



Doucet Case Summary

Doucet c. Canada, 2004 FC 1444

Several questions were submitted to the Court in this case, but the Federal Court first noted that it was not for the Court to question the government's political decisions in drafting the *Official Languages Regulations (Regulations)* when these decisions set the figures for "significant demand" or applied the national mandate to certain offices. Those decisions, the Court noted, reflect both the desire to comply with the provisions of the *Charter of Rights and Freedoms (Charter)* and the *Official Languages Act (OLA)* and the need to apply some rationality to offering bilingual services in a country where the two languages do not always co-exist in the same area. The Court agreed to consider the question of "significant demand" however, noting that the Court had a duty to intervene if the application of these decisions, though political, had the effect of infringing the right guaranteed by the Charter.

The RCMP is a federal institution:

The Federal Court declared that when it is patrolling Nova Scotia highways or responding to a call from an individual, the RCMP is a federal institution offering services to the public, and as such, is bound by the provisions of the *OLA* and the *Charter* regarding the provision of services in the official language of choice. The Federal Court also declared that although the RCMP performs policing duties in Nova Scotia under a contract with the province, this does not in any way alter its status as a federal institution. The Supreme Court confirmed that the RCMP retains its status as a federal institution when it acts under a contract with a province in *Société des Acadiens et Acadiennes du Nouveau-Brunswick Inc. v. Canada, 2008 SCC 15*.

The concept of "significant demand" defined in the *Regulations* and the public travelling on the Trans-Canada Highway:

Analysing the facts of the case, the Court concluded that Amherst had a limited Francophone population, but was located near New Brunswick, where 32 percent of the population was Francophone (2001 Census), and more importantly, near a region where, according to the evidence, 38 percent of the population was Francophone. The Court also noted that the evidence showed a large amount of traffic from New Brunswick in the Amherst region. The applicant's expert witness had persuasively established the probability that a significant number of Francophones from New Brunswick would be travelling on highways in the Amherst region, especially on the principal artery that was part of the Trans-Canada Highway.

In view of these facts, the Court concluded that the *Regulations* did not deal with the situation of a busy highway, patrolled by the RCMP, on which a large number of members of the minority language group are likely to be travelling. The evidence showed, on a balance of probabilities,

that there is a “significant demand” for minority language services in French on the section of Highway 104 crossing the service area of the RCMP, Amherst detachment.

According to the Court, the significant number of vehicles annually crossing the border at Fort Lawrence constituted a powerful counter-argument to the idea that demand should only be based on the demographics of the area.

After being careful to note that it was not his function to decide what form amendments to the *Regulations* should take, the judge thought it proper to point out the defects that should be corrected to make the *Regulations* consistent with the *OLA* and the *Charter*:

An RCMP detachment is regarded as an "office" for the purposes of the Charter and the OLA. When an RCMP detachment provides policing services in Canada, it is important to consider the function it is charged with in the community in which it is located. In the case at bar, one of the RCMP's important duties is to patrol a busy highway, where there is undoubtedly a demand for services in French.

Finally, the Federal Court allowed Mr. Doucet’s application in part, finding subparagraph 5(1)(h)(i) of the *Regulations* inconsistent with paragraph 20(1)(a) of the *Charter* in that the right to use French or English to communicate with an institution of the Government of Canada should not solely depend on the percentage of Francophones in the census district. Consideration must also be given to the number of Francophones who use or might use the services of the institution, as illustrated by the circumstances in this case, along Highway 104 near Amherst, Nova Scotia.

The Court gave the federal government 18 months (from October 19, 2004) to correct the problem identified in the *Regulations*. Mr. Doucet appealed this decision.

Note: Federal Court of Appeal confirmed the Federal Court judgment.