



Department of Justice
Canada

Ministère de la Justice
Canada

REVIEW ON OFFICIAL LANGUAGES 2016-2017

Prepared by:

Official Languages Directorate

Public Law and Legislative Services Sector

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Development of official-language minority communities and promotion of English and French in Canadian society (Part VII of the OLA)

Question 1: If your institution had to highlight three key initiatives or more in relation to the **development of official-language minority communities**, which ones would those be?

- a) Describe these initiatives.
- b) What are the tangible impacts of these initiatives on/in the official-language minority communities?
- c) What do you think is the determining factor for the success of these initiatives?

Answer:

The Department of Justice Canada is one of the partner institutions of the [*Roadmap for Canada's Official Languages 2013-2018: Education, Immigration, Communities \(the Roadmap\)*](#), whose aim is to contribute to the development of official-language minority communities (OLMCs). Through the Access to Justice in Both Official Languages Support Fund (the Support Fund), the Programs Branch and the Official Languages Directorate work together towards:

- i) increasing the capacity of the justice system and its stakeholders to offer legal services in both official languages;
- ii) raising awareness among members of the legal community and official-language minority communities about exercising their rights and about issues related to access to justice in both official languages.

In order to reach these goals, Justice supports a variety of projects and activities that assist in the development of OLMCs, including the following:

1. Justice Information Hubs

Justice information hubs aim to make Canadians more knowledgeable about their rights and responsibilities and to better prepare them to deal with legal issues in the official language of their choice.

These hubs strengthen the capacity and improve the efficiency of the Canadian justice system by giving Canadians access to personalized services and general legal information provided through the Internet. In addition, they offer free, direct, personal contact, with or without an appointment, and most importantly, in both official languages.

Under the *Roadmap*, Justice has provided direct funding of \$4 506 034 to establish justice information hubs. Four of them are managed by associations of French-speaking legal experts in Ontario, Nova Scotia, Saskatchewan and Alberta. The fifth, Infojustice Manitoba, is a project of the Société franco-manitobaine and is supported by the Association de juristes d'expression française du Manitoba. Infojustice Manitoba opened its doors in Winnipeg in May 2016 to provide a range of services, including information on legal rights and obligations, courtroom procedure, and legal and community resources that are available to litigants.

2. Legal Information Portals

2.1. Éducaloi is an organization with the mission of helping citizens understand their legal rights and responsibilities by providing them with high-quality legal information drafted and communicated in plain language. Éducaloi is available to everyone in Quebec, and its Internet portal offers information in French as well as in English for Quebec's English-speaking community and those allophones whose first official language of communication is English. The resources, information and

tools developed by Éducaloi have been translated and adapted to meet the specific needs of this official-language minority community.

2.2. CliquezJustice.ca is a Web resource developed by the Association de juristes d'expression française de l'Ontario. It is a portal to legal information in French for the general public. To meet the needs of Ontario's French-speaking population and provide services to all Francophones in Canada, CliquezJustice.ca includes legal information pertaining to various provinces, including educational resources specially designed for primary and secondary students. The portal also includes a variety of legal resources for teachers and guidance counsellors, as well as a search engine to make the information easy to find.

3. Cybersafety and the Law: Information for Youth in French – Public Legal Information Association of Newfoundland

The Public Legal Information Association of Newfoundland (PLIAN) is an independent, non-profit organization that holds sessions to inform Newfoundland and Labrador Francophones dealing with the courts about their rights and their roles in the legal system. PLIAN is also the province's official representative in the Public Legal Education Association of Canada.

Through its activities with Francophone community organizations, Francophone primary schools and French immersion schools, PLIAN seeks to inform young people from Francophone minority communities about their rights and responsibilities regarding online activities. PLIAN regularly creates partnerships with a variety of community organizations, including the Fédération des Francophones de Terre-Neuve-et-Labrador.

On the sidelines of its responsibilities arising from the *Roadmap*, the Official Languages Directorate (OLAD) of the Department of Justice Canada organizes the following activities:

4. Federal Action Plan for Official Languages 2018-2023: Department of Justice Canada's Public Consultations

As part of the 2016 cross-Canada consultations in preparation for the 2018-23 federal action plan, the Department of Canadian Heritage encouraged federal institutional partners of the *Roadmap* to hold their own sectoral consultations.

The Department of Justice Canada responded by organizing sessions between August 23 and November 17, 2016, to discuss access to justice in both official languages with representatives of official-language minority communities.

The 10 consultation sessions involved 31 official-language minority community organizations, including recipients of the Support Fund funding and 20 members of the Réseau national de formation en justice. In addition, the OLAD consulted 17 representatives of various bodies in the Department that regularly interact with official-language minority communities (the Departmental Network of Coordinators Responsible for the Implementation of Section 41, the Advisory Committee on Access to Justice in Both Official Languages, and the Federal-Provincial-Territorial Working Group).

Additional sectoral consultations were held with the Réseau des centres de jurilinguistique and the Fédération des associations de juristes d'expression française de common law inc.. The Department also received briefs and letters of support from various organizations, such as the Canadian Bar Association, the Conseil de la Magistrature du Québec and the Réseau national de formation en justice. The OLAD intends to conduct further consultations in 2017-2018, as needed.

5. Departmental Network of Coordinators Responsible for the Implementation of Section 41 of the Official Languages Act

The Departmental Network of Coordinators Responsible for the Implementation of Section 41 of the *Official Languages Act* (Network 41) held its annual meeting in September 2016.

At the meeting, the members were consulted on the proposed departmental action plan on official languages (2017-2022), especially parts III, IV, V, VI, VII and XI of the Act. The new action plan will be unveiled in the fall of 2017.

In 2016-2017, the Network 41 regional coordinators took part in many activities showcasing the vitality of OLMCs. Here are some examples:

5.1. Conseil Fédéral de l'Atlantique (Newfoundland and Labrador, Prince Edward Island, Nova Scotia and New Brunswick) – Participation in teleconferences with the organizing committee of Official Languages Week. The Network 41 regional coordinator was able to exchange views with provincial and territorial counterparts.

5.2. Centre albertain d'information juridique –The Centre's first anniversary was celebrated with an open house. The Network 41 coordinator representing the Department of Justice Canada spoke about the year's progress.

5.3. Office of the French Language Services Commissioner (Ontario) (FLSC) – Participation in two activities highlighting the role and contributions of the FLSC and the leadership it provides for Franco-Ontarians. The Network 41 coordinator representing the Department of Justice was able to establish a personalized relationship with the Executive Director of LAMAISON, a community organization in Toronto that manages a shelter for women victims of domestic violence and their children, and also had an opportunity to see the FLSC's new offices and meet the new team.

5.4. 30th anniversary of the Club canadien de Toronto – Ontario's Office of Francophone Affairs invited the Department's Network 41 coordinator to attend a luncheon meeting of the Club canadien de Toronto. This club holds its meetings in French, enabling Toronto's Francophones and francophiles to dialogue and network. The club acts as a catalyst and brings together the broad Francophone community, including people from legal, business, academic, cultural and governmental spheres.

5.5. Réseau interministériel des langues officielles du Manitoba – A multi-sectoral meeting made it possible for the Departmental Network 41 coordinator to meet the Manitoba regional representative of the Commissioner of Official Languages and delegates from the Société franco-manitobaine and Université de Saint-Boniface. The Department representative also attended presentations on services in French offered by the 233-ALLO phone line and services available to the university's Francophone students.

5.6. Association des juristes d'expression française de l'Alberta – Annual general meeting. The Department's Network 41 coordinator listened to a panel of experts discussing French-language services in Alberta; the Jurisource.ca portal; the creation of a graduate diploma in common law in French; the challenges faced by court interpreters; and ways to assess judges' linguistic abilities and qualify them to hear cases in French.

5.7. Canadian Bar Association – The Network 41 coordinator attended a meeting held in February 2017 in Saskatchewan, learning about recent developments in language-rights-related cases currently before the courts, particularly in matters of education, and was also able to make direct contact with the members of the Association de juristes d'expression française de la Saskatchewan.

5.8. La journée francasaskoise du droit (Franco-Saskatchewan Law Day) 2017, organized by the Association des juristes d'expression française de la Saskatchewan – The Department of Justice Network 41 coordinator agreed to be a judge in this moot court competition, which involved some 200 students from the province's French-language secondary schools and the active participation of Francophone jurists, teachers and parents as volunteers.

5.9. Office of the Commissioner of Official Languages of Canada – Launch of the report entitled *Early Childhood: Fostering the Vitality of Francophone Minority Communities*. Commissioner Graham Fraser launched this report officially in October 2016 in Toronto. The Department's Network 41 coordinator attended and took the opportunity to speak with local and regional partners.

6. The Justice in Official Languages Newsletter

The *Justice in Official Languages* newsletter is published at least twice a year and is the Department's preferred means of communication with its community partners, keeping them informed about implementation of section 41 of the *Official Languages Act*.

Among topics discussed in the 14th issue, released in August 2016, was the lawyer's ethical duty to inform clients of their language rights. The Federation of Law Societies of Canada has recently amended its Model Code of Professional Conduct to include new rules, and further to these amendments, members of the legal profession must advise their clients of their language rights, in the nine provinces and territories where the Model Code has been formally adopted.

The January 2017 issue (No. 15) reported on the Cross-Canada Official Languages Consultations led by Canadian Heritage and the sectoral consultations on access to justice in both official languages, conducted by the Department of Justice. Because official-language minority communities consider equal access to justice an essential service, the Department has been able to get this information out to more than 700 subscribers, representing many communities, using this electronically published newsletter.

7. Advisory Committee on Access to Justice in Both Official Languages

This committee includes representatives of the federal government, universities and community organizations. Since 2012, the advisory committee has organized regular meetings with representatives of official-language minority communities to learn about their needs and their situation, and to exchange information about recent developments in matters of access to justice in both official languages. In April 2016, the annual general meeting of the advisory committee included consultations on the new federal action plan on official languages. During these sessions, the participants were able to express their priorities for the sectoral consultations planned for the fall of 2016. Among the themes raised were:

- barriers to providing service to hard-to-reach clients (such as English-speaking first nations in Quebec or Francophones in the north) and
- the use of alternative dispute resolution mechanisms, including arbitration.

8. The Quebec Community Groups Network (QCGN)

In June 2016, the Department of Justice Canada attended the annual meeting of the QCGN. It is an opportunity for community groups representing English-speaking Quebecers to learn from one another's best practices and to create networks among stakeholders. The Department is invited to attend each year because of its responsibilities vis-à-vis the implementation of Section 41 of the OLA and the management of the Support Fund.

The Department is attentive to the concerns of Quebec's English-language communities. This has been a productive conversation, and experienced jurists from this community have taken part for some years now in the Advisory Committee on Access to Justice in Both Official Languages, chaired and organized by the Department.

Question 2: If your institution had to highlight three key initiatives or more in relation to the **promotion of English and French in Canadian society** (please do not confuse with obligations related to Parts IV and V), which would those be?

- a) Describe these initiatives.
- b) What are the tangible impacts of these initiatives on the Canadian society?
- c) What do you think is the determining factor for the success of these initiatives?

Answer:

The Support Fund strengthens the two pillars of the *Roadmap for Canada's Official Languages 2013-2018*, those of education and communities, by encouraging measures to design and offer training to help professionals in the justice system provide services to Canadians in the official language of their choice. The Support Fund is one way the Department of Justice contributes substantially to the promotion of official languages in Canadian society, using targeted, results-based funding for the following projects and organizations:

1. Language Training Program for Provincially Appointed Canadian Judges

Semi-annual one-week applied language training sessions are held in the Acadian peninsula to support provincially appointed judges in improving their ability to hear cases in French. Training activities include workshops to improve oral expression and simulations involving police testimony, court appearances or mock trials, as well as social activities that encourage communication in French. The program also gives judges an opportunity to observe proceedings of the New Brunswick Provincial Court at Caraquet.

In 2016, 19 judges had the opportunity to take French language training; there were three levels depending on their familiarity with the language. Since 2011, this program has been delivered to a total of 89 judges and the community has also got involved in the project, with 120 volunteers, 20 lawyers, 16 police officers, and various actors and artists who make the process run smoothly. The Department's Official Languages Directorate was an observer for certain activities, including the mock trial.

Similar training in legal English for judges of the Court of Québec takes place in St. Andrews, New Brunswick, and in Montreal. In 2016-2017, a total of 39 judges took part in this program.

2. The Réseau national de formation en Justice [National Legal Training Network]

Since 2014, the Réseau national de formation en Justice (RNfJ) has been engaged in increasing the critical mass of people in the justice system who are able to offer direct services to members of OLMCs and in enhancing access to training and to jurilinguistic tools for all stakeholders wishing to improve their language skills. The administration and coordination of the RNfJ is the responsibility of the secretariat of the Association des collèges et universités de la Francophonie canadienne.

3. Jurilinguistic centres

Through the Support Fund, Justice provides funding for the following organizations:

- the Centre for Legal Translation and Documentation at the University of Ottawa;
- the Centre de traduction et de terminologie juridique at the Université de Moncton;
- the Paul-André Crépeau Centre for Private and Comparative Law at McGill University; and
- the Division d'éducation permanente et de service de perfectionnement linguistique at the Université de Saint-Boniface.

These centres contribute to the vitality of Canada's official languages by producing linguistic reference works and by standardizing common law terminology in French as well as specialized civil law

vocabulary in English. These activities are important to OLMCs because of Canada's bilingual nature. The centres are also members of the RNFJ.

The linguistic tools developed by these organizations are intended for law professors, lawyers, and law professionals in the legislative branches of various levels of government. The linguistic reference works produced by experts working in Canada's two official languages and two legal traditions provide specialized, standardized and up-to-date terminology. The jurilinguistic centres received \$641 723 through the Support Fund in 2016-2017.

4. Jurisource.ca

This virtual library was created by the Association des juristes d'expression française de l'Ontario (AJEFO).

Jurisource.ca offers a search engine capable of identifying thousands of resources, such as statutes, court decisions, studies, research, procedural templates and glossaries. The portal also provides a platform for collaboration and exchanges for distance learning.

The Jurisource.ca portal offers a direct service for legal professionals who work in official-language minority communities. It consolidates resources that would otherwise be scattered and fragmented all over the Internet, and thus makes it easier to find legal information quickly. Thus, Francophone jurists have better access to the information and reference sources that they need to practise their profession in French anywhere in Canada.

On the sidelines of its responsibilities arising from the *Roadmap*, the Official Languages Directorate of the Department of Justice Canada organizes the following activities:

5. Federal-Provincial-Territorial Working Group on Access to Justice in Both Official Languages

The Federal-Provincial-Territorial Working Group on Access to Justice in Both Official Languages holds annual meetings and is co-chaired by the Department of Justice Canada and a representative of a provincial or territorial body.

The FPT Working Group is made up of representatives of justice departments, attorneys general and offices of Francophone affairs from the provinces and territories. Its mandate covers matters related to the implementation of the linguistic provisions in the *Criminal Code*, particularly Part XVII (language of the accused). The role of the working group is to consider issues related to access to justice in both official languages and to hold discussions on best practices in each jurisdiction.

At its last annual meeting, in November 2016, the FPT Working Group considered such varied subjects as training for stakeholders in the judicial system, translation of the *Criminal Code* rules of procedure and appeal court judgments, overhauling the criminal justice system, and the ministerial conference on the Canadian Francophonie. The FPT Working Group also held a session on sectoral consultation on access to justice in both official languages, in preparation for the new federal action plan on official languages 2018-2023.

Question 3: What “key achievement” having a **regional impact** (success stories or results in official-language minority communities or on the promotion of English and French in Canadian society) would your institution like to highlight?

Answer:

1. La Passerelle I.D.É – Intégration et développement économique

La Passerelle I.D.É. is an organization working for the integration and economic development of Francophones, whether they are immigrants or members of a visible minority. To this end, it offers awareness activities for young Francophones and their parents concerning their rights and responsibilities. There are three distinct phases in the Passerelle project.

First, workshops were held for young people and their parents to help them overcome the obstacles they may face when trying to assert their rights and responsibilities in French in Canada.

The second phase involved workshops on cultural skills for people who provide legal or judicial services, in order to help them adapt their services to French-speaking immigrants and members of visible minorities.

Finally, Francophone youth and parents from immigrant or visible-minority communities had an opportunity to take part in workshops on such topics as awareness, information, and culturally appropriate guidance, in order to enhance their knowledge of Canada's justice system, which has resulted in better access to justice for Francophone minorities.

In 2016-2017, the workshops were offered, in whole or in part, in many Canadian cities, including Toronto, Halifax, Winnipeg, Vancouver, Edmonton and London.

2. Fondation Acacia – Se regarder autrement

The goal of the “Se regarder autrement” project, set up by Ottawa's Fondation Acacia, is to inform young Francophones from ethnocultural communities of their legal rights and responsibilities. Workshops and discussion groups foster dialogue between young people and the police to overcome distrust and prejudice and to the justice system’s ability to serve Canadians in the official language of their choice.

3. Certificate in Common Law in French

The first of its kind in Canada, the Certificate in Common Law in French has been offered to law students since the fall of 2016. The aim is to increase access to legal services in French in Francophone minority communities.

Through a partnership between the French Common Law program at the University of Ottawa and the University of Saskatchewan’s College of Law, bilingual students in Saskatoon can now take one third of their legal training in French through distance learning provided by the University of Ottawa. The regular academic program is supplemented by advanced training in terminology and French legal drafting, as well as language rights, aimed at turning out graduates who will be able to offer legal services in both languages.

The program also foresees students completing an exchange in Ottawa, competing in a moot court with teams throughout Canada, being paired with experienced mentors from the Association des juristes d’expression française de la Saskatchewan, and having the opportunity to complete a credited internship.

4. The Charter and Emerging Issues in Constitutional Rights and Freedoms: from 1982 to 2032

To commemorate the 35th anniversary of the *Canadian Charter of Rights and Freedoms*, the University of Ottawa Faculty of Law hosted a conference entitled "The Charter and Emerging Issues in Constitutional Rights and Freedoms: from 1982 to 2032."

The Honourable Jody Wilson-Raybould, Minister of Justice and Attorney General of Canada, gave a speech highlighting several aspects of the Charter, including minority-language educational rights and the six principles that should guide the Attorney General in Charter cases, one of which is access to justice. According to the Minister, "There is no question that the past 35 years of judicial application of the Charter has strengthened our laws and our policies and made our country better."

5. Reinstatement of the Court Challenges Program

In February 2017, the Minister of Canadian Heritage, along with the Minister of Justice and Attorney General of Canada, announced the reinstatement of the Court Challenges Program (CCP).

The new CCP will provide financial support to Canadians to access the courts for litigation on test cases of national significance regarding certain constitutional and quasi-constitutional official language rights and human rights.

The federal budget of 2016 allocated \$5 million annually to the new CCP, of which a minimum of \$1.5 million each year will be dedicated to the clarification of official language rights. The remainder will be dedicated to the clarification of human rights guaranteed under the *Canadian Charter of Rights and Freedoms*.

The Official Languages Directorate and the Human Rights Law Section (both part of the Department's Public Law and Legislative Services Sector) worked alongside the Department of Canadian Heritage during the process.

The new CCP will be implemented and managed by a third party independent of the government. Decisions regarding CCP funding will be made by two independent expert panels, an official-language rights expert panel and a human rights expert panel. The members of each panel will be selected in an open, transparent and merit-based process, in accord with Government of Canada appointment procedures.

With respect to official language rights, the new CCP will provide financial support for cases involving the same official language rights as the previous CCP did, that is:

- sections 93 and 133 of the *Constitution Act, 1867*;
- section 23 of the *Manitoba Act, 1870*;
- sections 16 to 23 of the *Canadian Charter of Rights and Freedoms*;
- any parallel constitutional provisions; and
- the linguistic aspect of freedom of expression in section 2 of the Charter when invoked in an official-language minority case.

The program's scope has been broadened to include justiciable parts of the *Official Languages Act*, as provided in Part X, including:

- Part I (Proceedings of Parliament);
- certain sections of Part II (Legislative and Other Instruments);
- Part IV (Communications with and Services to the Public);
- Part V (Language of work);

- Part VII (Advancement of English and French); and
- Section 91 (Staffing).

The announcement of the reinstatement of the Court Challenges Program, with its broadened scope regarding language rights, was welcomed by representatives of various groups in the official-language minority communities.

The 150th anniversary of the Canadian Confederation is a unique opportunity for federal institutions to contribute to the development of official-language minority communities and to promote official languages

Question 4: Will your institution contribute to the 150th anniversary of Confederation?

- a) If so, please describe the activities planned.
- b) Please identify any processes that your institution undertook in order to comply with the obligations set out in Part VII of the Act (for example, consultations, impact analysis, use of specific official languages clauses, forming partnerships).
- c) Please identify the expected results.

Answer:

1. *150 years of Legislative and Judicial Bilingualism: History, current reality and outlook for the future.*

This conference was organized by the Laskin moot court competition, the Fédération des associations de juristes d'expression française de common law inc., and Canada's Commissioner of Official Languages, with the support of the Department of Justice Canada (through the Access to Justice in Both Official Languages Support Fund), the Centre canadien de français juridique, and Ontario's Office of the French Language Services Commissioner.

The conference aimed to foster the full recognition and use of both English and French in Canadian society and in the legal and judicial sector. It took place in Ottawa on Sunday, March 5, 2017, and brought together law students and members of the legal community to discuss the evolution, challenges and future of legislative and judicial bilingualism in Canada.

This was an exceptional opportunity to get an overview of a part of Canada's history and to celebrate its two official languages and bijural system. In addition to the presence of the Right Honourable Beverley McLachlin, PC, Chief Justice of Canada, as the keynote speaker, the conference was chaired by the Honourable Michel Bastarache, graced by, and attended by some 250 individuals representing the legal system and community advocates for justice in both official languages. A message from the Right Honourable Justin Trudeau, Prime Minister of Canada, celebrated the nation's linguistic duality and encouraged the participants to continue working together so that all Canadians have equal access to justice in both official languages. An informal round table with the Laskin participants was led by François Boileau, French Language Services Commissioner of Ontario. Many video resources will be produced for future use, especially for law students.