Federal Court  Cour fédérale

Date: 20250221

Docket: T-1516-23

Citation: 2025 FC 343

Ottawa, Ontario, February 21, 2025

PRESENT: Mr. Justice Sébastien Grammond

BETWEEN:

ALEXIS DESCHÊNES and
DROITS COLLECTIFS QUÉBEC

Applicants

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Every ten years, the boundaries of federal electoral districts are readjusted to ensure that every district has a similar population size. After the 2021 census, the Federal Electoral Boundaries Commission for the province of Quebec [the Commission] recommended that the eastern Quebec district of Avignon–La Mitis–Matane–Matapédia be eliminated and its territory attached to the two neighbouring districts.

[2] The applicants seek judicial review of this recommendation. Their main contention is that it fails to consider the size of the new district of Gaspésie–Les Îles-de-la-Madeleine–Listuguj that will absorb a portion of the existing district of Avignon–La Mitis–Matane–Matapédia. They argue that the area of the district is too large for a single member of Parliament [MP] to fulfill their role adequately and provide services to their constituents. More generally, the applicants submit that the elimination of the district is contrary to the right to effective representation, which is a component of the constitutionally protected right to vote.

[3] I dismiss the application. The reasons the Commission provided to justify eliminating the district of Avignon–La Mitis–Matane–Matapédia were reasonable and in keeping with the principle of effective representation developed by the Supreme Court. Relative parity of voting power is the most critical component of that principle. The Commission was aware of the issues related to the size of districts in rural and remote regions, but it reasonably found that those issues no longer justified the existence of a district with a population nearly 36% smaller than the average population of electoral districts in Quebec.

II. Background

[4] To ensure a proper understanding of the issues, I will begin with a brief outline of the mission that Parliament conferred on the Commission. I will then describe how the Commission fulfilled this task, in particular with regard to the electoral district of Avignon–La Mitis–Matane–Matapédia.

A. *The Act*

[5] The *Electoral Boundaries Readjustment Act*, RSC 1985, c E-3 [the Act], is at the heart of the present matter. It sets out both the process and the criteria to be applied in dividing a province into electoral districts.

[6] Sections 51 and 51A of the *Constitution Act, 1867* set out the rules for calculating the number of members of the House of Commons for each province after each census. For the purposes of this case, it must be taken for granted that Quebec is represented by 78 MPs.

[7] The Act provides for the establishment of an independent commission for each province that is responsible for dividing the province into electoral districts. The commission must first prepare a proposal, which it must then submit for public consultation. It must then provide a report to the Chief Electoral Officer, who transmits it to the Speaker of the House of Commons.

[8] The Act sets out a process allowing a group of ten or more MPs to file an objection to the report. In such a case, the objection is sent to the commission, which must consider and dispose of it. The commission then provides a new report to the Chief Electoral Officer, who prepares a draft representation order for adoption by the Governor in Council.

[9] Section 15 of the Act is at the heart of this case. The provision sets out the criteria that a commission must follow in dividing a province into electoral districts. It reads as follows:

15 (1) In preparing its report, each commission for a province shall, subject to subsection (2), be governed by the following rules:

(a) the division of the province into electoral districts and the description of the boundaries thereof shall proceed on the basis that the population of each electoral district in the province as a result thereof shall, as close as reasonably possible, correspond to the electoral quota for the province, that is to say, the quotient obtained by dividing the population of the province as ascertained by the census by the number of members of the House of Commons to be assigned to the province as calculated by the Chief Electoral Officer under subsection 14(1); and

(b) the commission shall consider the following in determining reasonable electoral district boundaries:

(i) the community of interest or community of identity in or the historical pattern of an electoral district in the province, and

(ii) a manageable geographic size for districts in sparsely populated, rural or northern regions of the province.

15 (1) Pour leur rapport, les commissions suivent les principes suivants :

a) le partage de la province en circonscriptions électorales se fait de telle manière que le chiffre de la population de chacune des circonscriptions corresponde dans la mesure du possible au quotient résultant de la division du chiffre de la population de la province que donne le recensement par le nombre de sièges de député à pourvoir pour cette dernière d'après le calcul visé au paragraphe 14(1);

b) sont à prendre en considération les éléments suivants dans la détermination de limites satisfaisantes pour les circonscriptions électorales :

i) la communauté d'intérêts ou la spécificité d'une circonscription électorale d'une province ou son évolution historique,

ii) le souci de faire en sorte que la superficie des circonscriptions dans les régions peu peuplées, rurales ou septentrionales de la

province ne soit pas trop vaste.

(2) The commission may depart from the application of the rule set out in paragraph (1)(a) in any case where the commission considers it necessary or desirable to depart therefrom

(2) Les commissions peuvent déroger au principe énoncé par l'alinéa (1)a) chaque fois que cela leur paraît souhaitable pour l'application des sous-alinéas (1)b)(i) et (ii). Le cas échéant, elles doivent toutefois veiller à ce que, sauf dans les circonstances qu'elles considèrent comme extraordinaires, l'écart entre la population de la circonscription électorale et le quotient mentionné à l'alinéa (1)a) n'excède pas vingt-cinq pour cent.

(a) in order to respect the community of interest or community of identity in or the historical pattern of an electoral district in the province, or

(b) in order to maintain a manageable geographic size for districts in sparsely populated, rural or northern regions of the province,
but, in departing from the application of the rule set out in paragraph (1)(a), the commission shall make every effort to ensure that, except in circumstances viewed by the commission as being extraordinary, the population of each electoral district in the province remains within twenty-five per cent more or twenty-five per cent less of the electoral quota for the province.

[10] It can be seen that the concept of electoral quota—i.e., the target population for each district to ensure parity of voting power among citizens—is central to the commission's exercise. This quota is calculated by dividing the population of the province by the number of districts it contains. This target is not absolute, however: paragraph 15(1)(b) and subsection 15(2) provide that the commission may depart from it to achieve other objectives, including respect for the community of identity or community of interest in a district and the maintenance of a manageable geographic size in sparsely populated districts. As we will see below, the degree to which these objectives justify, or even require, departing from the electoral quota is at the heart of this case.

B. *The Establishment of the Commission and the Proposal*

[11] The Commission was established after the 2021 census. It consisted of the Honourable Jacques Chamberland, retired judge of the Court of Appeal of Quebec, and Professors André Blais and Louis Massicotte, from Université de Montréal and Université Laval, respectively.

[12] In its initial proposal [the Proposal], the Commission contemplated dividing the regions of Bas-Saint-Laurent and Gaspésie into three districts instead of four. The reasons given by the Commission will be reviewed in detail below, but they can be summarized as follows. The Commission found that the average population in the four existing districts was the lowest in Quebec and that the districts showed a significant negative variance from Quebec's electoral quota. It also noted a decrease in the population of these regions between the 2011 and 2021 censuses, whereas the population of Quebec as a whole had increased. The Commission concluded that it was appropriate to eliminate the district of Avignon–La Mitis–Matane–

Matapédia because it was the least populated of the four districts, it had a negative variance of 35.5% from the province's electoral quota, and its territory could easily be attached to the two neighbouring districts.

[13] The Commission also proposed that a district be added in the Laurentians, where the population had grown considerably. On the whole, the division proposed by the Commission made it possible to markedly reduce the variances between each district's population and the electoral quota. These variances had increased between 2011 and 2021 because the population growth was unevenly distributed across Quebec.

C. *Public Hearings*

[14] The Commission held public hearings in various regions of Quebec. In particular, it held in-person hearings in Gaspé, Matane and Rimouski. It also held virtual sessions. The applicant Alexis Deschênes attended the session held in Gaspé.

[15] In its report [the Report], the Commission emphasized that the reactions to its proposal to eliminate the district of Avignon–La Mitis–Matane–Matapédia were "numerous, firm and unanimously negative". Opponents cited various factors, including the widely dispersed population, remoteness, the harsh climate and the difficulty for such a vast territory to be served by one MP. Some also pointed out that Gaspésie's net interregional migration had been positive between 2018 and 2022. Several stakeholders urged the Commission to preserve the existing boundaries of Avignon–La Mitis–Matane–Matapédia and Gaspésie–Les Îles-de-la-Madeleine

despite a negative variance greater than 25% from the electoral quota, since the situation would constitute extraordinary circumstances contemplated by subsection 15(2) of the Act.

D. *The Report and Subsequent Steps*

[16] In its Report, the Commission maintained its proposal to eliminate the district of Avignon–La Mitis–Matane–Matapédia. It noted the critical importance of proposing districts with populations as close as possible to the electoral quota. It dismissed the argument based on area, remarking that eight districts in Quebec were larger in area and that none of them benefited from the exception under subsection 15(2) of the Act. The Commission also explained how the net interregional migration was of limited relevance and stated that it must base its work on the 2021 census data, which showed a demographic decline in comparison with the 2011 data.

[17] The Commission also underscored that it did not substitute a rigid 10% maximum variance from the electoral quota for the 25% limit referred to in subsection 15(2) of the Act. It noted that its mandate was to adapt districts to the demographic changes that had occurred over the last ten years to ensure voter parity and that it was free to guide the exercise of its discretion by setting a flexible maximum variance target of 10%.

[18] Lastly, the Commission concluded that the fact that the district of Avignon–La Mitis–Matane–Matapédia had benefited from a departure from the 25% maximum variance rule the last time the district boundaries were redrawn does not create an acquired right. The Commission nevertheless accepted the suggestion to make the boundaries of the district coincide with those of the regional county municipalities [MRCs].

[19] After the Report was tabled in the House of Commons, the Commission received several objections from MPs, some of them concerning the elimination of the district of Avignon–La Mitis–Matane–Matapédia. The Commission dismissed these objections, finding that they were based on arguments raised at the public consultation that it had already addressed in its Report. It added that the impact of the elimination of the district on services to citizens provided by MPs was an issue that did not fall within its mandate but that of the Board of Internal Economy of the House of Commons.

[20] Subsequently, the Chief Electoral Officer prepared a draft representation order giving effect to the Commission's Report. On September 22, 2023, the Governor in Council made the *Proclamation Declaring the Representation Orders to be in Force Effective on the First Dissolution of Parliament that Occurs after April 22, 2024*, SI/2023-57 [the Proclamation].

E. *The Application for Judicial Review*

[21] The applicants have brought an application for judicial review of the Commission's final report, including the Commission's response to the MPs' objections. They seek various orders aimed essentially at quashing the part of the Commission's Report that eliminates the district of Avignon–La Mitis–Matane–Matapédia and preserving the existing districts of Bas-Saint-Laurent and Gaspésie.

[22] The applicants brought a motion for interlocutory injunction to suspend the Proclamation pending the Court's ruling on the merits of the application for judicial review. My colleague

Justice Negar Azmudeh dismissed that motion: *Deschênes v Canada (Attorney General)*, 2024 FC 219.

III. Analysis

[23] I dismiss the application, because the applicants have not demonstrated that the Commission's decision is unreasonable. The Commission correctly understood the legal principles guiding its mission. It considered the arguments raised before it at the public hearings. It accepted some of the suggestions, and it changed the boundaries between the proposed districts of Rimouski–La Matapédia and Gaspésie–Les Îles-de-la-Madeleine–Listuguj to align with the boundaries of the MRCs. However, it maintained its recommendation to eliminate the district of Avignon–La Mitis–Matane–Matapédia. Although the applicants disagree with it, this decision is reasonable. I have not been persuaded that the Commission committed the errors the applicants allege.

[24] These reasons will begin by recalling some of the principles that guide the Court's intervention on judicial review. I will then analyze the arguments the applicants have put forward to try to show that the Commission's decision was unreasonable.

A. *Framework for the Court's Intervention*

[25] The applicants initiated an application for judicial review. The Supreme Court of Canada established the framework for analyzing applications for judicial review in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65, [2019] 4 SCR 653 [*Vavilov*]. An

application for judicial review is a proceeding that seeks a review of the lawfulness of decisions of the public administration. However, it does not allow the Court to substitute its own decision for that of the decision maker on which Parliament has conferred the power. The Court must simply ascertain whether the decision maker—in this case, the Commission—exercised its power reasonably.

[26] At the outset, it is important to clarify certain parameters of judicial review, in terms of both procedure and substance.

(1) Procedure

(a) *The Appropriate Respondent*

[27] The applicants have named Elections Canada as a respondent. Under Rule 303 of the *Federal Courts Rules*, SOR/98-106, only persons directly affected by the order sought may be named as respondents. In *Forest Ethics Advocacy Association v Canada (National Energy Board)*, 2013 FCA 236 at paragraph 20, the Federal Court of Appeal stated that a party is directly affected within the meaning of Rule 303 "when its legal rights are affected, legal obligations are imposed upon it, or it is prejudicially affected in some direct way". The applicants have not made any arguments regarding how the rights or obligations of Elections Canada are at stake or how it has been prejudicially affected. In fact, the applicants have submitted that they named Elections Canada as a respondent so that the judgment would be enforceable against it. However, Elections Canada will have to comply with the Court's judgment in any event. Consequently, Elections Canada will be struck from the style of cause.

(b) *Standing of Droits collectifs Québec*

[28] There is no dispute that the applicant Deschênes has standing to bring the application, since he is directly affected by the impugned decision as a voter in the current district of Avignon–La Mitis–Matane–Matapédia. However, the Attorney General objects to the Court recognizing the standing of Droits collectifs Québec to act in the public interest.

[29] The circumstances in which this issue comes before the Court are unusual. Although this type of issue is usually decided at a preliminary stage, the case management judge ordered that it be addressed at the hearing on the merits. At the hearing, the Attorney General did not insist that I decide the issue before hearing the arguments of Droits collectifs Québec. In any event, the latter's submissions do not differ in any significant way from those of Mr. Deschênes. Accordingly, deciding the issue of standing at this stage would have little practical effect, especially since I am of the view that the application should be dismissed on the merits. For a similar situation, see *Withler v Canada (Attorney General)*, 2011 SCC 12 at paragraph 27, [2011] 1 SCR 396.

[30] In these unusual circumstances, and since it is in everyone's interest that I render this judgment as quickly as possible, I will refrain from deciding the issue of the standing of Droits collectifs Québec and will move on directly to an analysis of the merits of the case.

(c) *The Evidentiary Record*

[31] Judicial review does not permit the Court to step into the shoes of the administrative decision maker—in this case, the Commission—and decide the case anew: *Vavilov* at paragraph 83. Rather, the Court must consider whether the Commission made a reasonable decision having regard to the Act, the facts brought to its attention and the arguments made before it. Accordingly, judicial review is based on the evidentiary record that was before the administrative decision maker: *Tsleil-Waututh Nation c Canada (Attorney General)*, 2017 FCA 128 at paragraphs 67 to 100. Other than a few exceptions that do not apply in this case, the introduction of new evidence is not permitted on judicial review.

[32] Relying on these principles, the Attorney General objects to the inclusion of certain documents in the applicants' record. First, the applicants have filed the Commission's earlier report from 2012, along with a report from the Institut de la statistique du Québec describing population changes in the various administrative regions of the province. The Proposal and the Report refer explicitly to these documents, however; one must therefore assume that the Commission read them. Accordingly, it is legitimate for the applicants to introduce them before the Court.

[33] Second, the applicants have provided the Court with the doctoral thesis of Mr. Matthias Rioux, defended at Université Laval in 2018. According to the summary, the thesis is a socio-historical study of Gaspésie and takes [TRANSLATION] "a critical look at the economic and social impact of government policies applied in the region since the Quiet Revolution". This

thesis cannot be admitted into evidence on judicial review. Mr. Rioux did not take part in the public hearings and his thesis was not filed with the Commission.

[34] Nevertheless, the applicants submit, relying on *R v Sioui*, [1990] 1 SCR 1025, that I should take judicial notice of Mr. Rioux's thesis. As I stated in *Khodeir v Canada (Attorney General)*, 2022 FC 44, a court may take judicial notice of facts that are beyond reasonable dispute, either because they are notorious or because they may easily be verified in indisputable sources. By definition, a doctoral thesis seeks to produce new knowledge; generally, it should be assumed that this knowledge has not yet become sufficiently notorious or beyond reasonable dispute to warrant judicial notice.

[35] I am nevertheless prepared to take judicial notice of general facts concerning the Gaspésie region, in particular its geographic characteristics, its remoteness from large urban centres, its climate, approximate road distances, and the availability of other means of transportation.

(2) Substance

[36] Since the Supreme Court's decision in *Vavilov*, it is trite law that courts must show deference to administrative decisions and may quash such decisions only when they are unreasonable. Exceptions to this principle are very limited, and the parties do not argue that they apply in this case. On the contrary, the applicants recognize that they must establish that the Commission's decision is unreasonable. This position is consistent with the most recent case law

in such matters: *Eskasoni First Nation v Canada (Attorney General)*, 2024 FC 1856 at paragraphs 40 and 41 [*Eskasoni*].

[37] The analysis of the reasonableness of a decision is based primarily on the reasons provided by the decision maker: *Vavilov* at paragraph 84. The applicants claim that the reasons given by the Commission to justify eliminating the district of Avignon–La Mitis–Matane–Matapédia were insufficient and that this constitutes an independent ground of judicial review. However, according to *Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62 at paragraph 14, [2011] 3 SCR 708, the inadequacy of a decision maker's reasons is not an independent ground of judicial review. Obviously, if the reasons are inadequate, the Court may not be able to grasp the decision maker's reasoning and may have to declare the decision to be unreasonable. Therefore, my analysis of the adequacy of the reasons provided by the Commission will not be performed separately but will be incorporated in the analysis of the reasonableness of the decision.

[38] It should also be noted that the Commission's reasons comprise both the Proposal and the Report. They must be read together.

[39] Moreover, the applicants do not allege a breach of procedural fairness. It is therefore not necessary to determine whether the nature of the decision at issue obviates any procedural fairness requirements and, if it does not, to evaluate the scope of such requirements. In this regard, see *Eskasoni* at paragraphs 52, 61–65.

B. *The Reasonableness of the Proposal and the Report*

[40] I thus come to the crux of the problem: Was the Commission's decision to eliminate the district of Avignon–La Mitis–Matane–Matapédia reasonable? The applicants have presented a variety of grounds urging the Court to answer this question in the negative. I will begin by discussing the objections to the Commission's methodology. I will then consider the submissions that the districts are unmanageable in size, then those alleging a failure to consider communities of interest and recent demographic changes in Gaspésie.

(1) The Principle of Effective Representation

[41] The applicants begin by impugning the Commission's methodology, which, in their view, assigned too much importance to equality of voting power and imposed a limit upon itself that was not prescribed by law. I will consider these two objections in turn.

(a) *The Priority Given to the Principle of Relative Parity*

[42] First, the applicants submit that the Commission incorrectly interpreted the applicable legal framework by downplaying the importance of the principle of effective representation in favour of relative parity of voting power, i.e., the notion that each district's population should be more or less equal. In my view, the applicants are wrong. These two principles are not mutually contradictory, and the Commission correctly understood how they relate to one another.

[43] At the outset, it is important to recall that section 15 of the Act must be interpreted in light of the constitutional guarantee of the right to vote flowing from section 3 of the *Canadian Charter of Rights and Freedoms* [the Charter]. That provision reads as follows:

3 Every citizen of Canada has the right to vote in an election of members of the House of Commons or of a legislative assembly and to be qualified for membership therein.	**3** Tout citoyen canadien a le droit de vote et est éligible aux élections législatives fédérales ou provinciales.

[44] In *Reference re Provincial Electoral Boundaries (Sask)*, [1991] 2 SCR 158 [*Saskatchewan Reference*], the Supreme Court established the consequences of the right to vote guaranteed by section 3 of Charter on the redrawing of electoral district boundaries. In that case, some of the parties argued that parity of voting power was the only relevant consideration, while others maintained that the redrawing should be based on a set of factors, among which parity of voting power was not determinative.

[45] The Supreme Court took the middle ground, stating that section 3 of the Charter protected the right to "effective representation". This concept assigns prime importance to relative parity of voting power, without ruling out a consideration of other factors likely to contribute to more effective representation. The Court explains it as follows, at 183–185:

> What are the conditions of effective representation? The first is relative parity of voting power. A system which dilutes one citizen's vote unduly as compared with another citizen's vote runs the risk of providing inadequate representation to the citizen whose vote is diluted. . . .
>
> But parity of voting power, though of prime importance, is not the only factor to be taken into account in ensuring effective representation. . . .
>
> . . .

> . . . such relative parity as may be possible of achievement may prove undesirable because it has the effect of detracting from the primary goal of effective representation. Factors like geography, community history, community interests and minority representation may need to be taken into account to ensure that our legislative assemblies effectively represent the diversity of our social mosaic. These are but examples of considerations which may justify departure from absolute voter parity in the pursuit of more effective representation; the list is not closed.
>
> It emerges therefore that deviations from absolute voter parity may be justified on the grounds of practical impossibility or the provision of more effective representation. Beyond this, dilution of one citizen's vote as compared with another's should not be countenanced.

[46] The Supreme Court has not deviated from these principles in its subsequent case law. Most of the cases it has decided since the *Saskatchewan Reference* pertained to other aspects of the right to vote. When it noted that section 3 guarantees the right to effective representation, it did not intend to discount the prime importance of parity of voting power.

[47] The wording of section 15 of the Act also reflects the priority assigned to relative parity of voting power within the notion of effective representation. This provision indicates that the population of a district must correspond to the electoral quota "as close as reasonably possible" (in French, "*dans la mesure du possible*"). It also states that a commission may "depart from" this rule to better respond to other concerns. In this respect, it is important not to set up relative parity of voting power in opposition to effective representation. Indeed, effective representation involves more than a consideration of the factors in paragraph 15(1)(b) of the Act; it is ensured by all the principles set out in section 15, including relative parity, taken together.

[48] The Commission did not misunderstand the principle of effective representation. A reading of the Proposal and the Report shows that it was well aware of how the Supreme Court defined effective representation and how the various components of this principle were expressed in section 15 of the Act. It was right to make frequent reference to the prime importance of relative parity of voting power. The frequency of these reminders does not mean that the Commission ignored the other components of effective representation; rather, it reflects the frequency with which participants in the public hearing asked it to depart from parity.

[49] The Commission's methodology also shows that it had a clear understanding of the scope of the principle of effective representation. Instead of seeking absolute equality of population across districts, it gave itself a leeway of 10% to take other concerns into account. It also allowed itself to go beyond this 10% target, yet without ever exceeding a variance of 25%. After the public hearings, it was open to changing the boundaries of the proposed districts in response to some of the concerns expressed by participants, in a way that slightly increased the variances from the electoral quota. As a result, seven districts in Quebec have a population varying from the electoral quota by more than 10%.

(b) *The Maximum 10% Variance Target*

[50] In their memorandum, the applicants also argued that the Commission misunderstood the Act by applying a maximum target variance of 10% from the electoral quota.

[51] In the Proposal, the Commission explains the guideline it set for itself:

> The Commission, like the two commissions that preceded it, considers it appropriate that, save for justified exceptions, the population of each of Quebec's electoral districts be within a maximum positive or negative variance of 10% in relation to the electoral quota. This target variance seems appropriate given the importance of the principle of parity ("one person, one vote"), the objective being to give a more or less equivalent weight to the population of each electoral district.

[52] At the public hearings, some of the participants challenged the validity of this target variance, emphasizing that section 15 of the Act allows for a variance of more or less 25% from the electoral quota, not a variance of more or less 10%. The Commission responded to these concerns as follows:

> The Act requires commissions to target 0% deviation, not 25% or 10%, the requirement being that "the population of each electoral district [...] shall, as close as reasonably possible, correspond to the electoral quota" (paragraph 15(1)(a)), with the possibility of departing from that requirement "in any case where the commission considers it necessary or desirable to depart therefrom" in light of any of the factors set forth in subparagraphs 15(1)(b)(i) and (ii). "Extraordinary circumstances" are necessary if the Commission wishes to exceed the 25% threshold imposed by the Act.
>
> . . .
>
> Hence, like the two commissions that preceded it, this Commission used a target of 10% as a concrete (*in concreto*) measure of its tolerance for deviation, a target determined on the basis of the principle of parity affirmed in subsection 15(1) of the Act coupled with the possibility of departing from that principle provided in subsection 15(2). The use of such a target deviation is entirely appropriate. Derogations are entirely at the discretion of a commission, and they may depart from the principle of equality of voting power where the commission considers it necessary or desirable to depart therefrom. Hence the importance for a commission to frame the exercise of its discretion, if only to help it demonstrate consistency in its exercise.
>
> A 10% target deviation is therefore a useful working tool.

[53] The applicants submit that the Commission adopted a criterion that is not set out in the Act. This is not so. The 10% maximum target variance is a guideline the Commission adopted to ensure a certain degree of consistency in its analysis of the situations of the different districts. It is neither a rigid rule nor an amendment of the extraordinary circumstances rule in subsection 15(2). Indeed, this Court rejected a similar submission in *Eskasoni*, at paragraphs 118–121. In any event, the Commission did not treat the 10% maximum target variance as a rigid rule: it agreed to deviate from it in seven cases.

(2) Unmanageable Geographic Size of Districts

[54] According to the applicants, the recommendation to eliminate the district of Avignon–La Mitis–Matane–Matapédia offends the principle of effective representation. At the public hearings, several participants told the Commission that the proposed districts, including Gaspésie–Les Îles-de-la-Madeleine–Listuguj, were unmanageable in size and that, as a result, interactions between MPs and voters would be significantly hampered. The Commission dismissed this concern, noting that eight Quebec districts had larger areas than Avignon–La Mitis–Matane–Matapédia and Gaspésie–Les Îles-de-la-Madeleine, and that the variance between the populations of these two districts and the electoral quota was too high to consider an exception.

[55] The applicants' fundamental contention is that the Commission rendered an unreasonable decision by dismissing these claims. The submissions of the two applicants differ slightly from each other, and I will consider each one in turn.

(a) *Smaller Populations in Rural and Remote Districts?*

[56] The applicant Droits collectifs Québec criticizes the Commission for blindly applying the parity requirement, whereas as a general rule rural and remote districts should have smaller populations than urban districts. It bases this contention on certain passages from the *Saskatchewan Reference* where the Supreme Court observed that rural or remote districts were harder for MPs to represent than urban ones, and that voters in those districts make more frequent demands on their MPs. On this basis, the Court found that "the goal of effective representation may justify somewhat lower voter populations in rural areas" (at 195).

[57] In reality, however, the Commission did consider the Supreme Court's teaching. The Report proposes six districts with populations that are 10% to 18% below the electoral quota: Abitibi–Baie-James–Nunavik–Eeyou, Chicoutimi–Le Fjord, Côte-Nord–Kawawachikamach–Uapashke, Jonquière–Alma, Lac-Saint-Jean and Laurentides–Labelle. These are remote or geographically large districts that are likely to face the challenges noted by the Supreme Court.

[58] However, the Commission did not agree to permit districts with populations with greater variances from the electoral quota. That was not unreasonable. Before the last redistribution proposed by the Commission, the districts of Gaspésie–Les Îles-de-la-Madeleine and Avignon–La Mitis–Matane–Matapédia had negative variances from the electoral quota of 30.3% and 35.5%, respectively. It cannot be said that these were "somewhat lower" populations, to use the words of the Supreme Court in the *Saskatchewan Reference*.

(b) *Consideration of Gaspésie's Distinct Geographic Features*

[59] The applicant Deschênes, for his part, does not contend that all rural or remote districts should benefit from a negative variance from the electoral quota. Rather, he submits that the features of the Gaspésie region distinguish it from other districts of the same size or larger. In particular, at the public hearings, Ms. Diane Lebouthillier, MP for the current district of Gaspésie–Les Îles-de-la-Madeleine, pointed out the difficulty of organizing travel between Ottawa and her district and the impossibility of visiting the Îles-de-la-Madeleine more than three or four times a year. The applicant Deschênes also emphasized certain unique geographic features of the region, in particular the fact that it consists of a [TRANSLATION] "chain of villages running along the estuary, the gulf of Saint Lawrence and Baie-des-Chaleurs".

[60] The burden is on the applicants to establish how the Commission overlooked a fundamental characteristic distinguishing Gaspésie from other rural or remote regions. In my view, they have failed to do so.

[61] For example, at the hearing, I asked how the proposed district of Gaspésie–Les Îles-de-la-Madeleine–Listuguj was distinct from that of Côte-Nord–Kawawachikamach–Uapashke, since both of them can be described as [TRANSLATION] "a chain of villages" along the river or the sea. The applicants were unable to provide a satisfactory answer. Similarly, it can be assumed that the situation MP Lebouthillier described regarding the impossibility of visiting her entire district frequently and the shortcomings of regional air transportation is similar to those faced by her

colleagues representing other large and remote districts such as Côte-Nord–Kawawachikamach–Uapashke and Abitibi–Baie-James–Nunavik–Eeyou.

[62] Nevertheless, the applicants argue that the Commission ignored the fact that the Îles-de-la-Madeleine are islands. I am not persuaded that the Commission had to address this issue. In her testimony, MP Lebouthillier stated that the Îles-de-la-Madeleine were [TRANSLATION] "accessible only by airplane". Obviously, the MP would use this means of transportation and not the ferry to get there. In this respect, the Îles-de-la-Madeleine are not substantially different from other remote regions where air transport is the only realistic way for an MP to travel.

[63] The Commission also noted that the Board of Internal Economy of the House of Commons could allocate additional resources to MPs who represent large districts. Contrary to the applicants' submissions, this comment is in no way unreasonable. It does not contradict the Commission's reasoning or constitute an impermissible delegation of authority or a consideration of irrelevant facts.

(c) *The Refusal to Maintain the Exception Granted in 2012*

[64] The applicants also submit that the Commission's Report is unreasonable because it diverges from the Commission's conclusion at the time of the last redistribution in 2012, even though the geography did not change. At the time, the Commission had found that the size of the district of Avignon–La Mitis–Matane–Matapédia and the challenges of adequately representing it were "extraordinary circumstances" within the meaning of subsection 15(2) of the Act.

[65] In my view, it was reasonable for the Commission to take a fresh look at the issue and reach a different conclusion. In this regard, it must be remembered that the electoral quota increased and the population of the region decreased between the 2011 and 2021 censuses, resulting in an increased variance from the quota in the districts of the region. Therefore, the Commission was right to note that keeping the current districts would require applying the exemption provision not only to the district of Avignon–La Mitis–Matane–Matapédia, but also to that of Gaspésie–Les Îles-de-la-Madeleine. Since the variance from the electoral quota had increased since the last census, it was entirely reasonable that the Commission did not feel bound by its prior decision. Indeed, the Commission clearly noted that, when the district of Avignon–La Mitis–Matane–Matapédia received the exemption in 2012, its variance from the electoral quota was 26% and that it had since risen by an additional 10%.

[66] Inasmuch as the applicants' submissions amount to arguments in favour of the status quo, they must be rejected. The decennial readjustment process under the Act is, by its very nature, incompatible with the status quo. District boundaries must follow changes in population distribution. In the *Saskatchewan Reference*, the Supreme Court dismissed the "specious argument that historical anomalies and abuses can be used to justify continued anomalies and abuses" (at 187). In other words, the principle of effective representation does not guarantee the preservation of the political weight of rural or remote regions regardless of changes in their populations.

(3) Community of Interest and History of the Districts

[67] The applicants also rely on the concept of community of interest to challenge the Report. Their submissions, however, are difficult to follow.

[68] Subparagraph 15(1)(b)(i) of the Act states that the "community of interest" must be considered when redistributing districts, but it does not define that term. The Commission adopted the following definition, which the applicants do not challenge:

> . . . a group of individuals united by shared interests or values. These shared interests may be the result of a common history or culture, a common ethnic background, or a variety of other ties that create a community of voters with distinct interests.

[69] At the public hearings, numerous participants raised the notion of community of interest. In many cases, it was argued that MRCs are such communities because their boundaries were drawn according to pre-existing social and historical realities. In fact, the Commission agreed to amend the Proposal to make the boundaries of the electoral districts coincide with those of the MRCs.

[70] The Commission also took into consideration the submissions of local elected officials when it modified how the territory of the district of Avignon–La Mitis–Matane–Matapédia would be distributed among its neighbouring districts. At the public hearings, the MRC de La Matanie said it was torn between the administrative regions of Bas-Saint-Laurent and Gaspésie, but that its [TRANSLATION] "heart beats in the east"—in other words, its identity was Gaspesian. It suggested that it should be attached to the new district of Gaspésie–Les Îles-de-la-Madeleine–

Listuguj. In addition, the mayor of Amqui said that Bas-Saint-Laurent was the [TRANSLATION] "natural community of interest" of her municipality and, it may be assumed, of her MRC. In its Report, the Commission respected these interests by attaching the MRC de La Matanie to the district of Gaspésie–Les Îles-de-la-Madeleine–Listuguj and the MRC de La Matapédia to the district of Rimouski–La Matapédia.

[71] Beyond the MRCs, however, it is difficult to define the communities of interest in the region's districts. For example, the applicant Deschênes submits that, due to its history and [TRANSLATION] "collective regional consciousness", Gaspésie as a whole forms such a community. Yet this community of interest is in fact united, not divided, by the district boundaries the Commission proposes. The applicant Droits collectifs Québec, for its part, maintains that the existing district of Avignon–La Mitis–Matane–Matapédia constitutes a community of interest that should not be divided. However, this statement is difficult to reconcile with those of the local elected officials referred to above and with the submissions of the applicant Deschênes. In short, the applicants have failed to establish that the Commission rendered an unreasonable decision in respect of communities of interest.

[72] In addition, in their memorandum, the applicants complain that the Commission ignored both the Anglophone community and the Mi'kmaq people that live in the districts at issue in this matter. However, it does not appear that this question was raised during the public hearings. Moreover, the applicants do not explain how the presence of these communities ought to have influenced the Commission's work. This may be compared with *Raîche v Canada (Attorney General)*, 2004 FC 679, [2005] 1 FCR 93, and *Fédération Acadienne de la Nouvelle-Écosse v*

Nova Scotia (Attorney General), 2024 NSSC 339, where effective representation of the Acadian community was at stake. In the absence of any specific submissions in this respect, I will say nothing further about this issue, other than to underscore that the Commission was not required to investigate a subject that no one raised at the public hearings.

(4) Recent Population Increase

[73] The applicants submit that the Commission made a factual error by failing to take into account the population increase in the Gaspésie region between 2018 and 2022, as well as the region's positive net interregional migration over the last six years. If I understand correctly, these data suggest that demographic decline in Gaspésie has ended.

[74] This argument was raised before the Commission at the public hearings. In its Report, the Commission explained why it could not be accepted. In its view, "the statistical basis for its work must be the population figures at the time of the 2011 and 2021 censuses". Between these dates, the combined population of the districts of Avignon–La Mitis–Matane–Matapédia decreased by 4.7%, whereas it increased by 7.6% in the province. The Commission noted that each region's population was impacted by factors other than net interregional migration. The Commission therefore concluded that "data on interregional migration [is] of limited relevance in its work".

[75] The Commission's decision in this regard is entirely reasonable. Its role is not to predict the future. Rather, it must base its recommendations on data from the most recent census, which in this case is the 2021 census. It was not required to consider other indicators. Specifically, it did not need to mention the region's recent population increase, which resulted mainly from the

net interregional migration and, in any event, was reflected in the 2021 census data. Any increase in the population of the region in the coming years will be considered with the redistribution following the 2031 census.

IV. Conclusion

[76] For all these reasons, the applicants have failed to show that the recommendation to eliminate the district of Avignon–La Mitis–Matane–Matapédia is unreasonable. Their application for judicial review will therefore be dismissed.

[77] The defendants claim their costs. I find that the amount of $6,000 proposed by the Attorney General is reasonable. The applicants have not contested this amount. As for Elections Canada, I find that the amount of $2,000 is reasonable, given the smaller amount of work done to prepare its submissions.

JUDGMENT in T-1516-23

THE COURT'S JUDGMENT is that:

1. The style of cause is amended to remove the name of Elections Canada as respondent.

2. The application for judicial review is dismissed.

3. The applicants are ordered jointly and severally to pay the amount of $6,000 to the Attorney General and the amount of $2,000 to Elections Canada in costs, inclusive of taxes and disbursements.

"Sébastien Grammond"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-1516-23
STYLE OF CAUSE:	ALEXIS DESCHÊNES, DROITS COLLECTIFS QUÉBEC v ATTORNEY GENERAL OF CANADA
PLACE OF HEARING:	BY VIDEOCONFERENCE
DATE OF HEARING:	FEBRUARY 3, 2025
JUDGMENT AND REASONS:	GRAMMOND J
DATED:	FEBRUARY 21, 2025

APPEARANCES:

François Boulianne	FOR THE APPLICANT ALEXIS DESCHÊNES
François Côté	FOR THE APPLICANT DROITS COLLECTIFS QUÉBEC
Dominique Guimond Amélia Couture Pascale-Catherine Guay Claude Joyal, KC	FOR THE RESPONDENT ATTORNEY GENERAL OF CANADA
Daniel Baum Jean-Philippe Dionne	FOR THE RESPONDENT ELECTIONS CANADA

SOLICITORS OF RECORD:

François Boulianne Québec, Quebec	FOR THE APPLICANT ALEXIS DESCHÊNES
François Côté Sherbrooke, Quebec	FOR THE APPLICANT DROITS COLLECTIFS QUÉBEC
Attorney General of Canada Ottawa, Ontario	FOR THE RESPONDENT ATTORNEY GENERAL OF CANADA

Langlois Lawyers LLP
Montreal, Quebec

FOR THE RESPONDENT
ELECTIONS CANADA