

Federal Court



Cour fédérale

Date: 20130524

Docket: T-1378-12

Citation: 2013 FC 543

Ottawa, Ontario, May 24, 2013

PRESENT: The Honourable Mr. Justice O'Reilly

BETWEEN:

**HOSPITALITY HOUSE REFUGEE MINISTRY
INC, SYNOD OF THE DIOCESE OF
RUPERT'S LAND**

Applicants

and

ATTORNEY GENERAL OF CANADA

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

I. Overview

[1] In 2012, the Governor in Council changed the rules relating to health coverage for privately sponsored refugees under an “Order Respecting the Interim Federal Health Program, 2012”

SI/2012-26 (see Annex for the relevant contents of the Order, and other enactments cited). In 2011,

the applicants sponsored 1,940 refugees under an agreement with the Minister of Citizenship and

Immigration.

[2] By way of this application for a declaration, the applicants challenge the Order and argue that it cannot apply to persons who were sponsored before the Order came into effect because it breaches the contract between the applicants and the Minister. Further, they submit that the Order is *ultra vires*, and its promulgation breached the duty of fairness owed to them. Finally, the applicants maintain that the Order violates the Canadian Charter of Rights and Freedoms.

[3] In my view, the applicants' allegations cannot be sustained. For the reasons set out below, I find that there has been no breach of contract, the Order is not *ultra vires*, the duty of fairness has not been breached, and the applicants have no standing to raise an issue under the Charter. Therefore, I must dismiss this application for judicial review.

[4] The issues are:

1. Does the Order breach the contract between the applicants and the Minister?
2. Is the Order *ultra vires*?
3. Did the promulgation of the Order breach the duty of fairness?
4. Do the applicants have standing to raise their Charter arguments?

II. Background

[5] Under a 2012 agreement, the applicants undertook to support the resettlement of refugees through the Canadian government's private sponsorship program. In turn, the Minister agreed to

provide sponsored refugees with health services under the interim federal health program (IFHP).

At the time of the agreement, the IFHP provided basic health coverage, as well as supplemental coverage for prescription drugs, dentistry, and vision care for all resettled refugees.

[6] The Order's effect is to restrict health care coverage under the IFHP. It eliminated supplemental coverage, and provided only for hospital and physician treatment; laboratory, diagnostic and ambulance services; and limited access to immunization and medication.

[7] The Governor in Council subsequently amended the Order (Order in Council PC 2012-945), providing that extended coverage, equivalent to the coverage under the original IFHP, was to be granted to government-assisted refugees, while only basic coverage was to be given to privately-sponsored refugees. The applicants are concerned that they will have to cover the difference, the average amount of which is estimated to be \$430 per year.

III. Issue One – Does the Order breach the contract between the applicants and the Minister?

[8] The applicants argue that the Order changed the terms of their agreement with the Minister. The agreement provides that any discussion or proposal to amend regulations that may affect the agreement “will consider both principals stated in this agreement and the best interests of the private sponsors, the refugees and CIC” (referring to Citizenship and Immigration Canada). In addition, the agreement states that any change to the undertaking given by sponsors would require their consent.

[9] In my view, the Order does not breach the agreement between the applicants and the Minister.

[10] Under the agreement, CIC agreed to provide refugees access to interim federal health care from the time of their arrival in Canada until they became eligible for provincial coverage, and then for partial coverage thereafter if provincial health services did not provide services covered by the interim federal plan. The agreement does not specify any particular level of health care services.

[11] The agreement does provide that CIC must consider the principals to it and the other stakeholders. But there is no specified means by which it must do so. And there is no evidence that the Order was enacted without regard for the interests of those affected by it.

[12] Further, the Order was enacted under the Crown's prerogative power over the expenditure of funds. The prerogative power is reviewable on constitutional grounds, but not otherwise (*Canada (Prime Minister) v Khadr*, 2010 SCC 3, at paras 36-37). In addition, a breach of contract would give rise to an action in damages, but would not invalidate the Order itself (*Arsenault v Canada*, 2008 FC 299, at para 58). Therefore, even assuming that that the Order breached a contract with the applicants, they could not overturn it by way of this application.

a. Issue Two – Is the Order *ultra vires*?

[13] The applicants argue that the Order is inconsistent with the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA] and *Regulations*, SOR/2002-227 [IRPR] and, therefore, is

ultra vires. In particular, they maintain that, since members of the refugee abroad class cannot be found medically inadmissible to Canada (s 139(4), IRPR), it would be inconsistent to require sponsors to assume the health care expenses of members of that group. The exemption from inadmissibility, they say, should be interpreted as an exemption from the payment of medical expenses.

[14] In addition, the applicants maintain that the Order conflicts with s 153(3) of the IRPR, which provides that the parties to a sponsorship agreement are jointly and severally liable for breach of a sponsorship undertaking. Therefore, as a party to sponsorship agreements, the Minister cannot breach the corresponding undertakings.

[15] I cannot agree with the applicants' submissions on these issues. The exemption from inadmissibility on medical grounds does not guarantee that members of the refugee abroad class will be exempt from all medical costs, or will be guaranteed any particular level of health care coverage in Canada.

[16] Further, the Minister is not a party to sponsorship undertakings. Rather, sponsors make undertakings to the Minister (s 138, IRPR). Therefore, the Order cannot be characterized as a breach of any undertaking by the Minister.

V. Issue Three – Does promulgation of the Order breach the duty of fairness?

[17] The applicants argue that they were given no opportunity to comment on, or respond to, the Order. No consultations took place with the applicants before the Order was promulgated.

[18] Generally speaking, the duty of fairness does not apply to legislative activities, such as the promulgation of Orders in Council (*Attorney General of Canada v Inuit Tapirisat et al*, [1980] 2 SCR 735). While certain decisions of the Governor in Council will attract a duty of fairness, the scope of any such duty depends on a number of factors, including the subject matter of the decision, the consequences for those affected by it, and the number of people involved (at pp 755-758).

[19] Here, the Order affects many refugee sponsors, who may (although the Minister denies it) have to shoulder some medical expenses for refugees. However, it does not represent a direct or intentional attack on their interests that would elevate the duty of fairness to them (*Wells v Newfoundland*, [1999] 3 SCR 199, at para 61). In my view, in the circumstances, taking account of the relatively small number of persons and the modest amounts involved, the Governor in Council had no legal duty to consult directly with the applicants before proceeding with the policy reflected in the Order.

[20] In any case, however, some consultations with sponsors took place before the Order came into effect. The Order came into effect on June 30, 2012. The government organized a conference with sponsorship agreement holders in May 2012. Sponsors raised concerns about the impact the Order would have on them, yet the decision was taken to proceed with the policy reflected in the

Order. However, the Order was amended to reflect the concern that the government could not meet its target of transferring one thousand government assisted refugees to the private sponsorship program if the health care benefits applicable to those refugees were limited in the fashion proposed in the original Order. That concern gave rise to the amendment that was made to the Order on June 28, 2012, in which a distinction was made between government-assisted and privately-sponsored refugees. Clearly, the position of sponsorship agreement holders was considered, but the policy position the applicants would have favoured was rejected. That does not mean that the duty of fairness was breached.

VI. Issue Four – Do the applicants have standing to raise their Charter arguments?

[21] The applicants are not “directly affected” by the Order (*Federal Courts Act*, RSC 1985, c F-7, s 18.1). However, they maintain that they have public interest standing to challenge the Order on grounds that it violates the right to life and security of the person under s 7, or the right to equality under s 15 of the Charter.

[22] The issue of public interest standing involves a purposive and flexible approach (*Canada (AG) v Downtown Eastside Sex Workers United Against Violence Society*, 2012 SCC 45). To bring the case before the Court, there must be a serious justiciable, constitutional issue at stake. Further, the applicants must have a “genuine interest” in the issue, and their application must amount to “a reasonable and effective way to bring the issue before the courts” (at paras 37, 42-44).

[23] Here, there are serious justiciable issues at stake, and the applicants have a genuine interest in them. However, there exists no factual underpinning for the applicants' submissions. I have before me no evidence about the impact of the Order on any particular individual. Given that factual vacuum, I cannot determine whether the Order presents a risk to the life or security of anyone, or if it infringes anyone's equality rights. Nor can I determine whether anyone's access to health care has actually been limited by the Order.

[24] Further, there is clearly another way in which the issues about which the applicants are concerned can be brought before the Court. While the applicants argue that it would be difficult for refugee claimants to challenge the Order during the period when their coverage under the IFHP is in effect, they have not demonstrated that their application is a reasonable and effective way to bring the issues before the Court. I note that another application seeking similar relief has been filed with the Court, which is based on the actual impact of the Order on sponsored refugees (see *Canadian Doctors for Refugee Care, et al v Canada (Attorney General), et al*, (File No T-356-13)).

[25] In the circumstances, therefore, I have no evidentiary basis on which to adjudicate the applicants' rights under the Charter. Further, there is another proceeding underway in which these issues can be determined on the basis of a proper factual record. Accordingly, I cannot conclude that this application represents a reasonable and effective means of bringing the Charter issues at stake before the Court. Therefore, the applicants have no standing to raise those issues.

VII. Conclusion and Disposition

[26] Having concluded that there has been no breach of contract, the Order is not *ultra vires*, the duty of fairness has not been breached, and the applicants have no standing to raise any Charter issues, I must dismiss this application, with costs.

JUDGMENT

THIS COURT'S JUDGMENT is that the application for a declaration is dismissed, with costs.

“James W. O’Reilly”

Judge

Annex

Order Respecting the Interim Federal Health Program, 2012, SI/2012-26**Décret concernant le Programme fédéral de santé intérimaire (2012), TR/2012-26**

POWERS OF MINISTER

POUVOIRS DU MINISTRE

3. (1) The Minister may pay the cost of health care coverage incurred for protected persons, other than resettled refugees referred to in subsection 6.1(2), for a period set out in the Interim Federal Health Program Policy of the Department of Citizenship and Immigration, as amended from time to time.

3. (1) Le ministre peut payer le coût de la couverture des soins de santé engagé pour les personnes protégées, autres que les réfugiés réétablis visés au paragraphe 6.1(2), pendant la période prévue dans la Politique sur le Programme fédéral de santé intérimaire du ministère de la Citoyenneté et de l'Immigration, avec ses modifications successives.

(2) Despite subsection (1), the Minister may pay the cost of health care coverage incurred for protected persons who are resettled refugees only while they are under sponsorship under the *Immigration and Refugee Protection Regulations*.
SI/2012-49, s. 2.

(2) Malgré le paragraphe (1), il peut payer le coût de la couverture des soins de santé engagé pour les personnes protégées qui sont des réfugiés réétablis seulement pendant qu'elles sont parrainées aux termes du *Règlement sur l'immigration et la protection des réfugiés*.
TR/2012-49, art. 2.

4. (1) Subject to subsections (2) and (3), the Minister may pay the cost of health care coverage and immigration medical examinations incurred for refugee claimants.

4. (1) Sous réserve des paragraphes (2) et (3), le ministre peut payer le coût de la couverture des soins de santé et des visites médicales d'immigration engagé pour les demandeurs d'asile.

(2) The Minister is not authorized to pay, under subsection (1), the cost of health care coverage incurred for refugee claimants while their refugee claims are suspended under subsection 103(1) or 105(1) of the Act.

(2) Il ne peut payer en application du paragraphe (1) le coût de la couverture des soins de santé engagé pour les demandeurs d'asile pendant que l'étude de leur demande d'asile fait l'objet d'un sursis aux termes des paragraphes 103(1) ou 105(1) de la Loi.

The following provision is not in force.

La disposition suivante n'est pas en vigueur.

(3) The Minister is not authorized to pay, under subsection (1), the cost of health care coverage incurred for refugee claimants who are nationals of a country that is, when services or products are provided, designated under subsection 109.1(1) of the Act.

(3) Il ne peut payer en application du paragraphe (1) le coût de la couverture des soins de santé engagé pour les demandeurs d'asile qui sont des ressortissants d'un pays qui, lorsque les services et produits sont fournis, fait l'objet de la désignation visée au paragraphe 109.1(1) de la Loi.

5. The Minister may pay the cost of public health or public safety health care coverage incurred for persons whose refugee claims have been rejected except for those whose removal order has been enforced pursuant to section 240 of the *Immigration and Refugee Protection Regulations*.

6. The Minister may pay the cost of public health or public safety health care coverage and immigration medical examinations incurred for refugee claimants

(a) while their refugee claims are suspended under subsection 103(1) or 105(1) of the Act; or

The following provision is not in force.

(b) who are nationals of a country that is, when services or products are provided, designated under subsection 109.1(1) of the Act.

6.1 (1) The Minister may pay the cost of expanded health care coverage and immigration medical examinations incurred in Canada for the following persons for a period set out in the Interim Federal Health Program Policy of the Department of Citizenship and Immigration, as amended from time to time:

(a) persons for whom the Minister exercises a power conferred under subsection 25.1(1) or 25.2(1) of the Act, if they are or were in receipt of governmental resettlement assistance in the form of income support as defined in the Interim Federal Health Program Policy of the Department of Citizenship and Immigration, as amended from time to time; and

(b) persons who have been issued a

5. Le ministre peut payer le coût de la couverture des soins de santé pour la santé ou la sécurité publiques engagé pour les personnes dont la demande d'asile a été rejetée, à l'exception de celles dont la mesure de renvoi a été exécutée aux termes de l'article 240 du *Règlement sur l'immigration et la protection des réfugiés*.

6. Le ministre peut payer le coût de la couverture des soins de santé pour la santé ou la sécurité publiques et des visites médicales d'immigration engagé pour les demandeurs d'asiles suivants :

a) ceux dont l'étude de la demande d'asile fait l'objet d'un sursis aux termes des paragraphes 103(1) ou 105(1) de la Loi, pendant ce sursis;

La disposition suivante n'est pas en vigueur.

b) ceux qui sont des ressortissants d'un pays qui, lorsque les services et produits sont fournis, fait l'objet de la désignation visée au paragraphe 109.1(1) de la Loi.

6.1 (1) Le ministre peut payer le coût de la couverture des soins de santé élargie et des visites médicales d'immigration engagé au Canada pour les personnes ci-après pendant la période prévue dans la Politique sur le Programme fédéral de santé intérimaire du ministère de la Citoyenneté et de l'Immigration, avec ses modifications successives :

a) les personnes pour lesquelles le ministre exerce un pouvoir conféré par les paragraphes 25.1(1) ou 25.2(1) de la Loi, si elles reçoivent ou ont reçu de l'aide gouvernementale pour la réinstallation sous forme de soutien de revenu au sens où l'entend cette politique;

b) les personnes détenant un permis de

temporary resident permit under section 24 of the Act, if it has been determined, in accordance with ministerial instructions made under subsection 24(3) of the Act, that they are or may be victims of human trafficking.

(2) The Minister may pay the cost of expanded health care coverage incurred for resettled refugees, if they are or were in receipt of governmental resettlement assistance in the form of income support as defined in the Interim Federal Health Program Policy of the Department of Citizenship and Immigration, as amended from time to time, for a period set out in that Policy.
SI/2012-49, s. 3.

7. Despite sections 3 to 6, the Minister may, in exceptional and compelling circumstances, including when the Minister exercises a power conferred under subsection 25.2(1) of the Act, on his or her own initiative and for the period that he or she determines, pay the cost incurred in Canada of any of the following:

- (a) health care coverage;
- (b) public health or public safety health care coverage;
- (c) immigration medical examinations; or
- (d) immunization and medication, only if required to prevent or treat a disease posing a risk to public health or to treat a condition of public safety concern.
SI/2012-49, s. 3.

résidence temporaire délivré aux termes de l'article 24 de la Loi, s'il a été déterminé, conformément aux instructions du ministre données en vertu du paragraphe 24(3) de la Loi, qu'elles sont des victimes de la traite des personnes ou qu'il est possible qu'elles le soient.

(2) Le ministre peut payer le coût de la couverture des soins de santé élargie engagé pour les réfugiés réétablis s'ils reçoivent ou ont reçu de l'aide gouvernementale pour la réinstallation sous forme de soutien de revenu, au sens où l'entend la Politique sur le Programme fédéral de santé intérimaire du ministère de la Citoyenneté et de l'Immigration, avec ses modifications successives, pendant la période prévue dans cette politique.
TR/2012-49, art. 3.

7. Malgré les articles 3 à 6, le ministre peut, de sa propre initiative et pour la période qu'il précise, payer les coûts ci-après engagés au Canada, si des circonstances exceptionnelles l'exigent, notamment lorsqu'il exerce un pouvoir conféré par le paragraphe 25.2(1) de la Loi :

- a) le coût de la couverture des soins de santé;
- b) le coût de la couverture des soins de santé pour la santé ou la sécurité publiques;
- c) le coût des visites médicales d'immigration;
- d) le coût de l'immunisation et des médicaments seulement s'ils sont nécessaires pour prévenir ou traiter les maladies présentant un risque pour la santé publique ou pour traiter les états préoccupants pour la sécurité publique.
TR/2012-49, art. 3.

8. In order to protect the health and safety of Canadians, the Minister may, on his or her own initiative, in exceptional and compelling circumstances, pay the cost of immigration medical examinations, medication or immunization incurred outside Canada that are, in the opinion of the Minister, required prior to departure for Canada for the following persons:

(a) resettled refugees; and

(b) foreign nationals in respect of whom the Minister exercises a power conferred under subsection 25.2(1) of the Act.

9. The Minister may pay the cost of health care services and products incurred, in accordance with the Interim Federal Health Program Policy of the Department of Citizenship and Immigration, as amended from time to time, for foreign nationals or permanent residents who are detained under the Act.

SI/2012-49, s. 6(F).

9.1 Any payment referred to in sections 3 to 9 shall be made in accordance with the benefit grids referred to in the Interim Federal Health Program Policy of the Department of Citizenship and Immigration, as amended from time to time.

SI/2012-49, s. 4.

Immigration and Refugee Protection Act, SC 2001, c 27

Health grounds

38. (1) A foreign national is inadmissible on health grounds if their health condition

- (a) is likely to be a danger to public health;
- (b) is likely to be a danger to public safety;
- or
- (c) might reasonably be expected to cause

8. Afin de protéger la santé et la sécurité des canadiens, le ministre peut, de sa propre initiative, si des circonstances exceptionnelles l'exigent, payer le coût engagé à l'extérieur du Canada, des visites médicales d'immigration, des médicaments et de l'immunisation qui sont, selon lui, exigés avant le départ pour le Canada, pour les personnes suivantes :

a) les réfugiés réétablis;

b) les étrangers à l'égard desquels le ministre exerce un pouvoir conféré par le paragraphe 25.2(1) de la Loi.

9. Le ministre peut payer le coût des services et produits de soins de santé engagé pour les étrangers ou les résidents permanents qui sont détenus en vertu de la Loi, conformément à la Politique sur le Programme fédéral de santé intérimaire du ministère de la Citoyenneté et de l'Immigration, avec ses modifications successives.

TR/2012-49, art. 6(F).

9.1 Les paiements visés aux articles 3 à 9 sont faits conformément aux tableaux des avantages visés à la Politique sur le Programme fédéral de santé intérimaire du ministère de la Citoyenneté et de l'Immigration, avec ses modifications successives.

TR/2012-49, art. 4.

Loi sur l'immigration et la protection des réfugiés, LC 2001, ch 27

Motifs sanitaires

38. (1) Emporte, sauf pour le résident permanent, interdiction de territoire pour motifs sanitaires l'état de santé de l'étranger constituant vraisemblablement un danger pour la santé ou la sécurité publiques ou risquant d'entraîner un fardeau excessif pour les services sociaux ou de santé.

excessive demand on health or social services.

Immigration and Refugee Protection Regulations, SOR/2002-227

Definitions

138. The definitions in this section apply in this Division and in Division 2.

...

“undertaking”
« engagement »

“undertaking” means an undertaking in writing to the Minister to provide resettlement assistance, lodging and other basic necessities in Canada for a member of a class prescribed by this Division, the member’s accompanying family members and any of the member’s non-accompanying family members who meet the requirements of section 141, for the period determined in accordance with subsections 154(2) and (3).

Health grounds — exception

139. (4) A foreign national who is a member of a class prescribed by this Division, and meets the applicable requirements of this Division, is exempted from the application of paragraph 38(1)(c) of the Act.

...

Sponsorship agreements

152. (1) The Minister may enter into a sponsorship agreement with a sponsor for the purpose of facilitating the processing of sponsorship applications.

Règlement sur l’immigration et la protection des réfugiés, DORS/2002-227

Définitions

138. Les définitions qui suivent s’appliquent à la présente section et à la section 2.

[...]

« engagement »
“undertaking”

« engagement » Engagement écrit envers le ministre de fournir de l’aide pour la réinstallation au Canada et d’assurer le logement et les autres nécessités de subsistance, pour la période prévue aux paragraphes 154(2) ou (3), à une personne appartenant à une catégorie établie par la présente section, à tout membre de sa famille qui l’accompagne et à tout membre de sa famille qui ne l’accompagne pas, mais qui satisfait aux exigences de l’article 141.

Interdiction de territoire pour motifs sanitaires : exemption

139. (4) Le motif sanitaire selon lequel l’état de santé de l’étranger risque d’entraîner un fardeau excessif ne s’applique pas à l’étranger qui appartient à une catégorie établie par la présente section et qui satisfait aux exigences applicables qui y sont prévues.

[...]

Accord de parrainage

152. (1) Le ministre peut conclure un accord de parrainage avec un répondant afin de faciliter le traitement des demandes de parrainage.

Contents of agreement

- (2) A sponsorship agreement shall include provisions relating to
- (a) settlement plans;
 - (b) financial requirements;
 - (c) assistance to be provided by the Department;
 - (d) the standard of conduct expected of the sponsor;
 - (e) reporting requirements; and
 - (f) the grounds for suspending or cancelling the agreement.

Sponsorship requirements

153. (1) In order to sponsor a foreign national and their family members who are members of a class prescribed by Division 1, a sponsor

- (a) must reside or have representatives in the expected community of settlement;
- (b) must make a sponsorship application that includes a settlement plan, an undertaking and, if the sponsor has not entered into a sponsorship agreement with the Minister, a document issued by the United Nations High Commissioner for Refugees or a foreign state certifying the status of the foreign national as a refugee under the rules applicable to the United Nations High Commissioner for Refugees or the applicable laws of the foreign state, as the case may be; and
- (c) must not be — or include — an individual, a corporation or an unincorporated organization or association that was a party to a sponsorship in which they defaulted on an undertaking and remain in default.

Non-application of paragraphs 13(1)(a) and (b)Contenu de l'accord

- (2) L'accord de parrainage prévoit notamment :
- a) les plans d'établissement;
 - b) les obligations financières;
 - c) l'assistance à fournir par le ministère;
 - d) les lignes de conduite à suivre par le répondant;
 - e) les rapports requis;
 - f) les motifs de suspension ou d'annulation de l'accord.

Exigences de parrainage

153. (1) Pour parrainer un étranger et les membres de sa famille qui appartiennent à une catégorie établie à la section 1, le répondant doit satisfaire aux exigences suivantes :

- a) résider ou avoir des représentants dans la collectivité d'établissement prévue;
- b) faire une demande de parrainage dans laquelle il inclut un plan d'établissement, un engagement et, s'il n'a pas conclu d'accord de parrainage avec le ministre, un document émanant du Haut-commissariat des Nations Unies pour les réfugiés ou d'un État étranger reconnaissant à l'étranger le statut de réfugié selon les règles applicables par le Haut-commissariat des Nations Unies pour les réfugiés ou les règles de droit applicables de l'État étranger, selon le cas;
- c) ne pas être — ou s'abstenir d'inviter à prendre part au parrainage — un individu ou une personne morale ou association qui a été partie à un parrainage à l'occasion duquel il a manqué aux obligations prévues dans un engagement et qui demeure en défaut.

Non-application des alinéas 13(1)a) et b)

(1.1) Paragraphs 13(1)(a) and (b) do not apply to the document referred to in paragraph (1)(b) issued by the United Nations High Commissioner for Refugees or a foreign state.

(1.1) Les alinéas 13(1)a) et b) ne s'appliquent pas au document visé à l'alinéa (1)b) émanant du Haut-commissariat des Nations Unies pour les réfugiés ou d'un État étranger.

Place of application

Lieu de la demande

(1.2) If the foreign national has chosen to have their application for a permanent resident visa attached to the sponsorship application in accordance with paragraph 140.2(1)(b), the sponsor must send the sponsorship application and the application for a permanent resident visa to the Department's Case Processing Centre in Canada for processing those applications.

(1.2) Si l'étranger a choisi de joindre sa demande de visa de résident permanent à la demande de parrainage le concernant en vertu de l'alinéa 140.2(1)b), le répondant envoie sa demande de parrainage et celle de visa de résident permanent au Centre de traitement des demandes du ministère au Canada qui traite ces demandes.

Undertaking

Engagement

(2) The undertaking referred to in paragraph (1)(b) shall be signed by each party to the sponsorship.

(2) L'engagement visé à l'alinéa (1)b) doit être signé par toutes les parties au parrainage.

Joint and several or solidary liability

Obligation solidaire

(3) All parties to the undertaking are jointly and severally or solidarily liable.

(3) Toutes les parties à l'engagement sont solidairement responsables de toutes les obligations qui y sont prévues.

Federal Courts Act, RSC, 1985, c F-7

Loi sur les Cours fédérales, LRC (1985), ch F-7

Extraordinary remedies, federal tribunals

Recours extraordinaires : offices fédéraux

18. (1) Subject to section 28, the Federal Court has exclusive original jurisdiction

18. (1) Sous réserve de l'article 28, la Cour fédérale a compétence exclusive, en première instance, pour :

(a) to issue an injunction, writ of certiorari, writ of prohibition, writ of mandamus or writ of *quo warranto*, or grant declaratory relief, against any federal board, commission or other tribunal; and

a) décerner une injonction, un bref de certiorari, de mandamus, de prohibition ou de *quo warranto*, ou pour rendre un jugement déclaratoire contre tout office fédéral;

(b) to hear and determine any application or

b) connaître de toute demande de réparation

other proceeding for relief in the nature of relief contemplated by paragraph (a), including any proceeding brought against the Attorney General of Canada, to obtain relief against a federal board, commission or other tribunal.

...

Application for judicial review

18.1 (1) An application for judicial review may be made by the Attorney General of Canada or by anyone directly affected by the matter in respect of which relief is sought.

Constitution Act 1982, 1982, c 11 (UK), Schedule B

Life, liberty and security of person

7. Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

...

Equality before and under law and equal protection and benefit of law

15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

Affirmative action programs

(2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of

de la nature visée par l'alinéa a), et notamment de toute procédure engagée contre le procureur général du Canada afin d'obtenir réparation de la part d'un office fédéral.

[...]

Demande de contrôle judiciaire

18.1 (1) Une demande de contrôle judiciaire peut être présentée par le procureur général du Canada ou par quiconque est directement touché par l'objet de la demande.

Loi constitutionnelle de 1982, 1982, ch 11 (RU), Annexe B

Vie, liberté et sécurité

7. Chacun a droit à la vie, à la liberté et à la sécurité de sa personne; il ne peut être porté atteinte à ce droit qu'en conformité avec les principes de justice fondamentale.

[...]

Égalité devant la loi, égalité de bénéfice et protection égale de la loi

15. (1) La loi ne fait acception de personne et s'applique également à tous, et tous ont droit à la même protection et au même bénéfice de la loi, indépendamment de toute discrimination, notamment des discriminations fondées sur la race, l'origine nationale ou ethnique, la couleur, la religion, le sexe, l'âge ou les déficiences mentales ou physiques.

Programmes de promotion sociale

(2) Le paragraphe (1) n'a pas pour effet d'interdire les lois, programmes ou activités destinés à améliorer la situation d'individus

disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

ou de groupes défavorisés, notamment du fait de leur race, de leur origine nationale ou ethnique, de leur couleur, de leur religion, de leur sexe, de leur âge ou de leurs déficiences mentales ou physiques.

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-1378-12

STYLE OF CAUSE: HOSPITALITY HOUSE REFUGEE MINISTRY INC.,
ET AL
v
ATTORNEY GENERAL OF CANADA

PLACE OF HEARING: Winnipeg, Manitoba

DATE OF HEARING: February 6, 2013

**REASONS FOR JUDGMENT
AND JUDGMENT:** O'REILLY J.

DATED: May 24, 2013

APPEARANCES:

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Joel Katz	FOR THE RESPONDENT
Scott Farlinger	
Alexander Menticoglou	

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