



2021

Supreme Court of Canada
Year in Review



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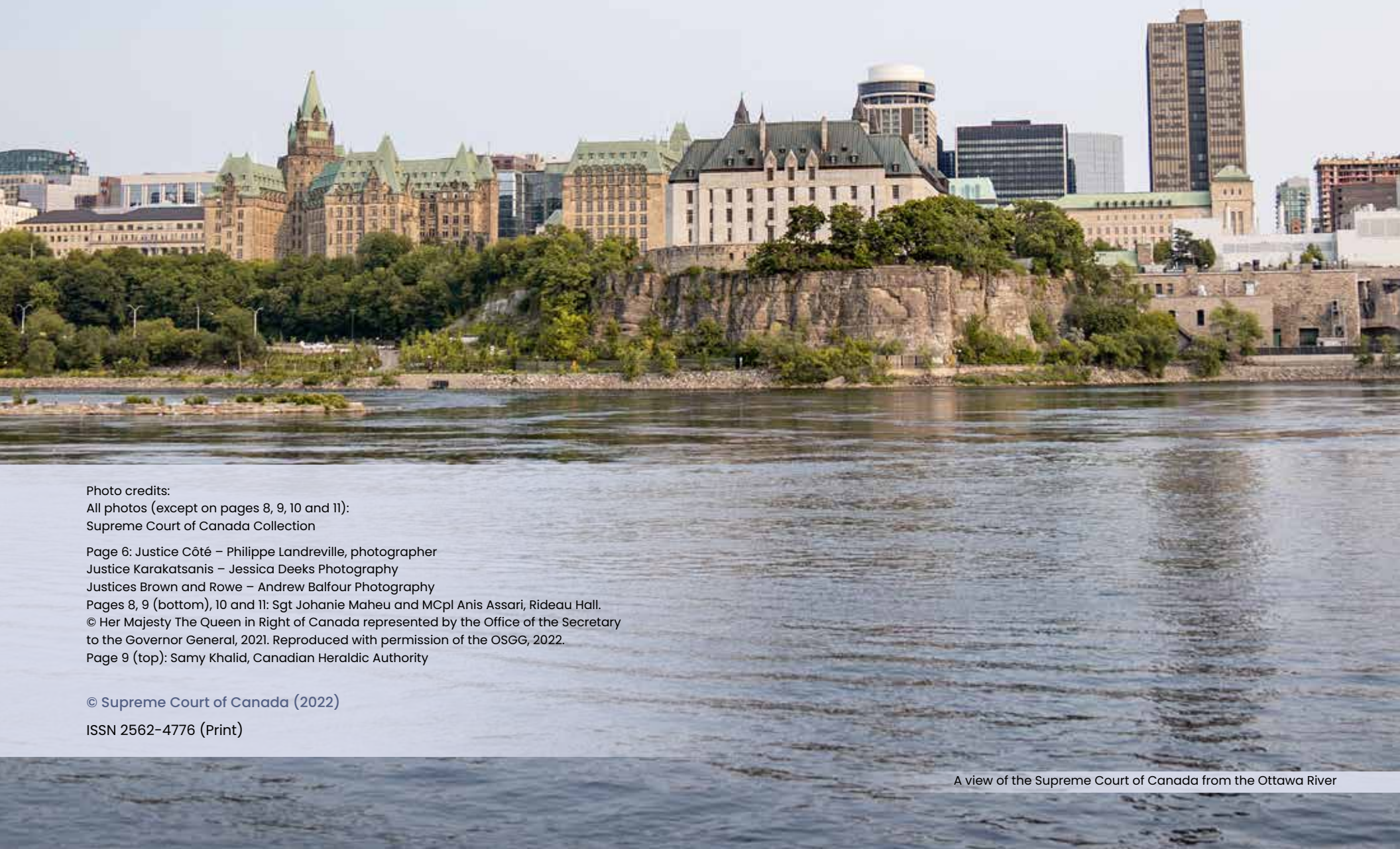


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A view of the Supreme Court of Canada from the Ottawa River

Contents

Message from the Chief Justice	3
Canada's Top Court	4
Judges	6
Meaningful New Heraldic Emblems	8
A Constitutional Duty	10
Decisions	12
A Landmark Decision	14
Law Clerks of the Supreme Court	15
Message from the Registrar	16
Embracing Change	18
Communications and Outreach	20
Caseload	22
Ten-Year Trends	26



The Supreme Court of Canada in the summer

Message from the Chief Justice

In 2021, I was gratified by the deepening spirit of collaboration among all partners in Canada's justice system. By working together, court operations across the country have continued after months of shutdowns due to the pandemic. Going forward, as lower courts work through substantial case backlogs, I have no doubt that collaborative spirit will be in even higher demand.

In that vein, I am happy to share that the national *Action Committee on Court Operations in response to COVID-19* continues its effective work. Established and chaired by Justice Minister David Lametti and I, this group of committed experts is working to improve access to justice through sector-wide innovation and reform. In 2021, Parliament accepted its proposals to permit more video appearances of accused persons, streamline the tele-warrant process and use technology to draw names of jury candidates. These administrative modifications bring permanent efficiencies to Canada's justice system.

The Supreme Court is also adapting to serve Canadians better. In January 2021, the Court changed its rules to make it easier to file an application for leave to appeal. My colleagues and I also clarified our expectations on the scope of useful written and oral submissions from parties who intervene in many important cases.

Several important transitions occurred at the Court in 2021. In June, my colleagues and I welcomed Justice Mahmud Jamal to the bench. In December, we were very pleased with the appointment of the Court's new Registrar Chantal Carbonneau.

Flying outside our building since March 2021 is a colourful and meaningful new flag bearing one of the Court's new heraldic emblems. It flies when the Supreme Court is in session. Together with the badge appearing on every judgment, they communicate the Court's role, traditions and principle of judicial independence. This principle is fundamental to upholding Canada's precious democratic values and the rule of law.

Like most Canadians, I too am growing weary of the destabilizing effects of this pandemic. I find it helps to have something to look forward to. That won't be difficult for me in 2022, as the Court prepares to take its work to Quebec City in September. My colleagues and I will hear two cases and are eager to engage with the public, and shed more light on the important work of the Supreme Court of Canada.

The Rt. Hon. Richard Wagner
Chief Justice of Canada



Canada's Top Court

Canadians can have confidence that the Supreme Court of Canada is **impartial** and **independent**. It is the guardian of the *Constitution* and *Charter of Rights and Freedoms*. Judges are selected in a transparent process where a non-partisan advisory board recommends candidates of the highest quality to the Prime Minister. Together, the Court's nine judges provide guidance on Canada's laws and work hard to ensure all people have equal protection and benefit of the law.

As Canada's final court of appeal, the Supreme Court has jurisdiction over disputes in every area of the law. Judges answer a wide variety of important questions – from child support and corporate restructuring, to treaty and constitutional rights. The Court hears and decides cases in French and English. It is also **bijural**, which means it applies the law in Canada's two distinct legal traditions – Quebec civil law and common law. Cases most often come from provincial and territorial courts of appeal, the Federal Court of Appeal and the Court Martial Appeal Court of Canada.

There are **no trials or juries** at the Supreme Court. No one testifies or introduces evidence. Judges hear arguments about important legal issues and question the lawyers. Members of the Court will only hear cases they consider to be of national significance, with the exception of automatic appeals of criminal cases where lower appeal court judges have disagreed on a point of law.

Sometimes federal, provincial and territorial governments ask the Supreme Court for an advisory opinion on a proposed or existing law. These requests are called a **reference** and they typically ask if a piece of legislation is constitutional. In the spring of 2021, the Supreme Court issued a judgment on multiple provincial references that had asked if the *Greenhouse Gas Pollution Pricing Act* was constitutional. You may read more about this landmark decision on page 14.

The Supreme Court of Canada is also active on the world stage as a respected member of international court organizations such as the World Conference on Constitutional Justice, Association of Francophone Constitutional Courts and International Association of Supreme Administrative Jurisdictions.



Justices Kasirer, Rowe, Martin and Jamal in their ceremonial robes



Chief Justice Wagner introduces counsel at the start of a hybrid hearing

Judges



Chief Justice Richard Wagner

Appointed from Quebec in 2012
Appointed as Chief Justice in 2017



Justice Michael J. Moldaver

Appointed from Ontario in 2011



Justice Andromache Karakatsanis

Appointed from Ontario in 2011



Justice Suzanne Côté

Appointed from Quebec in 2014



Justice Russell Brown

Appointed from Alberta in 2015



Justice Malcolm Rowe

Appointed from Newfoundland
and Labrador in 2016



Justice Sheilah L. Martin

Appointed from Alberta in 2017



Justice Nicholas Kasirer

Appointed from Quebec in 2019



Justice Mahmud Jamal

Appointed from Ontario in 2021



Justice Jamal signs the Oath of Allegiance and Oath of Office, as witnessed by Acting Registrar David Power

Transitions at the Court

On July 1st, Justice Mahmud Jamal was formally appointed to the Supreme Court of Canada. The Court's newest justice was sworn in on the very day Justice Rosalie Silberman Abella reached the mandatory retirement age of 75, after 17 years on the bench of Canada's top court.

At Justice Jamal's official welcoming ceremony in October, special guests celebrated his collegiality, intellect and kindness. They also praised his appointment as the first racialized Supreme Court judge.



Justice Abella at her last hearing



Current bench of the Supreme Court of Canada

Meaningful New Heraldic Emblems

March 15th 2021 was sunny and blustery – perfect conditions for unfurling one of the Supreme Court of Canada’s new heraldic emblems. Chief Justice Richard Wagner had the honour of being the first to raise the bright red, white and gold flag. While impossible for photographers to spot under his face mask, the Chief Justice could not stop smiling.

Minutes earlier, inside the courtroom and webcast live for the public, Canada’s Chief Herald Sammy Khalid had formally proclaimed the Letters Patent for the flag and a badge, which is similar to a coat of arms. Rich with symbolism, they communicate the Court’s role and traditions, as well as the principle of **judicial independence**, which is fundamental to upholding Canada’s democratic values and the rule of law.

Chief Herald Khalid explained how the badge, designed by his predecessor Ms. Claire Boudreau, tells the story of the Court’s “past, present and future with poise and elegance.” It also bears the Court’s chosen motto “**Justitia et Veritas**”, or Justice and Truth, which are the names of the two allegorical statues that stand vigil outside the building.

Up until 2021, the Court’s decisions bore the Canada Coat of Arms, which is also used by the executive and legislative branches of government.

“These new emblems express the values of our institution: **justice, independence, integrity, transparency and bilingualism**,” said the Chief Justice. The flag is raised on the eastern flagpole closest to Parliament every time the Court meets to hear an appeal. The first judgment to bear the new badge was the reference on the constitutionality of the *Greenhouse Gas Pollution Pricing Act*.

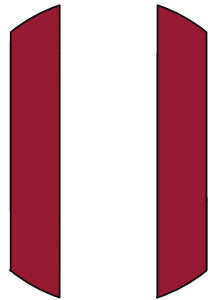


Chief Justice Wagner raises the new Supreme Court of Canada flag



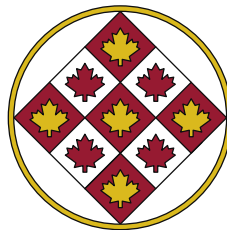
Chief Justice Wagner and Chief Herald of Canada Samy Khalid unveil the Letters Patent for the heraldic emblems

Symbolism Explained



Vertical Stripes

The vertical red stripes, representing parallel paths and the idea of uninterrupted movement, indicate that the Court is responsible for applying the law in the two legal traditions of the country – common law and civil law – and that it is a bilingual institution, working in both English and French. These stripes also symbolize Indigenous contributions to Canadian society and law, as they recall the principles of peace and mutual respect communicated by the two-row wampum belt.



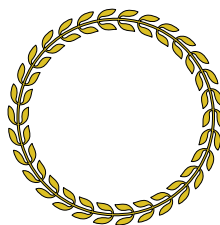
The Nine Judges of the Court

The large diamond and its pattern of lozenges represent the Court, its nine judges and the central role they play as the country's court of final appeal, the guarantor of the Constitution, as well as the rights and freedoms of all Canadians. The white background conveys the ideals of transparency and accessibility in the court system. Red and white are emblematic of Canada, while gold symbolizes excellence.



Royal Crown

The heraldic emblems are surmounted by a stylized version of St. Edward's Crown, which has been used in the coronations of Canada's monarchs. This element represents Canada's status as a constitutional monarchy headed by a sovereign king or queen.



Laurels

The round shape represents harmony and collegiality with laurels, typical of judicial symbolism. The laurels are derived from the Supreme Court's badge, designed nearly a century ago by the distinguished Montreal architect Ernest Cormier.



Motto

The Latin words "Justitia et Veritas" mean "Justice and Truth". They are also the names of the two statues, allegories of Justice and Truth, which stand vigil in front of the Supreme Court.

A Constitutional Duty

The Administrator of the Government of Canada

On January 23, 2021, Canada's Chief Justice was called upon to fulfill a unique constitutional duty. In the absence of a governor general, The Right Honourable Richard Wagner was sworn in as the administrator of the Government of Canada. Under the 1947 *Letters Patent Constituting the Office of the Governor General and Commander-in-Chief of Canada*, the administrator is vested with all powers and authorities of the governor general.

"Doing my duty as administrator was a humbling experience," said the Chief Justice. "I will always cherish having had the opportunity to formally recognize the talents, expertise, bravery and sacrifices of so many distinguished and dedicated Canadians."

Over six months, in his capacity as administrator, the Chief Justice granted Royal Assent to 12 acts of Parliament, signed into effect 557 orders-in-council, welcomed ambassadors and high commissioners to Canada, made two national proclamations, and presided over numerous investitures and presentations of Canadian honours. In virtual ceremonies, the administrator honoured recipients of the Order of Canada, Decorations for Bravery, Meritorious Service Decorations and the Sovereign's Medal for Volunteers. In addition, he signed 1,093 Canadian Armed Forces Commission Scripts and Scrolls.

Chief Justice Richard Wagner stopped acting as administrator once he conducted the oaths of office for Governor General Mary Simon on July 16, 2021.

Chief Justice Wagner served as administrator of the Government of Canada for six months and granted royal assent to 12 acts of Parliament





Governor General Mary Simon, Prime Minister Justin Trudeau and Chief Justice Richard Wagner at the Governor General's installation ceremony

Decisions

Notable Decisions by Date of Delivery

R. v. T.J.M.

The Supreme Court finds that both a provincial court and a superior court have authority to hear and decide bail applications for a youth charged under the *Criminal Code*.

R. v. R.V.

The Supreme Court provides guidance to appellate courts on inconsistent jury verdicts.

References re Greenhouse Gas Pollution Pricing Act

The Supreme Court rules the federal carbon pricing law is constitutional.

R. v. Desautel

The Supreme Court rules that non-citizens and non-residents can claim an Aboriginal right under the Constitution.

Colucci v. Colucci

The Supreme Court rejects a parent's bid to reduce or cancel a \$170,000 child support debt.

Sherman Estate v. Donovan

The Supreme Court rules that the sealing orders on the estate files of a Toronto couple were unjustified.

R. v. Chouhan

The Supreme Court rules that *Criminal Code* changes to the jury selection process are constitutional.

Canada v. Canada North Group Inc.

The Supreme Court decides Canada North Group can pay expenses necessary to its restructuring process before money owed to the Canada Revenue Agency.

York University v. Canadian Copyright Licensing Agency (Access Copyright)

The Supreme Court rules that a copyright tariff was not enforceable against York University.

Toronto (City) v. Ontario (Attorney General)

The Supreme Court rules an Ontario law that cut the number of Toronto city councillors during the 2018 municipal election was constitutional.

Ward v. Commission des droits de la personne et des droits de la jeunesse

The Supreme Court finds the Quebec Human Rights Tribunal did not have jurisdiction to proceed with the case of a comedian who mocked a well-known teen singer with a disability, because it was not discrimination under the Quebec Charter of human rights and freedoms. The Court also explains the legal framework that applies to a discrimination claim involving a public figure's right to dignity and a professional comedian's freedom of expression.

R. v. Albashir

The question in this case was how courts should treat crimes that are committed after the Supreme Court declares a law unconstitutional but before that declaration takes effect.

All Decisions

	Case Name	Origin	Decision Date
1	Armstrong v. Ward	Ont.	Jan. 18
2	R. v. Yusuf	Ont.	Jan. 19
3	R. v. Deslauriers	Que.	Jan. 20
4	R. v. Murtaza	Alta.	Jan. 21
5	R. v. Waterman	N.L.	Jan. 22
6	R. v. T.J.M.	Alta.	Jan. 29
7	Wastech Services Ltd. v. Greater Vancouver Sewerage and Drainage District	B.C.	Feb. 5
8	R. v. W.O.	Ont.	Feb. 19
9	R. v. Esseghaier	Ont.	Oct. 7, 2020
	Decision rendered from the bench (written reasons Mar. 5, 2021)		
10	R. v. R.V.	Ont.	Mar. 12
11	References re <i>Greenhouse Gas Pollution Pricing Act</i> *	Sask. Ont. Alta.	Mar. 25
12	R. v. Ghotra	Ont.	Apr. 13
13	R. v. Sheikh	Que.	Apr. 16
14	R. v. Gul	Que.	Apr. 19
15	R. v. Ramos	Man.	Apr. 21
16	R. v. Smith	B.C.	Apr. 22
17	R. v. Desautel	B.C.	Apr. 23
18	Ontario (Attorney General) v. Clark	Ont.	Apr. 30
19	R. v. C.P.	Ont.	May 7
20	R. v. G.F.	Ont.	May 14
21	R. v. Morrow	Alta.	May 19
22	Ethiopian Orthodox Tewahedo Church of Canada St. Mary Cathedral v. Aga	Ont.	May 21

	Case Name	Origin	Decision Date
23	MediaQMI inc. v. Kamel	Que.	May 28
24	Colucci v. Colucci	Ont.	June 4
25	Sherman Estate v. Donovan	Ont.	June 11
26	R. v. Chouhan	Ont.	Oct. 7, 2020
	Decision rendered from the bench (written reasons June 25, 2021)		
27	Reference re <i>Code of Civil Procedure</i> (Que.), art. 35	Que.	June 30
28	Southwind v. Canada	F.C.A.†	July 16
29	Corner Brook (City) v. Bailey	N.L.	July 23
30	Canada v. Canada North Group Inc.	Alta.	July 28
31	Grant Thornton LLP v. New Brunswick	N.B.	July 29
32	York University v. Canadian Copyright Licensing Agency (Access Copyright)	F.C.A.†	July 30
33	Canadian Broadcasting Corp. v. Manitoba	Man.	Sept. 24
34	Toronto (City) v. Ontario (Attorney General)	Ont.	Oct. 1
35	R. v. Dingwall	B.C.	Oct. 8
36	Richardson v. Richardson	Ont.	Oct. 13
37	R. v. Khill	Ont.	Oct. 14
38	R. v. Reilly	B.C.	Oct. 14
39	6362222 Canada inc. v. Prelco inc.	Que.	Oct. 15
40	R. v. Strathdee	Alta.	Oct. 15
41	Nelson (City) v. Marchi	B.C.	Oct. 21
42	Northern Regional Health Authority v. Horrocks	Man.	Oct. 22

	Case Name	Origin	Decision Date
43	Ward v. Quebec (Commission des droits de la personne et des droits de la jeunesse)	Que.	Oct. 29
44	H.M.B. Holdings Ltd. v. Antigua and Barbuda	Ont.	Nov. 4
45	R. v. Cowan	Sask.	Nov. 5
46	R. v. J.D.**	Que.	Nov. 10
47	R. v. Parranto	Alta.	Nov. 12
48	Trial Lawyers Association of British Columbia v. Royal & Sun Alliance Insurance Company of Canada	Ont.	Nov. 18
49	R. v. Albashir*	B.C.	Nov. 19
50	Canada v. Alta Energy Luxembourg S.A.R.L.	F.C.A.†	Nov. 26
51	Kreke v. Alansari	Sask.	Dec. 2
52	Barendregt v. Grebliunas**	B.C.	Dec. 2
53	B.J.T. v. J.D.**	P.E.I.	Dec. 2
54	Canada v. Loblaw Financial Holdings Inc.	F.C.A.†	Dec. 3
55	R. v. Goforth**	Sask.	Dec. 7
56	R. v. Lai	B.C.	Dec. 8
57	Montréal (City) v. Deloitte Restructuring Inc.	Que.	Dec. 10
58	Association de médiation familiale du Québec v. Bouvier	Que.	Dec. 17

See Notable Decisions on page 12.

†F.C.A. is the abbreviation for “Federal Court of Appeal”.

*This decision covers more than one case.

**Reasons to follow in 2022.



A Landmark Decision

On March 25, the Supreme Court of Canada **settled a national debate** about the constitutionality of a federal law aimed at combatting climate change. At 9:45 a.m. in Ottawa, Canada's top court ruled the *Greenhouse Gas Pollution Pricing Act* was constitutional. The majority of judges also wrote that climate change is caused by greenhouse gas emissions resulting from human activities, and that it poses a grave threat to the future of humanity.

Parliament passed the legislation in 2018 to help meet Canada's international commitment under the Paris Agreement to reduce national greenhouse gas emissions by more than **30%** below its 2005 emissions, by the year 2030. The law required provinces and territories to implement carbon gas pricing systems by January 1, 2019, or adopt one imposed by the federal government.

Saskatchewan, Ontario and Alberta **challenged the law's constitutionality**. They argued their own tailored provincial policies would reduce emissions. The provinces also stated that under the Constitution, they have exclusive **jurisdiction** over their natural resources.

The federal government asserted that it had the authority to address national issues such as climate change. It also maintained the law was a **backstop**, or safety net, to ensure minimum carbon pricing standards across Canada. It would only intervene in jurisdictions with no adequate policy.

In its ruling, the majority ruled that climate change causes harm beyond provincial boundaries. They called it a matter of **national concern** under the "*peace, order and good government*" clause of the Constitution. The six judges acknowledged **federalism**, with its balance of national and provincial powers, is a foundational principle of the Constitution. Yet they pointed out the law would only apply to jurisdictions without effective carbon pricing systems that would not reduce carbon emissions.

While many Canadians called the pricing system a "carbon tax", the judges explained that it is not a tax but a regulatory charge because its specific purpose is to change people's behaviour and reduce carbon emissions.



Law Clerks of the Supreme Court

When it comes to deciding significant legal questions, Supreme Court judges work collaboratively with each other, and they can count on the support of their law clerks. These recent graduates come from law schools across the country and bring a **diversity of ideas, knowledge and lived experiences** to Canada's top court.

Chief Justice Richard Wagner says he seeks clerks with inquiring minds, "I expect the person to be curious, ready to develop theories and study new concepts." He adds, "It's a serious commitment that will give the clerk a lot of experience and knowledge, but that should also bring the Court and judges great satisfaction in being able to write and deliver better decisions."

Before a hearing, clerks conduct research and provide their judge with a case summary and legal opinion. After attending the appeal hearing, clerks work closely with judges in writing the reasons for judgment. It is a **dynamic environment** that puts a high value on **collegiality**.

"They have to be prepared to work with confidence in a team setting where people are going to have real debates about serious issues," says Justice Sheilah Martin, current chair of the Law Clerk Committee. She says clerks help judges think and make good decisions. "They're part of a team amongst themselves in a chamber, and they're part of a team because we have many chambers of clerks," she says.

Being at the heart of the Supreme Court judicial decision-making process is **an invaluable experience**. In addition to learning how to, for example, write more persuasive written and oral arguments, clerks often socialize outside the courthouse. These friendships and professional connections last a lifetime.

Chief Justice Wagner says clerks tend to reunite every few years. "It's a tight-knit community. People keep these ties forever, no matter what they do in the future, no matter what country they work in."



Justice Suzanne Côté speaks to law clerks on the grounds of the Court



Justice Sheilah Martin and her law clerks for 2021

Message from the Registrar

It is an honour for me to write this message further to my appointment to this office in December 2021. As the Supreme Court's 13th Registrar and second woman in this role, I look forward to working closely with Members of the Court and our high-performing employees. My priorities include continuing to further modernize court operations to serve Canadians better; planning the Court's future move to a new building while the courthouse undergoes 10 years of major renovations, and building on the institution's reputation as a fantastic place to work.

Before my formal appointment, I served as Registrar Designate. It afforded me the opportunity to get to know my colleagues and appreciate the valuable contributions of the court employees who continued, during the pandemic, to be resilient and creative. They ensure that this Court seamlessly continues its crucial work for all Canadians.

This year I presented the Registrar's Award to employees who demonstrated excellence in 2020-21. I recognized our reference librarians for their invaluable contributions to judicial law clerks who were required to work off-site for almost the entire clerkship year. I also celebrated the Court's chief jurilinguist for his exceptional contributions to the bilingualism of the Court. In addition, I recognized our executive director of judicial support and protocol for his service to the Chief Justice while he acted as Administrator of the Government of Canada for six months.

In the fall, I enjoyed working creatively with our employees to raise \$35,022 from a record number of Supreme Court donors for the annual Government of Canada Charitable Workplace Campaign. Working together during the pandemic to make a difference was very inspirational.

On December 30, 2021, the Supreme Court hit a significant milestone. After 146 years, the Court opened its 40,000th file. It caused me to reflect on the history of this great institution and those before me who served as Registrar, especially those who ensured access to justice for Canadians through the First and Second World Wars, times of economic and political instability, as well as the 1918 pandemic.

It is a privilege to serve this Court and Canadians.



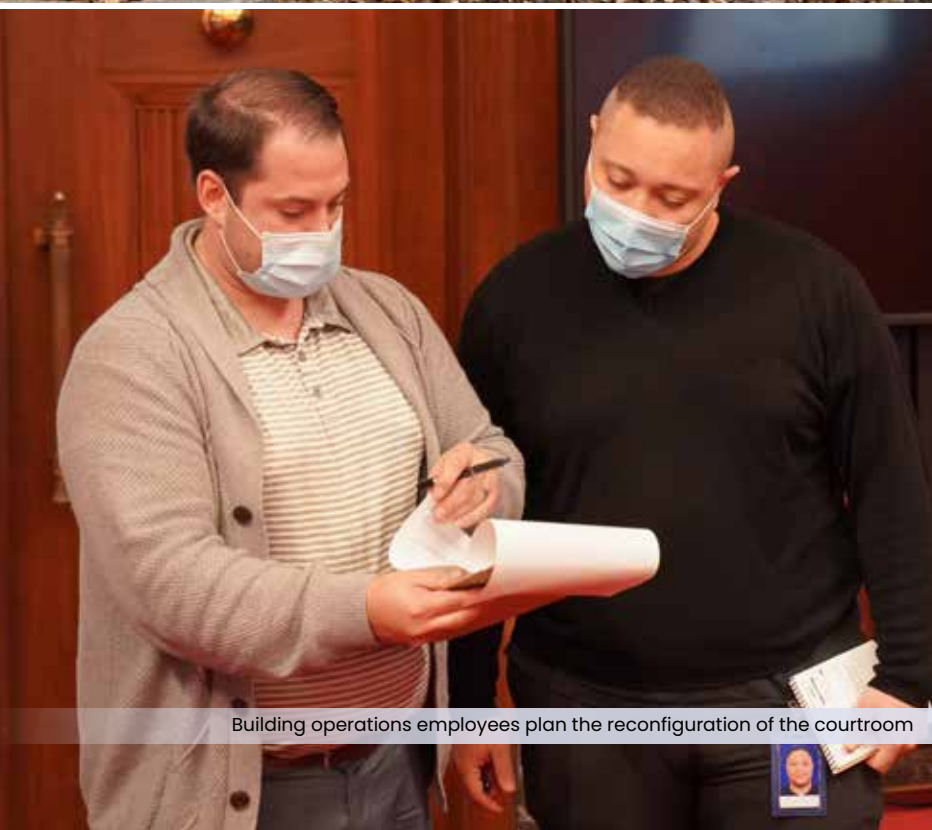
Chantal Carbonneau
Registrar



Employees sponsored by their colleagues to dive into Lac Leamy on December 2 for the annual charitable workplace campaign



The Registrar meets with Justices Karakatsanis and Rowe



Building operations employees plan the reconfiguration of the courtroom



Chantal Carbonneau presents one of the Registrar's awards to the Court's reference librarians

Embracing Change

The Supreme Court of Canada is always adapting to serve Canadians better and improve access to justice. In 2021, the Court revised its rules to make it simpler for someone to apply for **leave**, or permission, to appeal.

The slimmed down process requires fewer supporting documents and everything is filed electronically. Instead of heavy trolleys filled with paper, a leave request today consists of a **digital notice of application and memorandum of argument** with **hyperlinks** to the judgment the party wants to appeal. The new process uses two-thirds less paper.

For appeals, the Court has made it optional to hire an Ottawa lawyer as **agent** to provide procedural assistance. Parties are also permitted to exchange documents by **email** and the Supreme Court has eliminated fees for obtaining electronic records. These changes have enhanced **access to justice** and made leave applications and appeals more affordable, efficient and convenient.

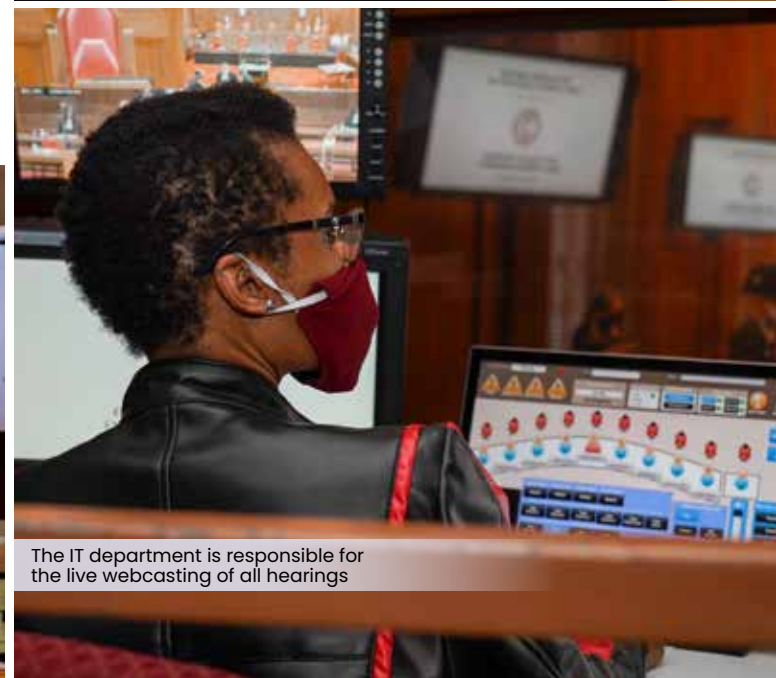
This makes a difference for all, especially those who do not want or cannot afford legal representation. Every day, Registry employees take the time and care necessary to support self-represented litigants. Sorting and preparing these case files is a considerable part of the Registry workload. The Court is thankful for its **partnership** with Pro Bono Ontario, which operates the Supreme Court of Canada Legal Assistance Program for residents of all provinces and territories.



Justices Kasirer and Moldaver in the courtroom during a hybrid hearing



The Registry is a dynamic place to work, where employees take time and care to support all parties



The IT department is responsible for the live webcasting of all hearings



With more virtual and remote events, the Communications team supports judges and employees in delivering speeches and presentations



Justice Brown addressed first year law students at the University of Alberta where he used to teach

While the Supreme Court building in Ottawa remained physically closed to the public in 2021, the Court was actually more **accessible** than ever! Friendly **outreach** to groups and schools across the country led to the Court welcoming 14,882 visitors to its remote guided tours. From Salt Spring, Baffin and Grand Manan islands, distance is no longer a barrier to a **fun and informative visit**.

The Court also piloted something new for the media in 2021 – remote confidential briefings on widely-anticipated decisions. They started in March with the ruling on the constitutionality of the *Greenhouse Gas Pricing Pollution Act*. Working with the Parliamentary Press Gallery, the Court employed **technology** and trust to **further support journalists** in their work of informing the public about significant legal developments. In 2021, the Court provided journalists with 36 in-depth briefings on decisions.

Outside the courtroom, judges continued to **engage** with Canadians in 2021 with dozens of commitments to participate in a variety of **remote activities**. Videoconferencing facilitated interviews, speeches, as well as participation at conferences and graduation ceremonies. The Court is also looking forward to travelling to Quebec City from **September 12-16, 2022**. For the second time, the Court will hear two cases outside Ottawa and the judges will participate in special events with the public, students and local legal community.

Communications and Outreach



Luisa is among the Court's law student tour interpreters who provided informative tours to 14,882 people.



Leslie wrote 36 plain-language Cases in Brief.



Caroline published 230 news releases in 2021.

Connect with us!

The Supreme Court of Canada invites you to **watch or listen to live and archived hearings**. You may also follow the Court on LinkedIn, Twitter and Facebook. Instagram is coming in 2022!

Since the onset of the COVID-19 pandemic, the Court offers engaging and informative **guided remote tours** of the building. The outstanding tour guides tailor content for the audience in French, English or both. They cover topics such as Canada's judicial system, judges of the Court and the history and architecture of the art deco building.

To sign up for a virtual visit, please fill out the form on the Court's website. This is a great activity to do with students, friends and family. Once public health protocols permit, we look forward to seeing you in person. Visiting is **free** and we are **accessible** to people with disabilities.

Ask a Tour Interpreter

Why do Supreme Court judges have to retire after they turn 75 years old?

It's the law! Parliament introduced the mandatory retirement age in 1927 after it grew concerned with how often older judges were absent from the Court due to poor health.

Why are people allowed to listen to cases in the Supreme Court?

The Court is a transparent institution dedicated to access to justice. It welcomes anyone, anywhere, to watch or listen to Supreme Court hearings. Cases are webcast and archived on our website, unless a publication ban is in place.

Is the change to the judges' bench permanent?

The judges' bench has been modified in accordance with public health recommendations. The five longest-serving judges now sit on the raised back row and four judges sit in front. Once physical distancing is no longer required, the judges will once again sit together on the bench.

Do all judges have to be lawyers at some point in their career?

Absolutely! The Supreme Court hears some of the most complicated legal questions in Canada. In order to qualify for the job, applicants must have been a licensed practicing lawyer for at least 10 years, or served as a judge of a superior court after having practiced as a lawyer.

What does the "Crown" mean in criminal cases?

In criminal cases, the "Crown" means the government lawyers who prosecute crimes; they are called Crown prosecutors.



Tour interpreters giving remote tours

Caseload

Members of the Court decided **424** applications for leave to appeal in 2021 and granted **34**, or **8%**. That is up **1%** from 2020. The lighter caseload is directly linked to widespread court closures across Canada in 2020. The Court received **21** appeals as of right in 2021 and no reference questions. Judges heard **58** appeals and rendered **59** judgments.

The Court continues to see a decline in the proportion of applications from self-represented litigants; from its high of **33%** in 2016 to **19%** in 2021. Judges have also continued to deliver more judgments from the bench, immediately after the hearing. In 2021, **37%** of decisions were delivered from the bench.

Categories of Cases

Criminal law cases come from prosecutions under the *Criminal Code* or other legislation that prohibits specific conduct and imposes fines or imprisonment for disobeying the law. These cases may raise issues such as self-defence, sentencing and admissibility of evidence.

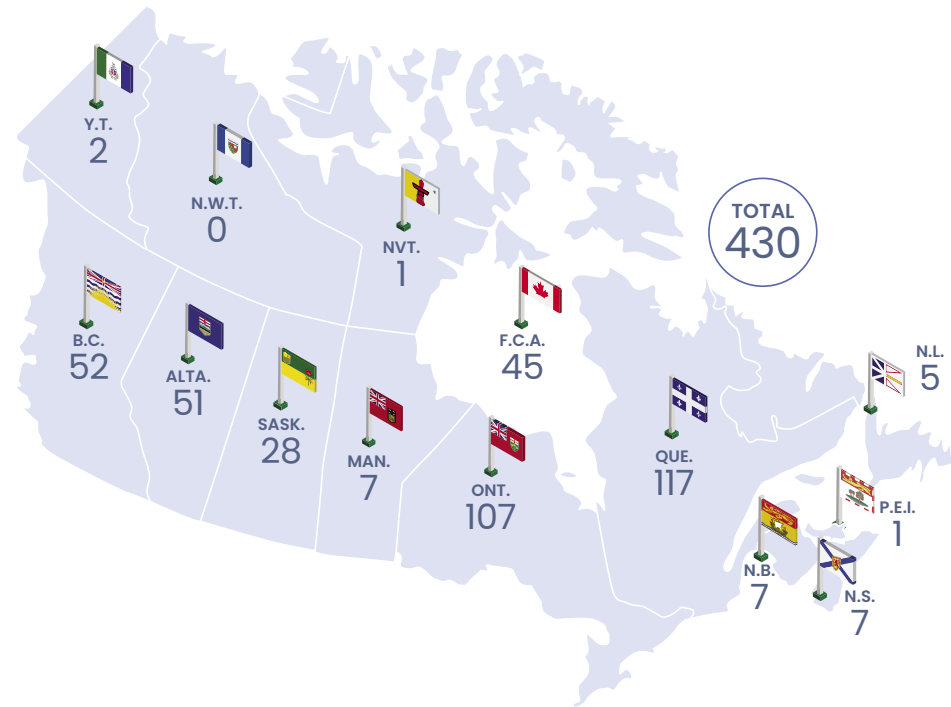
Private law cases arise from disputes between individuals that are taken to a court for determination. Recent cases in the private law category raised issues of negligence, family law and contracts.

Public law cases include constitutional or administrative law cases. In constitutional cases, the Court must interpret Canada's Constitution, including the *Canadian Charter of Rights and Freedoms*. Administrative law appeals come from administrative decisions made by governments, or those acting on their behalf, in areas such as labour relations, taxation and human rights.

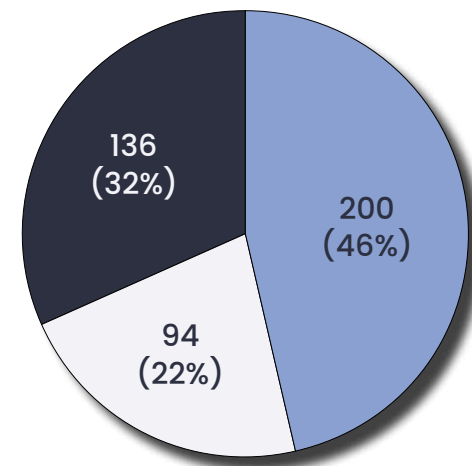
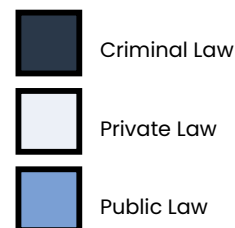
Applications for Leave Referred for Decision

Number of Applications by Origin

From provinces, territories or the federal level



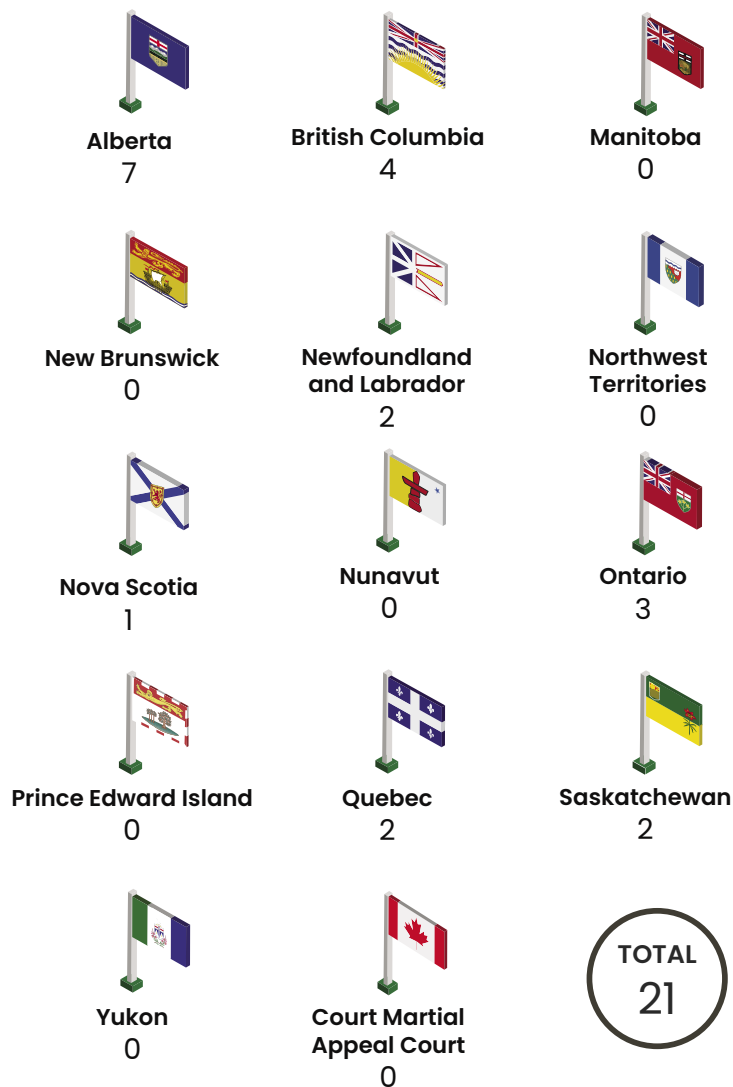
Applications by Category



Appeals As of Right

Number of Appeals As of Right by Origin

From provinces, territories or the federal level



Definitions

- **As of right:** an appeal where the Court's permission isn't required, that is, the right is automatic
- **By leave:** an appeal that needs the Court's permission to be heard
- **Leave application / application for leave to appeal:** the documents filed to ask permission for an appeal to be heard
- **Notice of appeal:** the documents filed to tell the Court that a party will appeal, this will be the first document filed for an "as of right" appeal, and will be filed after an application for leave to appeal is granted
- **Granted (leave application):** when the Court gives permission for an appeal to be heard
- **Dismissed (leave application):** when the Court does not give permission for an appeal to go forward
- **Allowed (appeal):** when the Court overturns the lower-court decision
- **Dismissed (appeal):** when the Court agrees with the lower-court decision
- **Decision:** the final judgment that ends the appeal; it can be given orally (from the bench) or through written reasons (reserved). Once in a while, a decision from the bench will be followed by written reasons later.
- **On reserve:** appeals that haven't been decided yet
- **Reasons:** text where a judge or sometimes more than one judge explains how they arrived at a certain decision

Appeals Heard

Number of Appeals Heard by Origin

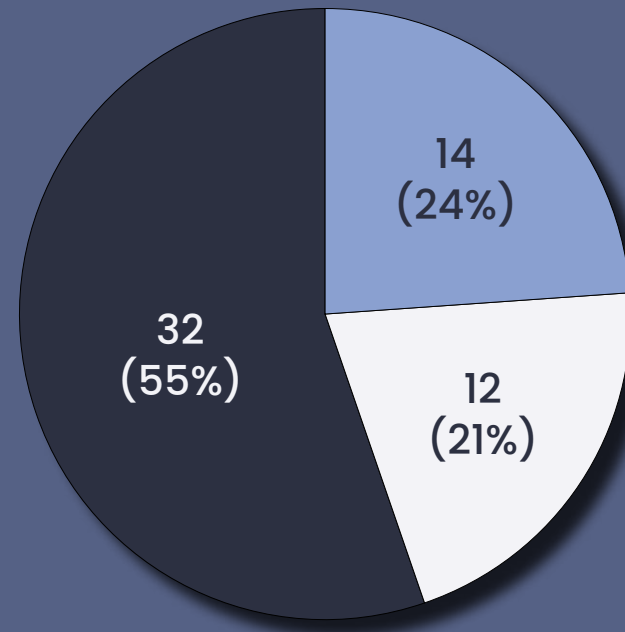
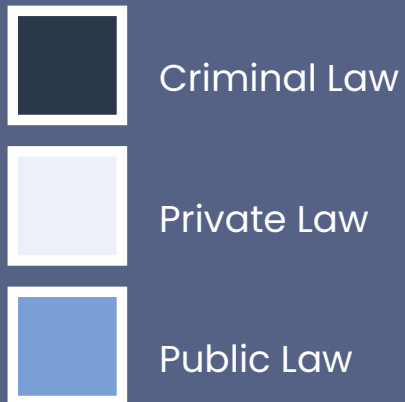
From provinces, territories or the federal level

TOTAL
58



Appeals Heard by Category

Supreme Court of Canada



Appeals Decided

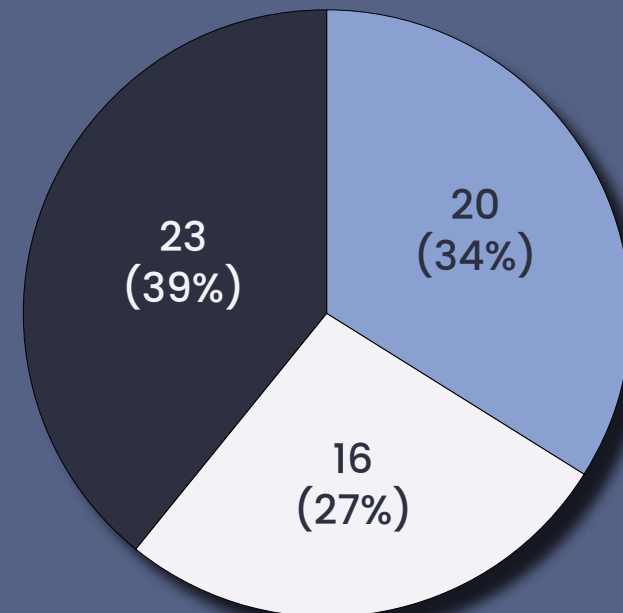
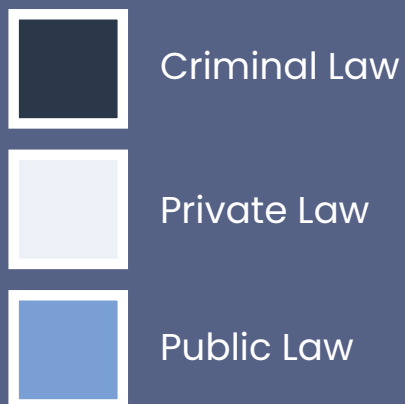
Number of Appeals Decided by Origin

From provinces, territories or the federal level

TOTAL
59



Appeals Decided by Category



Ten-Year Trends

This report sets out a statistical view of the work of the Supreme Court of Canada from 2012 to 2021. The tables outline the Court's **workload** over the last decade. Given widespread **pandemic court closures** and other measures implemented across Canada in 2020 and 2021, it is worth noting that some of the most recent data are irregular.

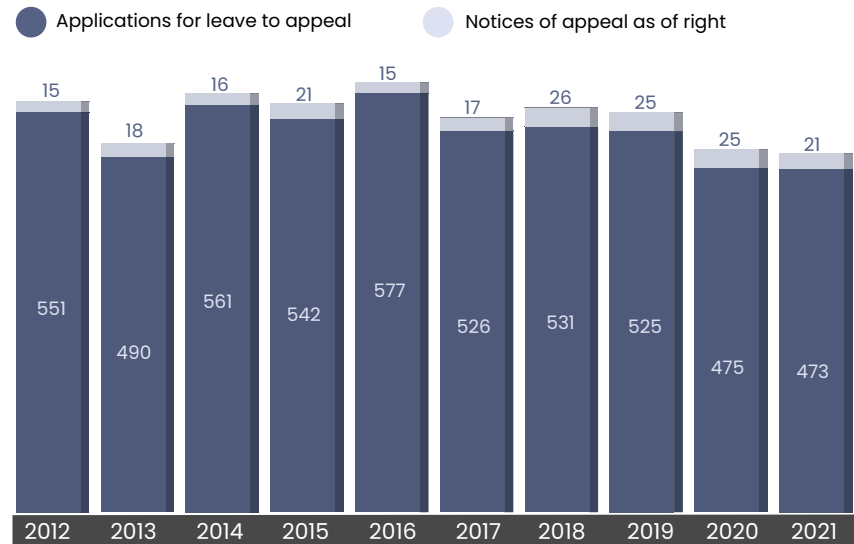
The first category of data breaks down the number of cases filed at the Court by applications for **leave to appeal** and notices of **appeal as of right**. It also provides information on how many of those cases were **dismissed** or **granted** by the Court. On the following page are two tables. The first illustrates how many cases were heard by the Court as of right and by leave. The second shows how many cases were dismissed, allowed or on reserve at the end of the calendar year.

On page 28, you will find four tables. The first gives a 10-year view of **outcomes** of appeal decisions, by how many were **dismissed** or **allowed**. The second explains how the Court delivered its decisions, either right away **from the bench** or **reserved** until the written reasons are complete. The final two tables illustrate how often all the judges agree on the result of a judgment.

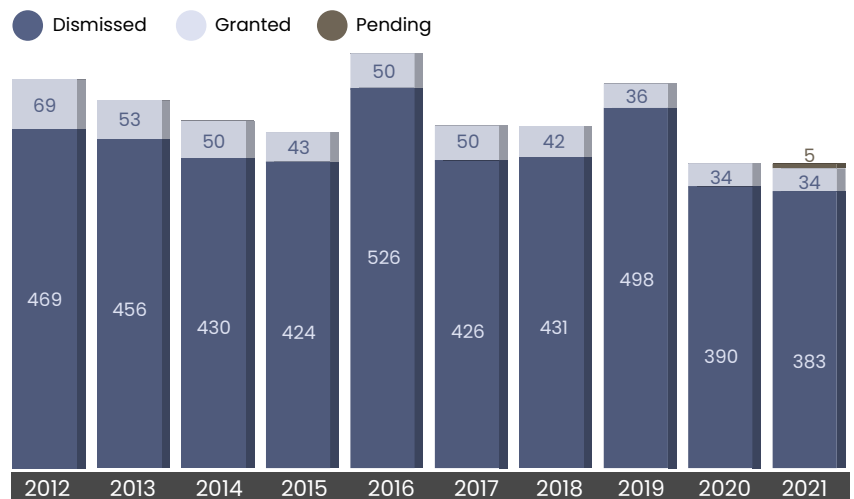
For information about the number of hearing days, head to page 29 where you will also find a table explaining how long it takes cases to make their way through different processes at the Supreme Court.

Breakdown of Cases Filed at the Court

Types of Cases



Outcomes of Leave Applications Referred for Decision

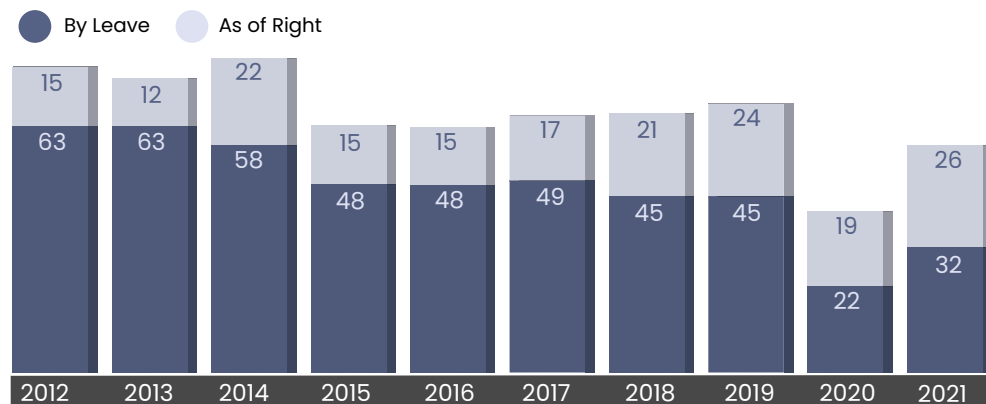


Note:

Statistics do not include cases that were sent back to a lower court, discontinued, quashed, adjourned, or where there was a request for more time that wasn't allowed.

Breakdown of Appeals Heard

Types of Appeals

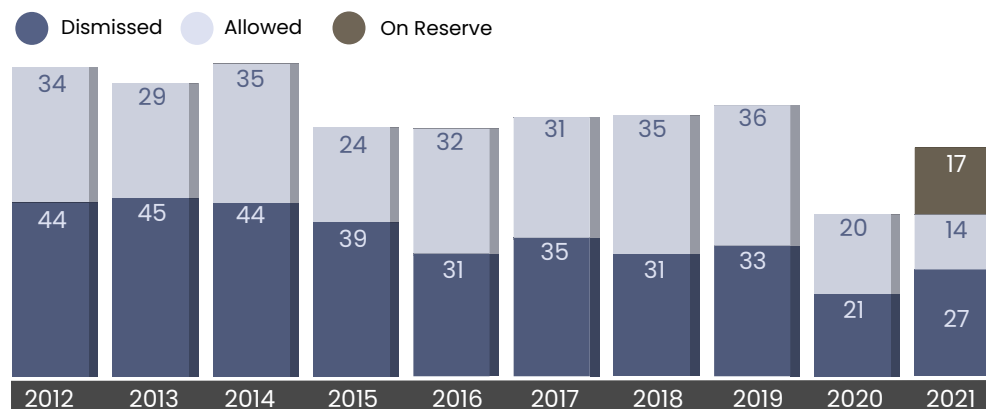


Note:

Not all appeals heard in one year were decided in that year. Some cases were decided in the calendar year after the hearing. For example, most appeals heard in the fall of one year are decided in the winter or spring of the following year. This means statistics about appeals heard and appeals decided are slightly different.

Appeals with issues in common may be decided in the same reasons, even if the Court hears them separately.

Outcomes of Appeals Heard



Note:

Appeals aren't counted in these statistics if there was a rehearing or remand ordered, or they were discontinued after the hearing, or they were references under s. 53 of the *Supreme Court Act*. There were no situations like this in 2021.



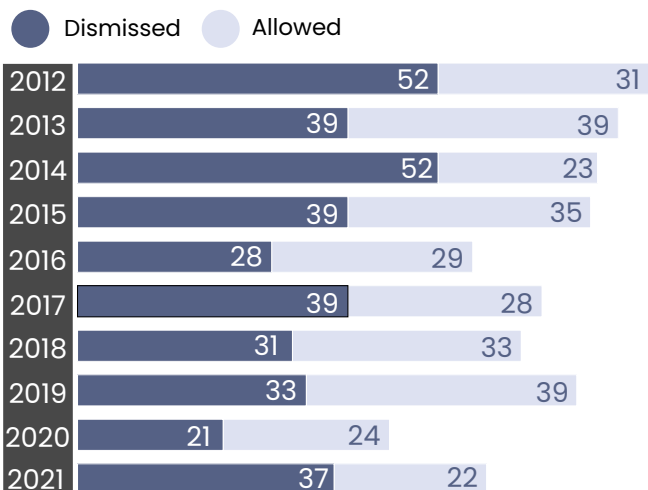
The Supreme Court of Canada at sunset

Breakdown of Decisions

Outcomes of Appeals Decided

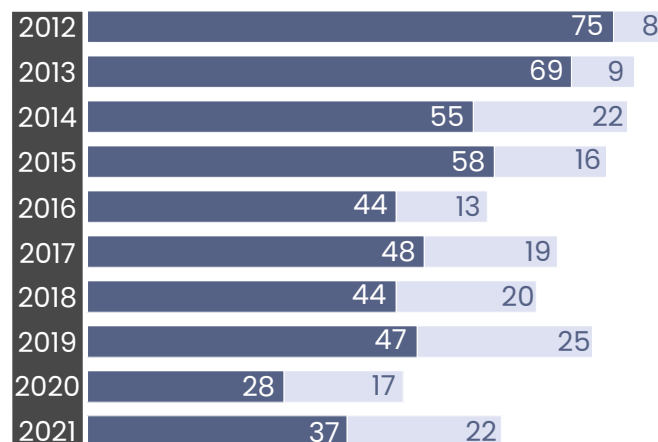
Note:

The appeals to which these judgments relate may have been heard in a previous year. Opinions on references under s. 53 of the *Supreme Court Act* are not included.



Delivery of Decisions

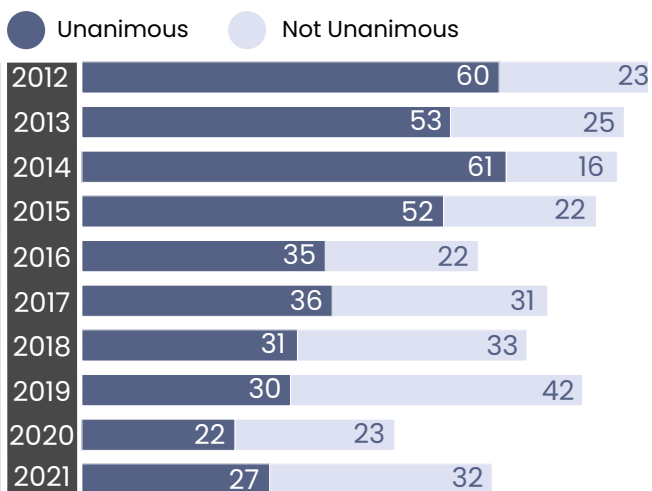
Legend: Reserved (decision delivered later) (dark blue), From the bench (decision made right away) (light blue)



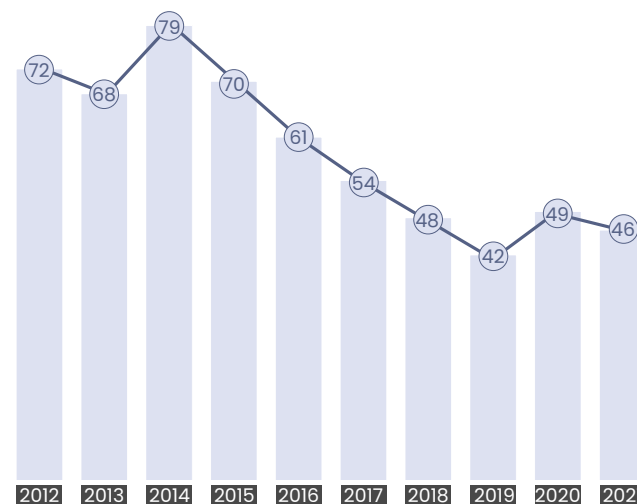
Agreement of Decisions

Note:

This refers to whether all judges agree on the result, either for the same reasons or for different reasons, or whether they disagree on the result. A "unanimous" decision may therefore have more than one set of reasons.



Percentage of Unanimous Decisions

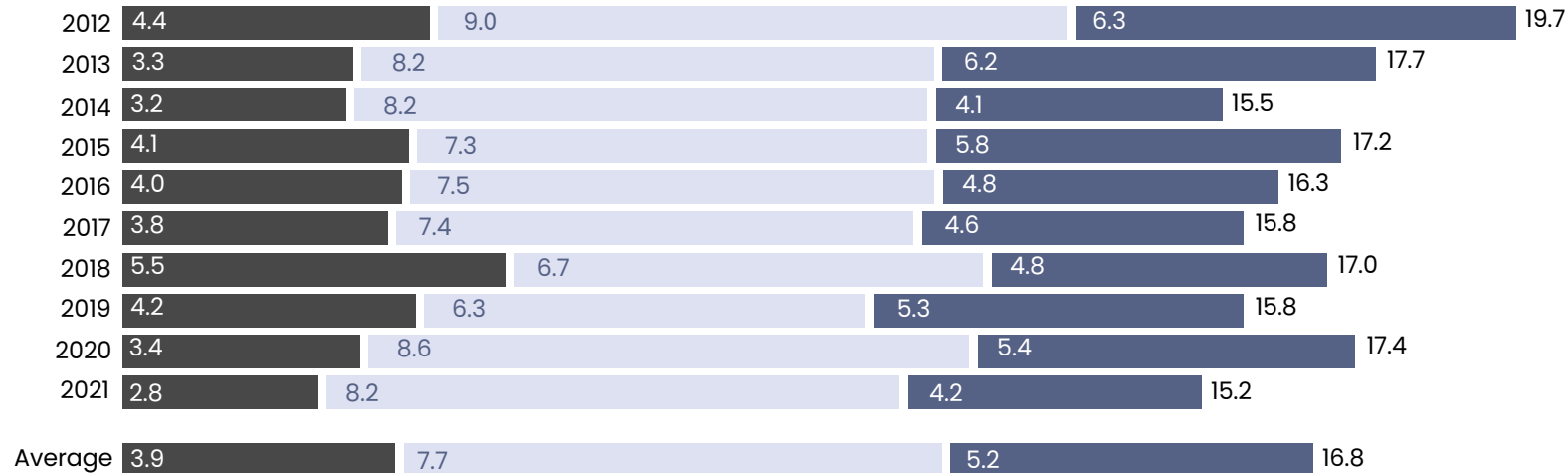





Timing

Number of Hearing Days



Average Time of Process Leading to Judgment (in months)



 Between filing and decision on application for leave to appeal
  Between granting of leave or filing of notice of appeal as of right and hearing
  Between hearing and judgment





Autumn at the Supreme Court of Canada