

Montreal, February 20, 2025

BY ELECTRONIC PORTAL

Ms. Chantal Carbonneau, registrar
Supreme Court of Canada
301, rue Wellington, bureau 166
Ottawa (Ontario) K1A 0H9

Subject: 41210 - Attorney General of Quebec v. Bijou Cibuabua Kanyinda

Madam Registrar,

The purpose of this letter is to make known the opposition of the appellant Attorney General of Quebec (AGQ) regarding certain motions for intervention presented in the case in question.

The PGQ opposes the requests presented by the National Association of Women and the Law (AFD) and the David Asper Centre for Constitutional Rights (DACCR), Women's Legal Education and Action Fund Inc. (LEAF), the Canadian Association of Black Lawyers and Black Legal Action Centre (CABL – BLAC), the Income Security Action Centre (CASR), the Refugee Centre and the Quebec Association of Immigration Lawyers (AQAADI).

Although the motions filed by the foregoing organizations relate in part to the debate already underway, they all attempt to introduce new issues. Since the beginning of the case, the respondent has based her challenge on the grounds of sex and citizenship and on the unrecognized ground of immigration status. It is on the basis of these claims that the parties have governed themselves and that the case has been constituted. Under the guise of an intersectional analysis, the proposed interveners attempt to raise new grounds, thereby changing the nature and scope of the debate underway.

AFD and DACCR claim to invoke race, maternity, parental responsibilities, parental status, ethnic origin and poverty¹. LEAF raises the colour ground². CABL - BLAC invokes race³. CASR, for its part, invokes race, single parenthood and poverty. Refugee Centre takes up several of them, but adds others, while announcing an argument based on ethnic and national origin, race, language, poverty, mental disabilities, belonging to the LGBTQ+ community, single parenthood, family status and sexual orientation⁴. Finally, AQAADI, in addition to its intervention being out of time, raises the grounds of race

¹ Memorandum of law and fact of the proposed Interveners National Association of Women and the Law, and the David Asper Centre for Constitutional Rights, par. 27-28.

² Memorandum of argument, Women's Legal Education and Action Fund Inc., par. 28.

³ Memorandum of argument of the proposed interveners, Canadian Association of Black Lawyers and Black Legal Action Centre, par. 15, 22, 23, 25, 26.

⁴ Memorandum of argument in support of the motion, par. 17-22

Courthouse

1, rue Notre-Dame Est, office 8.00

Montreal (Quebec) H2Y 1B6

Telephone: 514 393-2336, ext. 51564

Fax: 514 873-7074

Address for notification by technological means: bernardroy@justice.gouv.qc.ca

and national origin and attempts to revive arguments based on the *Charter of Human Rights and Freedoms* which are no longer part of the dispute between the parties⁵ .

In addition to the fact that these grounds have never been the subject of debate between the parties, several of them have never been recognised as analogous grounds and are therefore likely to give rise to debates which go well beyond the scope of the dispute.

The PGQ also opposes the applications submitted by Charter Committee on Poverty Issues (CCPI), ESCR-Net – International Network for Economic, Social and Cultural Rights (ESCR), Black Action Defense Centre (BADC) and Canadian Council for Refugees (CCR).

Before the Court of Appeal, the respondent stated that it was not claiming a positive obligation from the State based on s. 15(1)⁶ . However, CCPI raises a new debate based on the positive obligations arising from this paragraph. Moreover, while the respondent claims to base its claims on the *Sharma* decision⁷

. CCPI asks this Court to overturn this judgment⁸ . In doing so, it raises a debate that goes beyond that which exists between the parties.

DESC also claims to want to initiate a debate on the extent of the positive obligations under s. 15(1). DESC introduces its argument by stating that according to the AGQ, "s. 15 can never impose positive obligations on the government to address discrimination, however entrenched and oppressive"⁹

. However, the PGQ did not assert anything of the sort in its brief, since the question of positive obligations is not in dispute.

BADC claims to want to address the exclusion of refugees and more specifically the impact of such exclusion on refugee women. However, the provision challenged by the respondent explicitly grants eligibility for the reduced contribution to refugees. BADC should not be allowed to intervene to denounce an exclusion that does not exist and whose outcome is of no help to asylum seekers.

Finally, CCR also presents a completely new argument. While the respondent invokes her personal rights in support of her claim, CCR claims instead to base its argument on a novel interpretation of the right to education that children are supposedly entitled to¹¹. Furthermore, CCR seems to be asking for refugee status to be recognised as an analogous ground¹², but the recognition of such a ground is of no use to asylum seekers. In short, both with regard to the benefit sought and that of identifying the holder of the rights in question, the thesis of this proposed intervener is completely foreign to the debate under way.

⁵ Written submissions, paras. 20, 29 and 30; Notice of constitutional question.

⁶ Attached is an extract from the respondent's brief in the Quebec Court of Appeal.

⁷ Respondent's Brief in Response to Application for Leave to Appeal, paras. 37, 38, 44, 55, 68 and 73.

⁸ Notice of motion for leave to intervene, Charter Committee on Poverty Issues, par. 9 et 14.

⁹ Notice of Motion for Intervention of ESCR-NET – International Network for Economic, Social and Cultural Rights, par. 10-11.

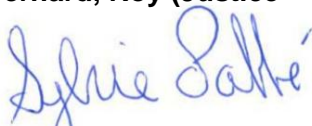
¹⁰ *Regulation respecting reduced contributions*, RLRQ c. S-4.1.1, r. 1, art. 3(5).

¹¹ Intervener Canadian Council for Refugees's Factum, par. 19-23.

¹² CCR Memorandum, para. 25(b).

Please accept, Madam Registrar, the expression of our best sentiments.

Bernard, Roy (Justice – Québec)



Me Sylvie Labbé for:

Manuel Klein, lawyer

Luc-Vincent Gendron-Bouchard, lawyer

Christophe Achdjian, lawyer

cc All attorneys and correspondents listed in the register