of Civil Procedure*, rather than the *Federal Courts Rules*. This option is available where each of the parties to an action consents to participating in the pilot project and is represented by a member of the Barreau du Québec. It is not available where one or more of the parties is self-represented.

To avail themselves of this option, the parties simply have to file their written consent. Upon receipt of that consent, the Court will put the action into case management. The Case Management Judge will have a mandate to settle or establish the terms of the case protocol contemplated by Article 148 of the *Code of Civil Procedure*, and then to actively work with the parties to assist them to use the *Code of Civil Procedure*, with any adaptations that may be appropriate, to the maximum extent feasible.

If an interlocutory Order or the final judgment is appealed, the action will remain under the pilot project before the Federal Court of Appeal. Once again, the action will be case managed. At both the

[6] Pursuant to s. 20(1) of the *Official Languages Act*, final decisions must be made available simultaneously in both languages where they determine a question of law of general public interest or importance or arose from proceedings that were conducted in whole or in part in both official languages.

trial and appellate levels, the *Federal Courts Act* and the *Canada Evidence Act* will continue to apply to those actions that proceed under the pilot project.

This initiative was launched after the Court became aware that some members of the bar in Quebec find the architecture and approach of the *Federal Courts Rules* to be unfamiliar and uninviting. In other words, it appears that the *Federal Courts Rules* may pose an obstacle to those wishing to access the Federal Court in Quebec, at least where they are not familiar with those *Rules*.

The Court is hopeful that over the course of the 2020-2025 timeframe this pilot project will increasingly assist members of the Barreau du Québec to feel more welcome and at ease in the Court.

I. Special Resources for self-represented litigants (SRLs)

Over the course of the past several years, the Court has made a concerted effort to assist those who wish to represent themselves to navigate the *Federal Courts Rules* and advance their case before the Court.

Most recently, the Court significantly expanded the information available on its website and added several new features, including checklists, interactive forms, procedural roadmaps, a timelines calculator and a calendar of hearings. In addition, as previously mentioned, the Court has uploaded a broad range of training materials to the e-resources page on its website.

The Court will also develop and make available information sheets at its Registry counters, which provide information regarding local legal aid, *pro bono* contacts, and other services. In addition, the Court will add links to those services on its website.

Beginning in early 2020, the Court also began to establish designated spaces beside or near each of its Registry counters across the country. Among other things, those spaces are being equipped with computers that have links to the *Federal Courts Rules* and a range of helpful resources. In addition, hard copies of certain material are being provided, and local staff will be available to guide those who wish to represent themselves through the various procedural requirements under the *Rules*.

The Court will also work with CAS to establish and train a dedicated team of Registry staff to assist SRLs with their unique needs. In addition, the Court will actively explore the extent to which additional support tools and web-based communications channels can be developed to assist in delivering helpful information to SRLs. Moreover, the Court will continue to collaborate with the Bar on *pro bono* initiatives, including one developed in 2019 with the immigration and refugee law bar.

J. Recognizing Indigenous approaches to the resolution of disputes

During the 2014-2019 timeframe, the Court began to explore with members of the Federal Court Aboriginal Law Bar Liaison Committee (FCALBLC) and the Indigenous law community how best to recognize Indigenous approaches to resolving disputes that are brought before the Court. As part of those discussions, the Court invited numerous experts to share their perspectives. The Court also invited representatives of additional Indigenous law groups to become members of the FCALBLC.

To date, initiatives adopted by the Court have included the use of a round courtroom, the swearing of oaths with an eagle feather, inviting elders to become involved in mediation/settlement discussions,

conducting mediations in an Indigenous language, encouraging parties to avail themselves of customary approaches to informal dispute resolution, and being receptive to smudging and other ceremonies outside of the courtroom.

In some cases, the Court has also endeavoured to interpret band election codes with the benefit of evidence regarding traditional Indigenous practices and the perspectives of Indigenous decision makers.

Over the 2020-2025 timeframe, the Court will continue to work with members of the FCALBLC and other representatives of Indigenous communities to explore how its *Aboriginal Litigation Practice Guidelines* can be applied in a manner that recognizes Indigenous approaches to resolving disputes in proceedings before the Court.

As part of this outreach initiative, the Court will look for opportunities to hold hearings in First Nations, Métis and Inuit communities, webcast more hearings into those communities, and develop materials to better explain the Court and its decisions to Indigenous communities across the country. In addition, the Court will endeavour to forge closer relationships with universities that have developed expertise in this area.

More generally, the Court will continue to work with the members of the FCALBLC and other stakeholders to identify new ways to increase access to justice for Indigenous peoples across Canada, including by reducing the time and costs associated with legal proceedings before the Court, and reducing barriers to interfacing with the Court.

K. Consolidation of notices to the profession

The Court is aware that some practitioners find it difficult to navigate the significant number of notices to the profession, guidelines, protocols and practice directions.

Accordingly, the Court has commenced work to streamline and consolidate all of those materials to facilitate greater access to those documents by the legal community, the media and the public at large. Where appropriate, the Court will also include links to *the Federal Courts Rules* and work with its Rules Committee to amend the *Rules*.

Part II – Enhancing the ability of the Court to serve the public

At the present time, the Court's ability to serve the public appears to be falling short of its potential. This appears to be due to several different reasons, including:

- Some litigation counsel who do not often appear in the Federal Court are more comfortable with the rules of practice in their home province than they are with the *Federal Courts Rules*. This appears to be particularly true in Quebec, given that the *Federal Courts Rules* are largely inspired by their counterparts in the common law provinces.

- The Court's expertise, for example in class actions, is not broadly understood.

- Questions have been raised regarding the Court's jurisdiction, for example, in relation to its ability to:

    - issue declarations of constitutional validity/invalidity;

    - provide detainees with access to timely remedies, including through an application for *habeas corpus*;

    - deal with third-party claims in actions brought against or by the federal government; and

    - deal with tort claims in certain circumstances.

- Most of the Court's facilities across the country are located in commercial towers, away from the local judicial precincts. This includes the Court's central facility in Ottawa. This results in the Court being "out-of-sight" and therefore "out-of-mind."

- Many law schools do not place a material focus on the Federal Court. The same is true with respect to the bar admission courses in most provinces.

- Members of the general public, including in Indigenous communities across the country, are seldom exposed to information about the Federal Court.

In addition, until recently, CAS was chronically underfunded for many years. Among other things, this significantly undermined its efforts to provide the Court with the technology required to better connect with Canadians; to provide timely translations of its decisions; and to provide communications expertise to better inform Canadians about the Court's jurisdiction and its work. With the additional funding announced in the last two years, CAS is now better positioned to address these matters.

A. Promoting a better understanding of the Court

In the *2014-2019 Strategic Plan*, a number of steps were identified to promote a better understanding of the Court, its jurisdiction and its processes.

For law schools, the Court established the objectives of strengthening its twinning program, arranging for more live judicial review proceedings to be held on campus, establishing course "modules" on various subjects to be used when judges are able to visit a law school, organizing more "meet and greet" events between judges and students, and participating in more courses and moot court programs. The Court made significant progress in achieving each of these objectives. However, it recognizes that there is potential to do more.

For members of the legal community, the Court committed to exploring ways to strengthen existing relationships with various local and provincial bar associations, and to forge new ones. Once again, the Court made good progress over the 2014-2019 timeframe. Among other things, it strengthened its relationship with the Canadian Bar Association (CBA), the CBA's British Columbia Branch, and the Barreau de Montréal. The Court also forged new relationships with the Law Society of Ontario, the Advocates Society, le Barreau du Québec, le Barreau de Québec and L'École du Barreau. In addition, it expanded the number of different stakeholders represented in its Immigration Law Liaison Committee and in its Aboriginal Law Liaison Committee. It also expanded its outreach with the intellectual property bar.

For the media, the Court undertook to evaluate the potential use of (i) social media to communicate information, (ii) briefing sessions in advance of the release of important decisions, and (iii) providing access to hearings of significant public interest through teleconference, video conference and digital recording. In furtherance of these objectives, the Court launched a Twitter account in 2017 and actively explored media briefing sessions, including "lock-up" meetings in advance of the release of several important decisions. For various reasons that have now been resolved, none of those sessions took place. The Court also began to make digital audio recordings of its proceedings available to the media in 2015, and it has provided additional resources for the media on its new website

For the 2020-2025 timeframe, the Court is committed to increasing the range of its activities and initiatives with law schools, bar associations and media outlets across the country. The Court will also actively explore using additional social media channels, such as Facebook and Instagram, to reach additional segments of Canadian society.

B. Locating in dedicated facilities, in or near to judicial precincts

In most cities across the country, the Court currently is located in commercial buildings that do not reflect the Court's nature as an important national institution. Those buildings are also not able to meet the Court's evolving requirements, and are not situated close to the local judicial precinct.

Over the course of the 2020-2025 timeframe, the Court will continue to strongly advocate with the federal Executive Branch for the establishment of a national facilities strategy that is focused on moving the Court's facilities to Crown-owned (and preferably special purpose) buildings that are located in or near judicial precincts across the country.
An example of what the Court has in mind is the new plan, funded in Budget 2019, to move out of its existing leased facility in Montreal to a new Crown-owned national courts building in the judicial precinct in Montreal.

C. Clarifying the remedies available to the public

In *Windsor (City) v Canadian Transit Co.*, 2016 SCC 54 [*Windsor*], the Supreme Court of Canada held that the Federal Courts have only the powers conferred upon them by statute, and questioned their ability to grant constitutional declaratory relief. The Supreme Court also suggested that the Federal Courts' implied jurisdiction is narrower than what was recognized in its prior jurisprudence, including *Canada (Human Rights Commission) v Canadian Liberty Net*, [1998] 1 SCR 626, at paragraph 36.

Following *Windsor*, the Court has been called upon several times to address the new uncertainty surrounding its jurisdiction to grant constitutional declaratory relief: see for example, *Bilodeau-Massé v Canada (Attorney General)*, 2017 FC 604, at paragraphs 56 *et seq*; *Fédération des francophones de la Colombie-Britannique v Canada (Employment and Social Development)*, 2018 FC 530, at paras 55-65; *Deegan v Canada (Attorney General)*, 2019 FC 960, at paras 216-240; and *P.H. v Canada (Attorney General)*, 2020 FC 393, at paras 40-43. However, it may take many years before the Supreme Court has another opportunity to revisit this issue.

A restrictive reading of the Court's power to grant declaratory relief in respect of constitutional and other matters, and to deal with matters that are ancillary to issues that are properly within its jurisdiction, may impair the Court's ability to grant efficient and effective remedies. Among other things, this may detract from the Court's capacity to ensure efficient access to justice in a broad range of areas, including Indigenous claims, maritime law and intellectual property.

In addition to the foregoing, the Supreme Court of Canada's recent decision in *Canada (Public Safety and Emergency Preparedness) v Chhina*, 2019 SCC 29 has given added impetus to questions regarding the appropriate forum for *habeas corpus* applications where an individual's deprivation of liberty results from a decision of a federal board, commission or other tribunal. The Federal Court has a recognized expertise in conducting judicial review of decisions of federal boards, commissions and tribunals, including decisions affecting liberty. The Federal Court also has a demonstrated capacity to hear and determine matters on an urgent basis, including detention review decisions and motions to stay the removal from Canada of unsuccessful refugee claimants pending determination of their applications for judicial review: see, e.g., *Canada (Public Safety and Emergency Preparedness), v Arook*, 2019 FC 1129, at para 43.

Accordingly, the Court will continue to explore how its ability to grant effective remedies, and to deal with matters that are ancillary to issues that are properly before it, can be clarified and reinforced, to ensure that the public has efficient access to justice in the forum of its choice.

D. Promoting greater awareness of the Court in areas of underutilized jurisdiction

When the former Federal Court of Canada was established in 1971, it was designed to achieve two objectives: (i) ensuring that members of the public "have resort to a national court exercising a national jurisdiction when enforcing a claim involving matters which frequently involve national elements"; and (ii) making it possible for "litigants who may often live in widely different parts of the country to [have] a common and convenient forum in which to enforce their legal rights": *Heyder v Canada*

(Attorney General), 2018 FC 432, at para 12, quoting *House of Commons Debates*, 28th Parl, 2nd Sess, Vol 5 (March 25, 1970) at 5473.

A potentially important way in which the Court can improve its ability to better attain the above-mentioned objectives is to promote greater awareness of the Court's jurisdiction, particularly in areas where that jurisdiction does not appear to be well understood. One such example is class actions that currently tend to be brought in multiple provinces.

Over the course of the 2020-2025 timeframe, the Court will actively explore ways in which it can promote greater awareness of its jurisdiction in this area and potentially others.

E. Promoting the Court's diversity and regional representation

Applications of candidates for judicial appointment are evaluated by nonpartisan Judicial Advisory Committees throughout the country. Judicial appointments to the Court are then made by the Governor General on the advice of the Minister of Justice in consultation with Cabinet.

The Court recognizes that its legitimacy is enhanced by the appointment of judges and prothonotaries whose diversity better reflects the society it serves.

Over the course of the 2020-2025 timeframe, the Court will continue to encourage candidates with diverse backgrounds from across the country to apply for appointment to the Court. In addition, the Court will review its processes and working conditions to reduce the extent to which they may pose systemic barriers to the appointment of such candidates. The Court will do the same with respect for potential candidates who do not reside within the National Capital Region, as it is important for the Court to be representative of the diverse regions of Canada.

F. Establishing checks and balances in the budget processes

Currently, the Federal Court does not have its own budget. The members of the Court are paid by the Office of the Commissioner for Federal Judicial Affairs (which also pays for judges' travel and incidental expenses), while Court staff are paid out of CAS's budget. CAS is also responsible for providing the Court with the corporate services that it requires, including with respect to information management and information technology, security, facilities, human resources and financial services.

However, CAS has consistently been underfunded. For the last several years, it has had to manage a significant budget deficit and has been unable to fund essential needs. Although it has recently received funding for some of those needs, the process by which it obtains its funding is out of step with Canada's status as a mature democracy. This is particularly so considering that CAS's statutory purposes include "enhance[ing] judicial independence by placing administrative services at arm's length from the Government of Canada."

At the present time, CAS is required to make budget requests through the Department of Justice, which represents the government in the substantial majority of cases before the Court. Although the Department of Justice and the Minister of Justice have often been supportive of CAS's requests, those requests are frequently rejected later in the budget-making process, without any explanation or transparency. The Court considers that, at a minimum, some checks and balances ought to be included

in the budget process to increase CAS's administrative independence from the Executive Branch of the federal government.

G. CAS mandate review

The CAS Act received Royal Assent in March 2002. CAS's mandate is to provide effective and efficient administrative services to the Federal Court (FC), the Federal Court of Appeal (FCA), the Court Martial Appeal Court of Canada (CMAC) and the Tax Court of Canada (TCC). However, the four courts are independent and distinct entities that have different challenges, priorities, and needs. One particularly striking example of this concerns the new CRMS system for which CAS received special "off-cycle" funding in 2019. This initiative incurred significant delays after one of the above-mentioned courts decided to actively explore a different type of CRMS system than the one that continues to be endorsed by the other three courts.

After many years of experience with CAS's existing mandate and limitations, the Federal Court considers that the time has come for a review of that mandate.