



SUPREME COURT  
OF CANADA

2023

YEAR IN  
REVIEW

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# Message from the Chief Justice

It is my pleasure to present the Supreme Court of Canada's sixth annual Year in Review. The goal of this publication is simple: to honour the trust placed in the Court by keeping the public informed of its work.

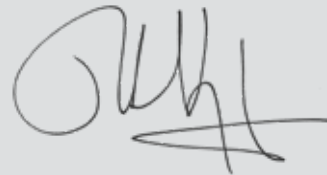
As judges, my colleagues and I have the important responsibility of making independent and impartial decisions on the issues that come before us. One of my priorities as Chief Justice is to ensure we fulfil our duties as openly and transparently as possible, since those decisions have an impact on the lives of Canadians.

We are living in a unique time, when democracy and the Rule of Law are under threat in many parts of the world. We are fortunate knowing that here in Canada, matters of law will be settled clearly and fairly, free of outside influence. While Canadians continue to put their trust in the Supreme Court, maintaining that confidence means being steadfast in promoting open courts, access to justice and judicial independence.

That is why I am proud to be involved in so many different outreach initiatives throughout the year to build awareness of the role and work of the Court among Canadians. I am also fortunate to meet with legal professionals, jurists, and members of the international community.

I hope you find value reading about the various ways we are working to nurture broader understanding of the Supreme Court and the Canadian judicial system. We look forward to building on these efforts and further engaging with Canadians on our role and history as part of the Supreme Court's 150th anniversary commemorations in 2025.

I hope you enjoy our 2023 Year in Review.



**The Right Honourable  
Richard Wagner, P.C.**

Chief Justice of Canada



# Message from the Registrar

**A**s Registrar of the Supreme Court of Canada, I am privileged to lead an exceptional team responsible for the administration of Canada's final court of appeal. I am proud of the work we do to ensure a safe, diverse and inclusive workplace and promote professional development opportunities for all employees.

Our dedicated team is continuously embracing the latest technologies and best practices to support the work of the Court. This kind of adaptability is so important, as the Court heard 49 appeals, and welcomed 95 main parties and 124 interveners in 2023 alone.

Last winter, we were thrilled to launch our secure electronic filing portal for counsel and self-represented litigants. Already, some 14,000 documents have been submitted, and this transformational initiative is helping to streamline case administration and facilitate access to justice.

It is just the latest example of how we are working to make the Court more accessible to Canadians. Our tour programs, educational resources, and robust social media presence, for instance, help build awareness of the Court's role and work. Our website, meanwhile, has long been an important forum where Canadians can access case information, follow hearings and judgments, submit case files and more. To further enhance the user experience, work is well underway on the next iteration of a modern

and accessible website. Continue to follow us on social media for the latest updates.

Our employees are essential to ensuring we remain a global leader in court modernization and innovation. I was pleased to end the year by celebrating those who had attained milestone anniversaries in service to Canadians. I was also honoured to present the Registrar's Award to members of the team who helped ensure the continuity of Court operations despite the challenges presented by the COVID-19 pandemic. In fact, helping others is an area where our team excels – staff raised \$44,328 through the Court's 2023 annual charitable campaign.

As we prepare for our 150th anniversary in 2025, we look forward to another year of hard work in service to the Court and the Canadian public.



**Chantal Carbonneau**

Registrar,  
Supreme Court of Canada





## The Supreme Court of Canada Emblem

First adopted in March 2021, the Supreme Court of Canada emblem communicates the Court's role and traditions while symbolizing the fundamental principle of judicial independence. Reflected in the design are Canada's common law and civil law traditions, the bilingual nature of the court, the nine judges and the court's central role as the final court of appeal. Also represented are Indigenous contributions to Canadian society and law, and Canada's status as a constitutional monarchy. The emblem recalls the ideals of transparency and accessibility, excellence, mutual peace and respect, and finally, harmony and collegiality. It also bears the Court's chosen motto *Justitia et Veritas*, or Justice and Truth, which are also the names of the two statues that stand vigil outside the Court.

# About the Supreme Court of Canada

Established in 1875, the Supreme Court is Canada's final court of appeal. As the highest court in the land, it has final jurisdiction over disputes in every area of the law. Since its inception, the Court has played a crucial role in shaping Canada's legal landscape, providing the foundation for a strong and secure democratic country founded on the Rule of Law.

The Supreme Court of Canada consists of nine judges, including the Chief Justice of Canada. All judges are appointed by the Governor-in-Council. By law, three judges must come from Québec, to ensure the Court can deal with civil law cases from that province.

The nine judges hear and decide cases in both English and French on legal issues that are important to the public and help develop Canadian law. The Court is also *bijural*, which means it applies the law according to common law and civil law legal traditions.

There are no trials or juries at the Supreme Court. No one testifies or introduces new evidence. Judges consider written and oral arguments from the main parties, and ask them questions. They may also hear from interveners who often represent members of the public with a special interest on a legal issue.

The Supreme Court of Canada is open, impartial and independent, and is respected around the world for its culture of judicial excellence. It is an active and valued member of several international organizations, and it regularly participates in judicial exchanges with top courts around the world.

# Judges of the Supreme Court



**The Rt. Hon. Richard Wagner, P.C.**  
**Chief Justice of Canada**  
Appointed to the Supreme Court in 2012  
Appointed Chief Justice in 2017



**The Hon. Andromache Karakatsanis**  
Appointed to the Supreme Court in 2011



**The Hon. Suzanne Côté**  
Appointed to the Supreme Court in 2014



**The Hon. Malcolm Rowe**  
Appointed to the Supreme Court in 2016



**The Hon. Sheilah L. Martin**  
Appointed to the Supreme Court in 2017



**The Hon. Nicholas Kasirer**  
Appointed to the Supreme Court in 2019



**The Hon. Mahmud Jamal**  
Appointed to the Supreme Court in 2021



**The Hon. Michelle O'Bonsawin**  
Appointed to the Supreme Court in 2022



**The Hon. Mary T. Moreau**  
Appointed to the Supreme Court in 2023



# Transitions at the Court



◀ The Honourable Mary T. Moreau is officially sworn in by the Right Honourable Richard Wagner, Chief Justice of Canada on November 6, 2023.

▼ The judges of the Supreme Court of Canada



On November 6, 2023, the Honourable Mary T. Moreau was officially sworn in as Justice of the Supreme Court of Canada at a private ceremony with the Chief Justice and her new colleagues.

Justice Moreau was appointed as a judge of the Court of King's Bench of Alberta in 1994. She was appointed as a deputy judge of the Supreme Court of Yukon in 1996, and of the Supreme Court of the Northwest Territories in 2005. In 2017, she was appointed Chief Justice of the Court of King's Bench of Alberta. Throughout her career as a judge, she has been extensively involved in judicial education, administration, and ethics, both in Canada and internationally. She is also a strong advocate for access to justice in both of Canada's official languages.

With Justice Moreau's appointment, the Supreme Court of Canada has a majority of women judges for the first time in its history.

# Judicial Independence

## A Hallmark of our System of Government

### The Three Branches of Government

Canada's Constitution sets out the basic principles of our democracy when it defines the three branches of governance in this country:

- **the executive**, which decides policy and oversees the day-to-day operations of government;
- **the legislative**, which makes and passes laws; and
- **the judiciary**, which interprets and applies the law and the Constitution.

The three branches provide essential checks and balances on one another — they all serve different functions, but are equally important.

### Judicial Independence

Keeping the judiciary separate from the other two branches helps ensure one of the hallmarks of our system of governance: the principle of judicial independence.

Judicial independence means that the judiciary has the ability to make decisions based solely on fact and law, free of any influence from government or outside parties.

Few principles are more important to the preservation of the Rule of Law, democratic values, and fostering public confidence in our institutions.

In 2019, the Minister of Justice and the Chief Justice of Canada entered into an accord to strengthen the independence of the Supreme Court of Canada.



“...there is no democracy without judicial independence. These are principles that all of us need to uphold — from reporters to politicians, to lawyers and judges, to members of the public.”

— **The Right Honourable Richard Wagner, P.C.**  
*Chief Justice of Canada*

# Canada's Highest Court

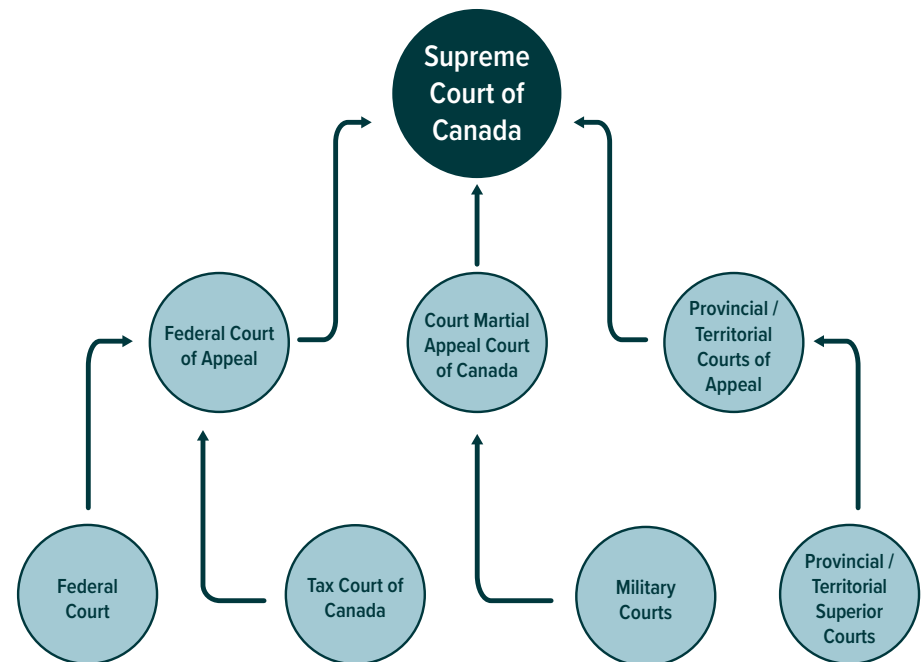
Cases can come to the Supreme Court in three ways:

**1** In most cases, a party has asked for leave (permission) to appeal a decision from a lower court. These include the provincial and territorial appeal courts, the Federal Court of Appeal or the Court Martial Appeal Court of Canada. The Supreme Court will only hear cases judges consider to be of public importance.

**2** In some instances, leave is not required as parties have an automatic right to appeal. For example, in some types of criminal cases, an appeal may be brought as of right when one judge in the court of appeal has dissented on a point of law.

**3** The Court also hears references, which are requests from a government for an advisory legal opinion. Reference cases often ask if a proposed or existing legislation is constitutional, for example whether the federal government has the right to legislate certain activities. The Supreme Court has answered a wide variety of reference questions over the years, on topics such as climate change, same-sex marriage, Senate reform and more.

How the courts are organized



# Open and Transparent

The Supreme Court of Canada is internationally respected for its openness and transparency. As one of Canada’s most important public institutions, the Court endeavours to make its work accessible to the public.

## Accessing Hearings & Case Information

Supreme Court hearings are open to the public, and most are available via webcast either live or on-demand.

Case summaries and decisions are made available on the Court’s website. In order to help more people understand the legal issues and outcome of its decisions, plain-language summaries, called *Cases in Brief*, are published for every judgment.

## Keeping the Media & Public Informed

The Court supports journalists in their work of reporting on legal matters by informing them of hearings and judgments, fielding their inquiries, and holding briefings on all appeals. In addition, the Chief Justice holds an annual news conference to update the media and public on the work of the Court.

The Court summarizes its activities and initiatives each year in this report. The Court also provides timely updates on its activities on its social channels, which include Instagram, LinkedIn, Facebook and X, formerly known as Twitter.

Work is well underway on the next iteration of our website to make it even more accessible, open and transparent. The website will continue to provide timely, accurate and relevant information, with improved design and navigation, thus enhancing the visitor experience.

“From ensuring that hearings and case information are available in real-time, to keeping the media well-informed of hearings and judgments, to our many different outreach initiatives, our Court is recognized around the world for promoting openness and transparency.”

— **The Right Honourable Richard Wagner, P.C.**  
*Chief Justice of Canada*



◀ The Right Honourable Richard Wagner, P.C., Chief Justice of Canada at the annual news conference, June 13, 2023.



◀ Journalists ask questions to the Chief Justice at the annual news conference, June 13, 2023.



▲ Justice Suzanne Côté welcomes students from Université de Sherbrooke.



▲ Justice Sheilah L. Martin meets with law students from the University of Ottawa.



▲ Justice Nicholas Kasirer welcomes educators from the Teachers Institute on Canadian Parliamentary Democracy.

## Outreach and Education

The Court is pleased to engage in a wide variety of education and outreach initiatives throughout the year directed at teachers and students, members of the legal community, and the public at large. Promoting understanding of the Supreme Court's role is essential in making the work of the judiciary more accessible to Canadians, given that its decisions have an impact on our society. These efforts also allow young people to gain insight into possible career paths in the law.

### **Strengthening Awareness of the Supreme Court's Role**

Consistent with its efforts to promote openness and transparency, the Court is pleased to welcome individuals and school groups for guided tours, both in-person and online. These tours offer not just a look inside our historic building, but a chance to hear more about the role and function of the Court from one of our knowledgeable, bilingual guides.

The Supreme Court also strives to empower educators with the knowledge and tools they need to teach the next generation of informed citizens about our judicial system. Our educational kit provides a range of resources such as a printable handout on the role of the Court, an activity book for younger students, and a lesson plan for hosting a mock trial in the classroom.

A visit by the Teachers Institute on Canadian Parliamentary Democracy has become an annual highlight. This unique program allows engaged law, civics and social studies teachers to experience Canadian public institutions up close, including the Supreme Court. Each year, participants get the chance to tour our building, sit in our courtroom and hear more about the work of a Supreme Court judge.



▲ Justices from the Supreme Court of Canada welcome representatives from the Canadian Bar Association, Federation of Law Societies of Canada, and the Advocates Society.

### Promoting Access to Justice

Judges of the Supreme Court are strong proponents of the principle of access to justice. The challenges associated with access to justice have been well-documented, and all stakeholders in the justice system have a role to play in solving them.

Members of the Court also recognize the value of initiatives like law clinics, legal aid programs, pro bono and duty counsel work. There are many grassroots organizations across the country working to ensure members of the public are aware of their legal rights, can access legal information, and know where to turn for affordable legal representation.

The leadership provided by the Action Committee on Modernizing Court Operations — co-chaired by the Chief Justice and the Minister of Justice — is instrumental in improving access to justice for



▲ Justice Andromache Karakatsanis with participants from the National Action Committee on Access to Justice in Civil and Family Matters Annual Summit.

court users. Initially formed to ensure the continuity of court operations in the wake of the COVID-19 pandemic, the committee's mandate was recently broadened and its term extended through 2024.

Under the leadership of Justice Andromache Karakatsanis, the National Action Committee on Access to Justice in Civil and Family Matters also continues to identify new approaches on this critical issue.

### Engaging with the Legal Community

Members of the Supreme Court often participate in initiatives hosted by national, provincial and local bar associations and law societies. Representatives from the Court also collaborate with administrators and professionals from other courts to exchange ideas and best practices.

Judicial independence, access to justice, and mental health and wellness have been particularly



▲ The Supreme Court hosted the closing meeting of the Heads of Courts Administration Annual Conference.

salient topics of discussion in recent years. The legal community is not immune from the challenges observed in broader society.

Judges of the Supreme Court also meet regularly with students from Canadian universities, providing opportunities to discuss various issues and hear more about their career paths.

### Supporting Judicial Education

The strength of our justice system depends on a highly-skilled, dedicated, and professional judiciary. The Canadian Judicial Council, chaired by the Chief Justice, ensures that judges are kept at the forefront of our justice system. The Chief Justice also serves as chair of the National Judicial Institute, an independent, judge-led organization that develops and delivers a range of educational programs to Canada's judiciary.

# International Engagement



◀ The Court welcomed a number of international visitors in 2023, including Elke Bündenbender, First Lady of Germany.

▼ The Chief Justice meets with a delegation from Japan. Pictured are Second Secretary Tatsuya Kawafuchi, Supreme Court Justice Michiharu Hayashi and Fukuoka District Court Judge Yoshitaka Moriyama.



The Supreme Court of Canada is recognized as a leader in the international judicial community. Court members and staff often liaise with their counterparts from around the world to promote the importance of key principles like openness, access to justice and judicial independence.

## Participating in Judicial Exchanges

Judicial exchanges with other Courts around the world provide unique opportunities for the exchange of views and experiences, allowing judges to share best practices and discuss topics of mutual interest.

## Contributing to International Judicial Organizations

The Supreme Court of Canada is a proud member of international judicial organizations such as the Association of Francophone Constitutional Courts, the Association des Hautes Juridictions de Cassation des pays ayant en partage l'usage du Français, the International Association of Supreme Administrative Jurisdictions and the World Conference on Constitutional Justice.

## Welcoming International Visitors & Delegations

Meetings with foreign visitors and delegations provide important opportunities to discuss a broad range of matters such as court modernization, judicial cooperation and the Rule of Law, and hear how other courts around the world are addressing emerging legal issues.

Some of the Court's key international engagements in 2023 are highlighted on the following pages.



## 2023 International Engagements at a Glance

March

20

### Meeting with Members of the Diplomatic Community

The Chief Justice was pleased to meet with members of the diplomatic corps — the body of foreign diplomats and heads of mission assigned and accredited to Canada. Participants had the opportunity to learn more about the history and role of the Court as well as the importance of judicial independence. The visit renewed an annual tradition that had been on hold since the pandemic.



March

27-30

### Asia Pacific Judicial Colloquium

Chief Justice Richard Wagner and Justices Mahmud Jamal and Michelle O’Bonsawin participated in the Asia Pacific Judicial Colloquium in New Zealand, with their counterparts from New Zealand, Australia, Singapore and Hong Kong. The Colloquium provides a forum for discussion on court administration and substantive law. They delivered remarks respectively on misinformation, parliamentary privilege and the duty to consult Indigenous Peoples.



April

13

### World Law Congress at the United Nations

In recognition of his outstanding contribution to upholding and promoting the Rule of Law, the World Jurist Association presented the Chief Justice with its Medal of Honor at a special ceremony at the United Nations in New York, during the Opening Sessions of the World Law Congress.



May  
04

### Meeting with the American Political Science Association (APSA) Congressional Fellowship Program

Justice Malcolm Rowe welcomed PhD students from the APSA Congressional Fellowship Program. This longstanding exchange provides an intensive comparative study between Westminster-style and US-model parliamentary systems. A visit to the Supreme Court allowed participants to examine the similarities and differences between the United States and Canada from a judicial perspective, as well.



June  
01

### Association des cours constitutionnelles francophones (ACCF)

The ACCF brings together 50 constitutional courts from French-speaking countries, enabling the exchange of ideas and experiences on strengthening the rule of law. It also promotes international judicial training and cooperation. The Chief Justice served as president of the association from 2019 to 2022, and continues to serve on the ACCF's board with representatives from nine other countries. The board met in Lausanne, Switzerland, in June.



July  
10-14

### The Cambridge Lectures

Chief Justice Richard Wagner and Justices Nicholas Kasirer, Mahmud Jamal and Michelle O'Bonsawin were honoured to participate in the Cambridge Lectures at Cambridge University in the United Kingdom (U.K.). The Chief Justice serves as Patron of this lecture series. During these events, he was invited to speak about comparative law, public confidence in the judiciary and judicial independence at the U.K. Supreme Court with its President, Lord Robert John Reed of Allermuir.



September

08-09

### Judicial Exchange with the Supreme Court of the United States

Members of the Supreme Court of Canada welcomed the Chief Justice of the United States John G. Roberts, Jr., Associate Justice Elena Kagan and retired Associate Justice Stephen G. Breyer. Discussions focused on challenges and opportunities for apex courts over the coming decade, including the management of the court docket, the role of intervenors and artificial intelligence. Also discussed were the importance of public communications and outreach activities to strengthen public confidence in the justice system.



September

10-13

### 35th Anniversary of the Constitutional Court of Korea

The Chief Justice travelled to Seoul to celebrate the 35th Anniversary of the Constitutional Court of Korea. He was invited as a keynote speaker to share the Canadian perspective on proportionality review in constitutional law in a lecture delivered to Court members, staff and academics.



November

29

### Visit with delegation from Mongolia

In collaboration with the Office of the Commissioner for Federal Judicial Affairs, the Supreme Court was honoured to welcome a delegation from Mongolia. Representatives from the Court shed light on our approach to public outreach and media relations. It was just one of many such visits hosted by the Court each year with judicial officials from around the world.



# | Court Staff

Behind the scenes, a dedicated team works in service to Canadians

Whether you are a legal professional, an appellant, or a member of the public wanting to visit, a dedicated team of professionals works to ensure the smooth administration of Canada's highest court. From experts in legal translation, to specialists in information technology, human resources, security and protocol, employees bring expertise in many different areas. This allows the Court to operate safely, transparently and efficiently.

The registry assists those filing submissions or appearing before the Court. Over the past year, staff answered more than 4,400 phone calls from counsel, self-represented litigants and the general public.

The Supreme Court's library is home to one of Canada's richest collections of legal materials for the Court's judges, lawyers and law clerks. Other users of the library include lower court judges, members of any bar association, law professors and anyone with special authorization to access the library collection.

Supreme Court judges also count on the support of their law clerks. These recent graduates from law schools across the country research points of law, prepare memoranda of law and generally assist judges in the work of the Court. Like other staff of the Court, law clerks are employees of the Office of the Registrar of the Supreme Court of Canada.

Staff in these and many other roles are always there for Canadians, working to raise awareness of the Court and uphold the principles of fairness, access and openness which underpin the administration of justice.



# Spotlight on Protocol Services

## Nimble team upholds welcoming traditions of the Supreme Court of Canada

“You can never be too organized,” says Michel Gallant, Executive Director of Judicial Support and Protocol at the Supreme Court of Canada. It’s a phrase that has quickly become his team’s motto.

For the average person, planning for a single special occasion can feel overwhelming. But the Supreme Court has an ambitious outreach agenda that includes countless ceremonies, special events and international engagements every year.

That’s where the Court’s small but mighty Protocol team comes in. Last year alone, the team organized many visits and events and coordinated travel around the world. From passports to transportation, accommodation and hospitality, everything is meticulously planned in advance.

Working in Protocol requires exceptional organizational skills and attention to detail.

“Events can change unexpectedly, but we always find a solution,” says Protocol Officer Marie Malo. She relishes the chance to be a problem-solver and likes to think of everything as a learning opportunity.

“Adaptability is so important,” says Julie Lestage, Manager, Events Coordination and Protocol Services.

Marie, Julie and Michel have a talent for making visitors feel welcome, from the moment they step into the Court’s majestic Grand Entrance Hall. They are immensely proud of their work because they know it has a positive impact on how the Court is perceived, both in Canada and beyond.

Julie’s desk drawer is full of thank you notes from delegations from all over the world. “It’s always nice when someone takes the time to send a hand-written note,” Julie shares with a big smile.

During his 22 years at the Supreme Court, Michel has welcomed 18 different justices and overseen countless events with the Protocol team.

“Every new initiative we work on is an exciting and rewarding experience,” he says. “But we wouldn’t be able to do any of it without collaboration from all branches and sectors of the Court.”



# Visiting the Court

## Take a Guided Tour

Interested in learning more about the Supreme Court of Canada? Tours are offered year-round in both English and French. During the summer months, reservations are not required but recommended for groups of 10 or more. Tours are available at all other times of the year by reservation only. For more information, contact us at [tour-visite@scc-csc.ca](mailto:tour-visite@scc-csc.ca).

## Participate in a Remote Tour

You are invited to join us for a virtual tour, which includes a presentation on the role and function of the Court from one of our knowledgeable, bilingual guides. For reservations, contact us at [tour-visite@scc-csc.ca](mailto:tour-visite@scc-csc.ca).

## Attend a Hearing

Court hearings are open to the public. Hearings are held from Fall to Spring. Consult the schedule on the Supreme Court website and reserve your seat by contacting [bookingregistry-reservationgreffe@scc-csc.ca](mailto:bookingregistry-reservationgreffe@scc-csc.ca). You may also view hearings both live and on-demand on the Court's website. Whether you choose to follow proceedings in person, online, or on television, simultaneous interpretation is available in both English and French.

## Access Case Information

Case information is available on the Supreme Court website. Judgments are also posted online, along with a one-page summary of each decision called the Case in Brief.

## Connect with Us

We also encourage Canadians to stay connected with the Court on Instagram, LinkedIn, Facebook and X, formerly known as Twitter.



# Decisions of the Court

	Case Name	Origin	Decision Date
1	R. v. S.S.	Ont.	Jan. 10
2	R. v. Hills	Alta.	Jan. 27
3	R. v. Hilbach	Alta.	Jan. 27
4	R. v. McGregor	C.M.A.C.†	Feb. 17
5	R. v. Metzger	Alta.	Feb. 14
	Decision rendered from the bench (written reasons March 3, 2023)		
6	R. v. Downes	B.C.	Mar. 10
7	R. v. Chatillon	Que.	Mar. 15
8	R. v. McColman	Ont.	Mar. 23
9	R. v. Breault	Que.	Apr. 13
10	Murray-Hall v. Quebec (Attorney General)	Que.	Apr. 14
11	R. v. Haevischer	B.C.	Apr. 28
12	R. v. Hanan	Ont.	Apr. 17
	Decision rendered from the bench (written reasons May 5, 2023)		
13	Anderson v. Anderson	Sask.	May 12
14	Hansman v. Neufeld	B.C.	May 19
15	R. v. Hay	Alta.	May 19
16	Deans Knight Income Corp. v. Canada	F.C.A.‡	May 26
17	Canadian Council for Refugees v. Canada (Citizenship and Immigration)	F.C.A.‡	June 16

† C.M.A.C. is the abbreviation for "Court Martial Appeal Court of Canada"

‡ F.C.A. is the abbreviation for "Federal Court of Appeal"

\* This decision covers more than one case

	Case Name	Origin	Decision Date
18	R. v. Basque	N.B.	June 30
19	R. v. Abdullahi	Ont.	July 14
20	R. v. Kahsai	Alta.	July 28
21	Mason v. Canada (Citizenship and Immigration)	F.C.A.‡	Sept. 27
22	La Presse inc. v. Quebec*	Que. B.C.	Oct. 6
	Reference re <i>Impact Assessment Act</i>	Alta.	Oct. 13
24	R. v. Johnson	Ont.	Oct. 13
25	Ponce v. Société d'investissements Rhéaume ltée	Que.	Oct. 27
26	R. v. Bertrand Marchand*	Que.	Nov. 3
27	Canadian Broadcasting Corp. v. Manitoba	Man.	Nov. 9
28	R. v. Greater Sudbury (City)	Ont.	Nov. 10
29	Sharp v. Autorité des marchés financiers	Que.	Nov. 17
30	R. v. Zacharias	Alta.	Dec. 1
31	Commission scolaire francophone des Territoires du Nord-Ouest v. Northwest Territories (Education, Culture and Employment)	N.W.T.	Dec. 8
	R. v. B.E.M.	Alta.	Dec. 8
33	R. v. Lindsay	Alta.	Dec. 14
34	R. v. Lawlor	Ont.	Dec. 15

# A Landmark Decision

## Reference re *Impact Assessment Act*

In October, the Supreme Court made a landmark ruling in a case that looked at the constitutionality of the federal environmental assessment scheme. Asked to consider whether the *Impact Assessment Act* and one of its regulations went beyond Parliament’s legislative authority under the Constitution, the Court ultimately ruled the federal impact assessment scheme is largely unconstitutional.

The *Impact Assessment Act* and its regulations establish a complex information gathering and regulatory scheme in two parts. Firstly, sections 81 to 91 of the Act establish an impact assessment process for projects carried out or financed by federal authorities on federal lands or outside Canada. It requires the federal authority to decide if the project will likely cause significant adverse environmental effects and, if so, whether these effects are justified in the circumstances. Secondly, the remaining provisions in the Act and the regulations outline what projects are considered “designated projects” under the Act, which thus makes them subject to federal review.

Alberta’s Lieutenant Governor referred the matter to the province’s Court of Appeal. A majority of the Alberta Court of Appeal concluded that

the Act and the regulations were beyond (*ultra vires*) Parliament’s legislative authority under the Constitution and, therefore, unconstitutional.

The Attorney General of Canada then appealed this decision to the Supreme Court.

Writing for a majority of the Court, Chief Justice Wagner ruled that the federal impact assessment scheme is partly unconstitutional. While the constitutionality of sections 81 to 91 of the Act was not challenged, Chief Justice Wagner said that the process set forth therein is constitutional. However, the balance of the scheme — the “designated projects” portion — is *ultra vires* and thus unconstitutional for two reasons. First, it is not directed at regulating “effects within federal jurisdiction” as defined in the Act. Second, the defined term “effects within federal jurisdiction” does not align with federal legislative jurisdiction.

As Chief Justice Wagner wrote, “[e]nvironmental protection remains one of today’s most pressing challenges. To meet this challenge, Parliament has the power to enact a scheme of environmental assessment. Parliament also has the duty, however, to act within the enduring division of powers framework laid out in the Constitution”.





# Other Notable Decisions

(in order of date of delivery)

## **R. v. McGregor**

The Supreme Court rules Canadian military investigators did not violate the Charter of Rights and Freedoms while investigating a Canadian soldier's criminal activity abroad.

## **R. v. McColman**

The Supreme Court restores the conviction of an Ontario man after determining that evidence obtained from an unlawful sobriety stop was nonetheless admissible.

## **Murray-Hall v. Quebec (Attorney General)**

The Supreme Court rules that Quebec's ban on possessing and cultivating cannabis plants for personal purposes is constitutional.

## **Anderson v. Anderson**

The Supreme Court clarifies when courts must consider certain domestic agreements in dividing family property under Saskatchewan's legislation.

## **Hansman v. Neufeld**

The Supreme Court restores a B.C. court's dismissal of a defamation suit, concluding that the public interest in protecting free debate on matters of public interest outweighed the reputational harm caused to the plaintiff.

## **Deans Knight Income Corp. v. Canada**

The Supreme Court upholds a decision by the Minister of National Revenue to deny tax deductions to a British Columbia-based company that engaged in abusive tax avoidance.

## **Canadian Council for Refugees v. Canada (Citizenship and Immigration)**

The Supreme Court holds the regulations designating the United States as a safe third country do not infringe refugee claimants' rights to liberty and security of the person.

## **Mason v. Canada (Citizenship and Immigration)**

The Supreme Court quashes immigration decisions that found two foreign nationals inadmissible to Canada.

## **La Presse inc. v. Quebec**

The Supreme Court confirms publication bans on matters heard before the juries were empanelled in two criminal cases.

## **R. v. Bertrand Marchand**

The Supreme Court confirms that mandatory minimum sentences for child luring are unconstitutional.

## **Sharp v. Autorité des marchés financiers**

The Supreme Court dismisses the appeals of four British Columbia residents accused of stock price manipulation by a Quebec financial authority. The Court concluded that a Quebec administrative tribunal had jurisdiction over out-of-province residents accused of fraudulently manipulating the stock prices of a company with links to Quebec.

## **Commission scolaire francophone des Territoires du Nord-Ouest, A.B., et al. v. Minister of Education, Culture and Employment of the Northwest Territories, et al.**

The Supreme Court sets aside ministerial decisions refusing to admit children of non-rights holder parents to French schools in the Northwest Territories.

# Caseload

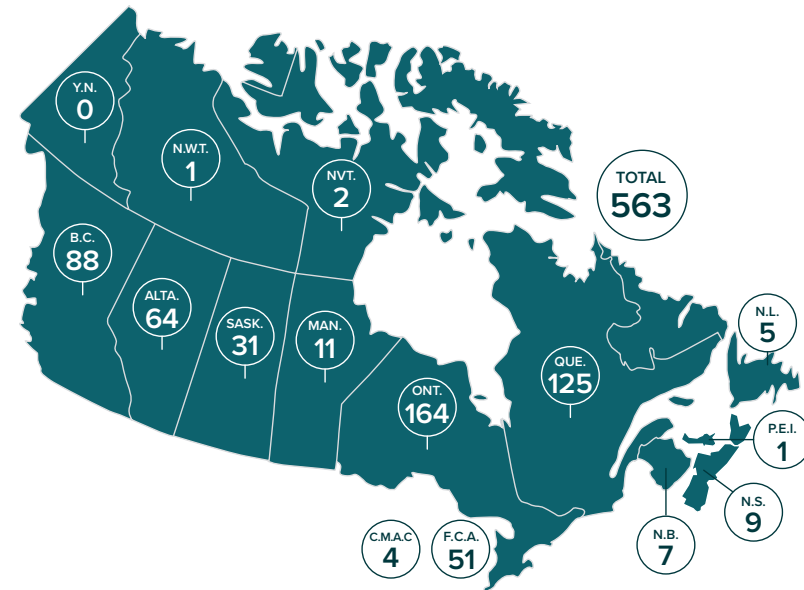
After three consecutive years with fewer than 500 leave applications filed by parties, the Court saw an increase in 2023, with 523 applications filed. This is consistent with pre-pandemic numbers, but the number of appeals as of right filed (10) was less, as was the number of appeals heard (49) and judgments rendered (36). The average time between the hearing of an appeal and rendering of a judgment increased slightly to 5.5 months. Of note, a majority of the appeal judgments were unanimous, which is consistent with the previous year.

Most of the applications for leave to appeal were filed by lawyers on behalf of their clients, but 28% were brought forward by self-represented litigants, which is the same as 2022.

The Court does not give reasons for its decisions on leave applications, but will only hear cases it considers to be of public importance.

## Applications for Leave Referred for Decision Number of Applications by Origin

From provinces, territories and the federal level



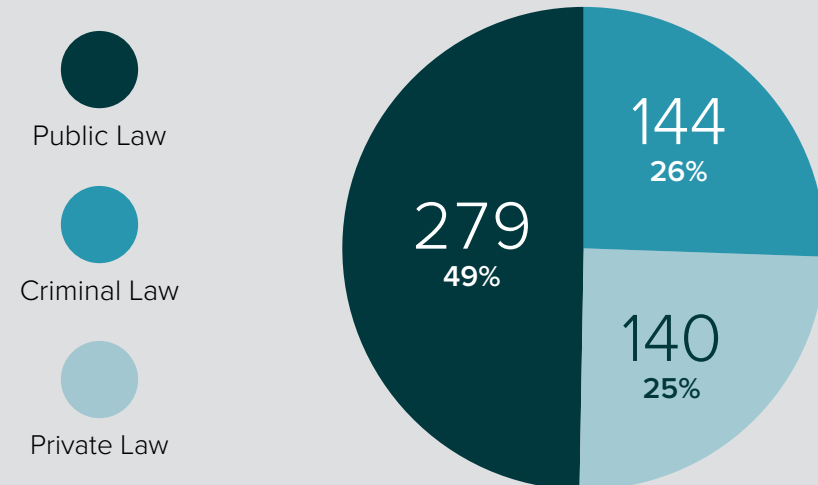
### Categories of Law

Public law includes constitutional and administrative legal matters. In constitutional cases, the Court interprets Canada's Constitution, including the *Canadian Charter of Rights and Freedoms*. Administrative law appeals come from non-court decisions by governments or their agencies and tribunals in areas such as labour relations, taxation and human rights.

Criminal law appeals come from prosecutions under the *Criminal Code*, or any other law that prohibits specific conduct, and impose fines or imprisonment upon those who break the law. These appeals may raise issues such as consent, sentencing and the 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 expropriation, civil liability and commercial law.

### Applications by Category



## 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.

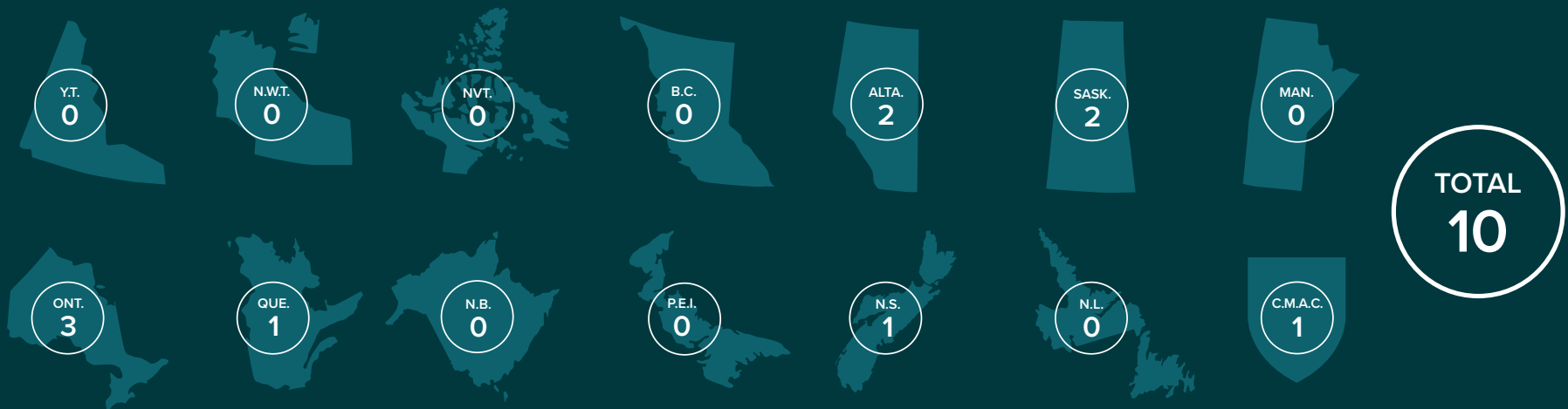
**On reserve:** appeals that haven’t been decided yet.

**Reasons:** text where a judge or sometimes more than one judge explains how they arrived at a certain decision.

## Appeals As of Right

### Number of Appeals As of Right by Origin

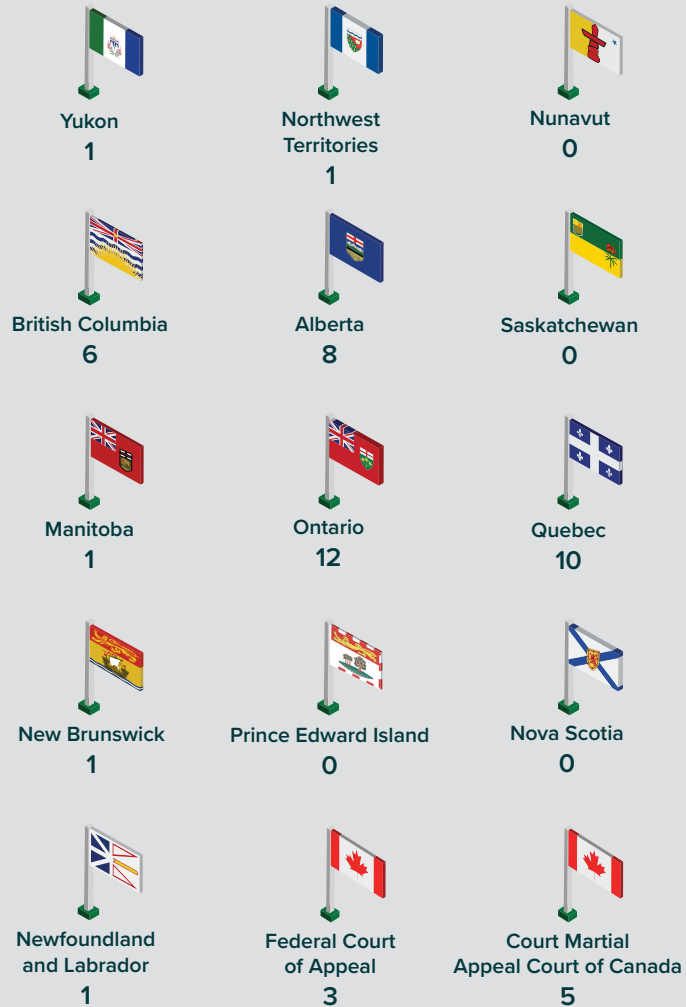
From provinces, territories and the federal level



# Appeals Heard

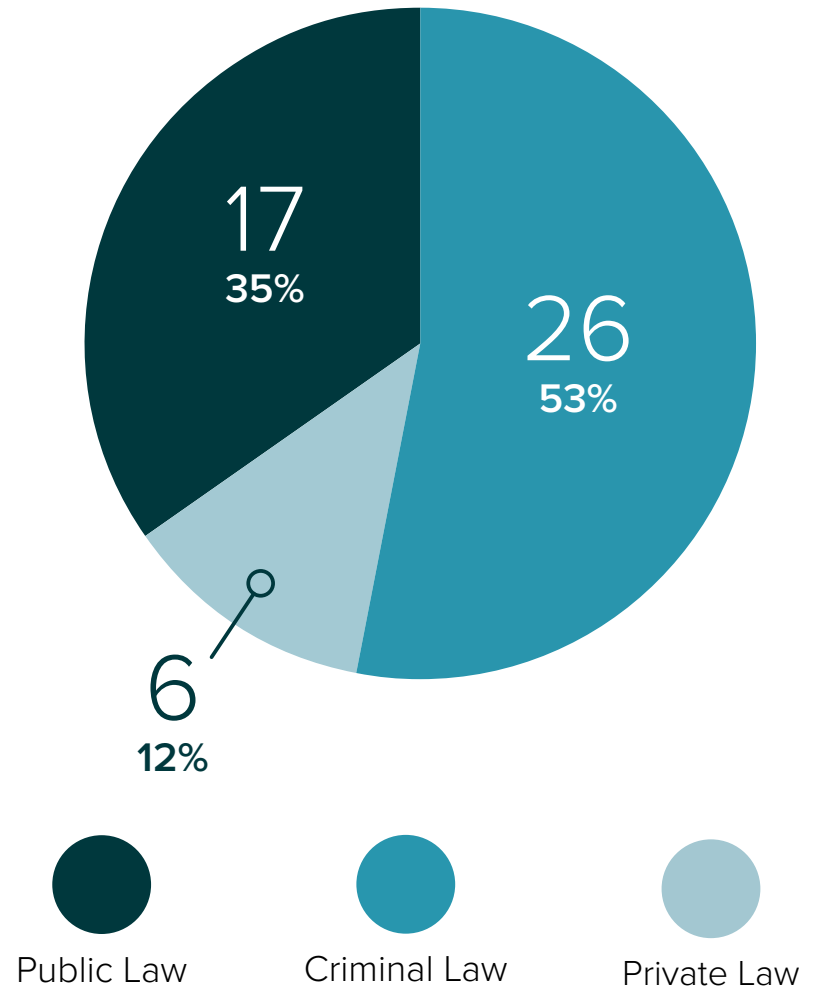
## Number of Appeals Heard by Origin

From provinces, territories and the federal level



**TOTAL**  
**49**

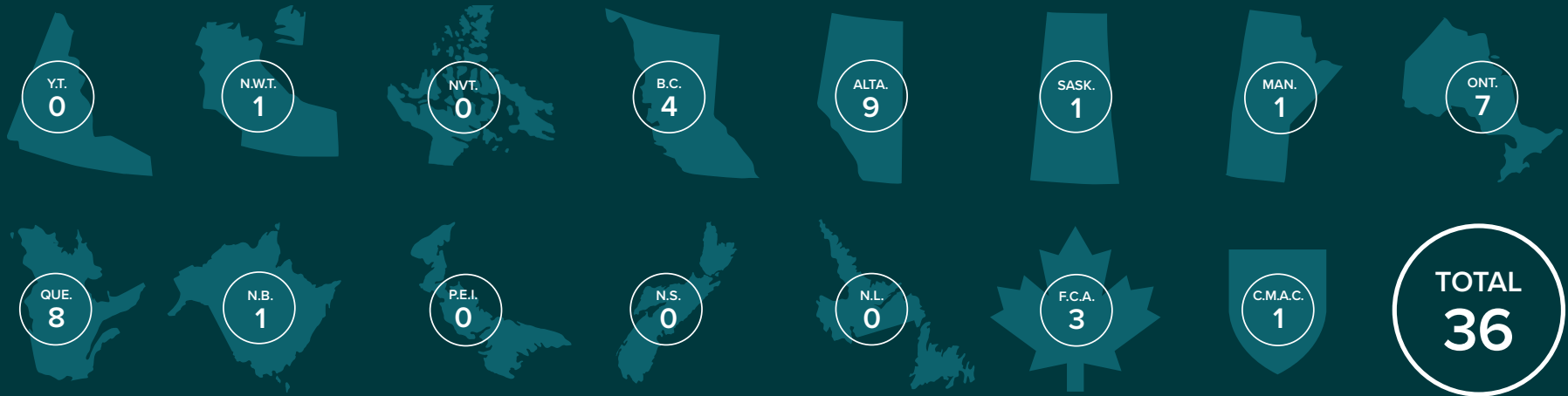
## Appeals Heard by Category



## Appeals Decided

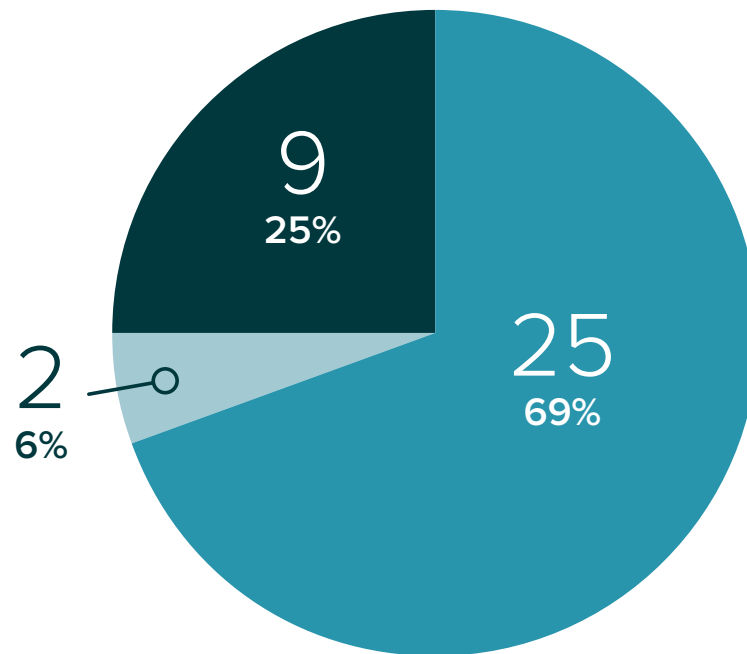
### Number of Appeals Decided by Origin

From provinces, territories and the federal level



### Appeals Decided by Category

-  Public Law
-  Criminal Law
-  Private Law



# Ten-Year Trends

This report sets out a statistical view of the work of the Supreme Court of Canada over the last decade, from 2014 to 2023. It is worth noting that due to widespread pandemic court closures across Canada from 2020 to 2022, some of the most recent data are irregular.

The first category of data shows how many applications were filed at the Court for applications for leave to appeal and notices of appeal as of right. The data also indicate how many of those cases the Court dismissed and granted.

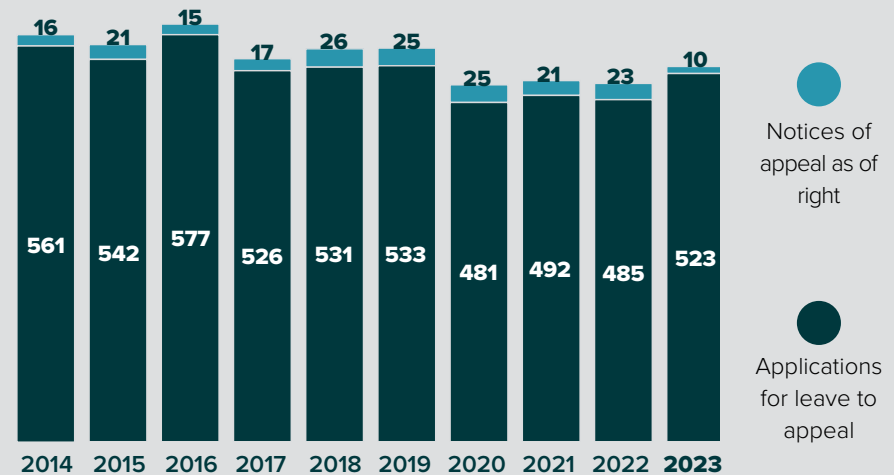
On page 29, the first table represents the number of cases heard by the Court that were as of right, and by leave. The second table establishes the caseload status at the end of the 2023 calendar year by showing how many appeals were dismissed, allowed or remained on reserve at the end of the 2023 calendar year.

The table at the top left on page 30 provides a ten-year view on how many appeals the Court has allowed and dismissed. The table at the bottom left indicates how many decisions the Court delivered from the bench or reserved for further deliberation. The two tables on the right illustrate how often the judges agree on their reasons for a judgment.

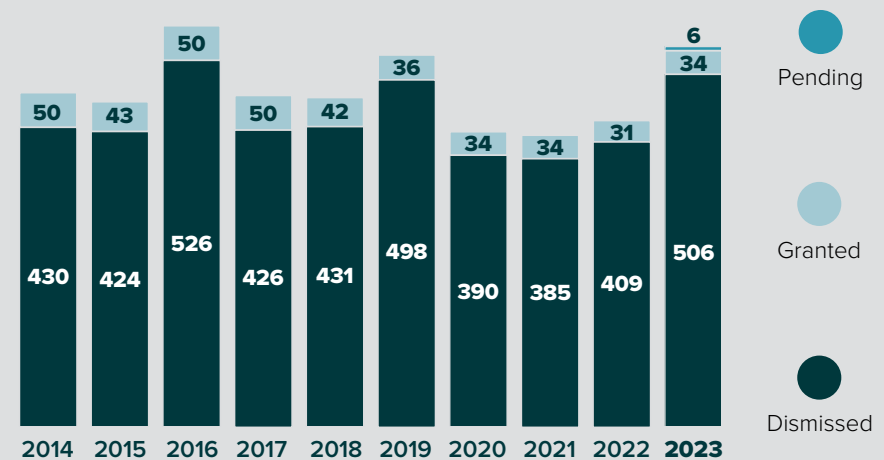
For information about the number of hearing days, head to page 31 where you will also find a table explaining how long it takes cases to make their way through different processes at the Supreme Court of Canada.

## Breakdown of Cases Filed at the Court

### Types of Cases



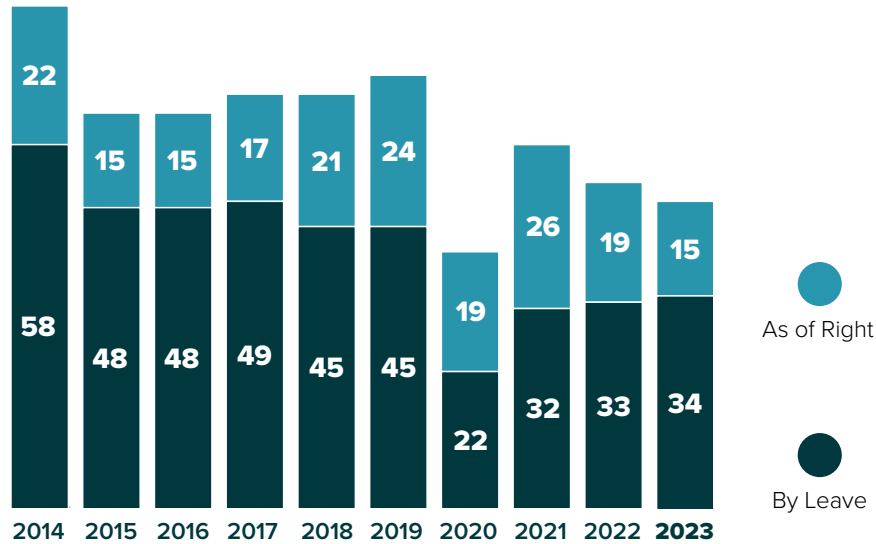
## Outcomes of Leave Applications Referred for Decision



**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

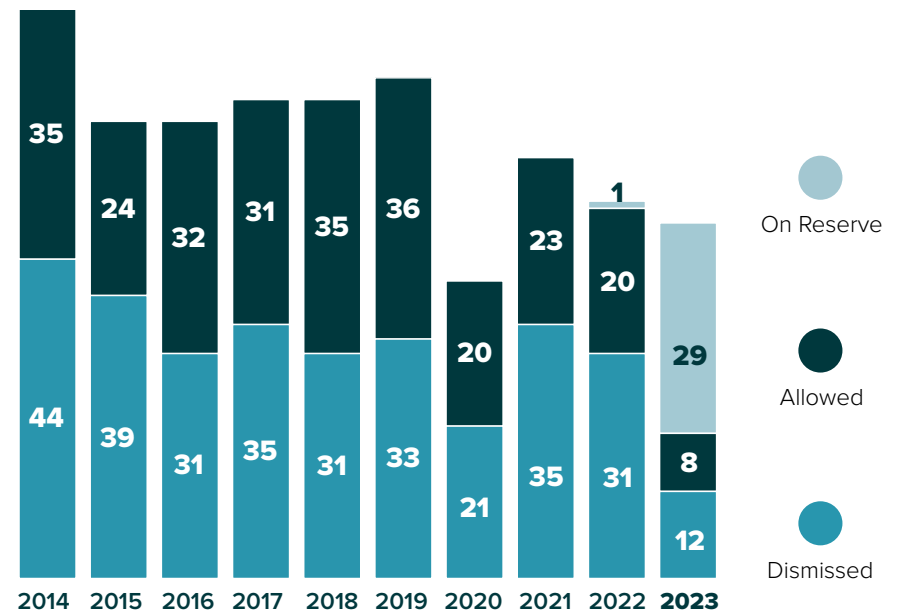
## Types of Appeals



**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.

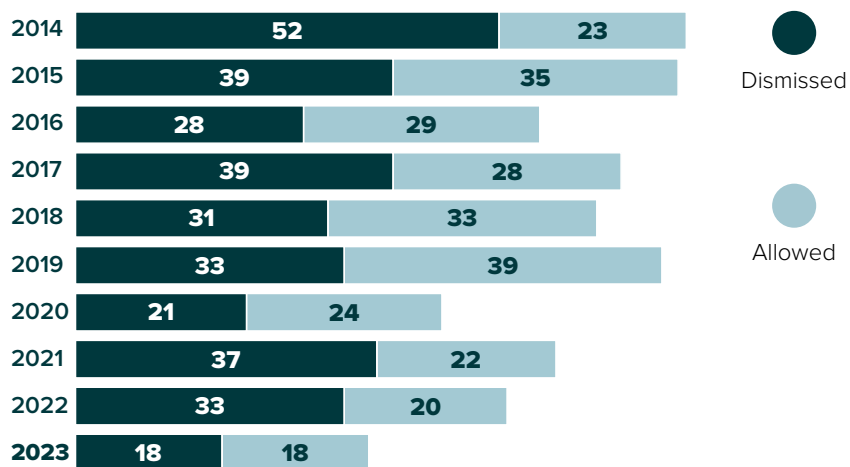
## Outcomes of Appeals Heard



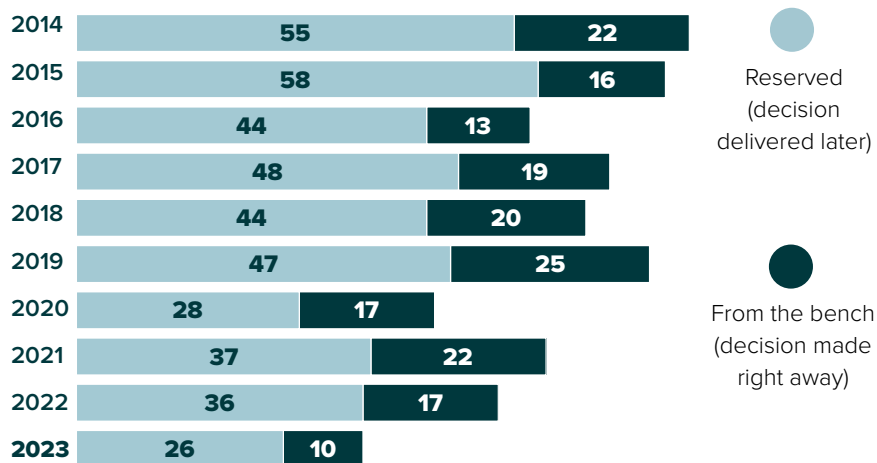
**Note:** Rehearings of appeals are not counted in these statistics.

## Breakdown of Decisions

### Outcomes of Appeals Decided

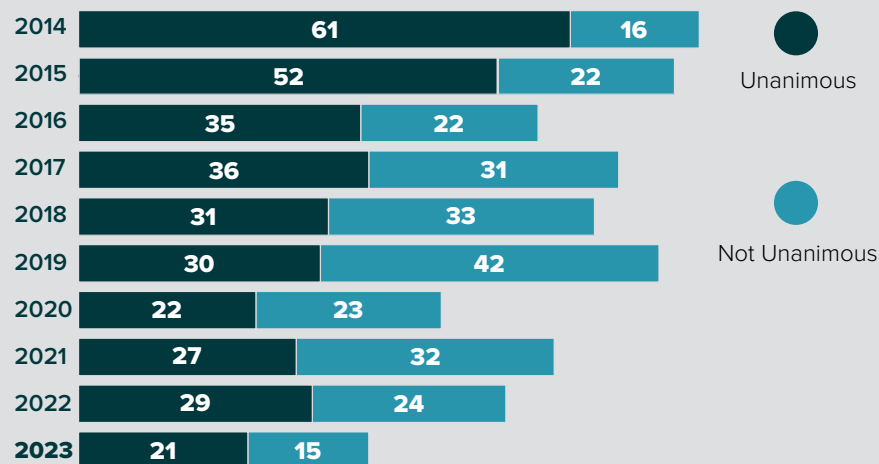


### Delivery of Decisions

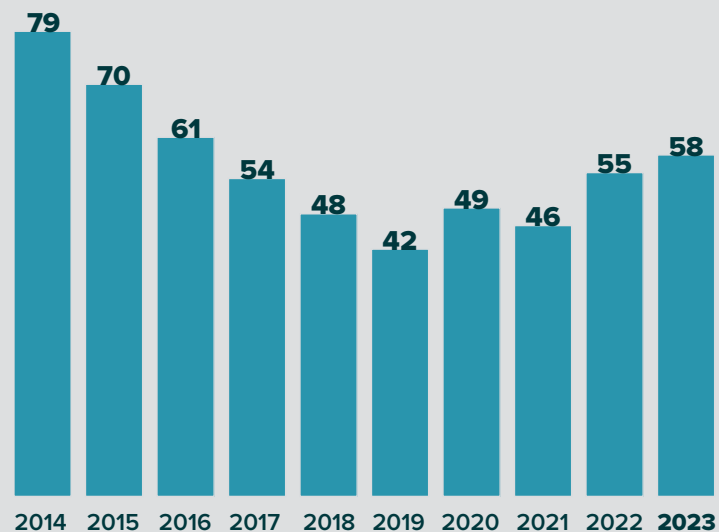


**Note:** The appeals to which these judgments relate may have been heard in a previous year. Opinions on references under s. 53 of the *Supreme Court Act* are not included.

### Agreement of Decisions



### Percentage of Unanimous 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.



## Timing

### Number of Hearing Days



### Average Time of Process Leading to Judgment in months

