



Ottawa, June 12, 2024 – The Honourable Cecily Y. Strickland of the Federal Court issued a decision today in file T-1606-19:

IN THE MATTER OF INNU NATION INC.
v.
THE ATTORNEY GENERAL OF CANADA (representing the Minister of
Crown-Indigenous Relations) and NUNATUKAVUT COMMUNITY COUNCIL
INC.
and
THE NUNATSIAVUT GOVERNMENT

Summary: The applicant, Innu Nation Inc. [Innu Nation] sought judicial review of the September 5, 2019, decision of the Minister of Crown-Indigenous Relations [Minister] to enter into a *Memorandum of Understanding on Advancing Reconciliation* [MOU] with the Respondent, the NunatuKavut Community Council [NCC].

Innu Nation submitted that the decision to conclude the MOU is incorrect and unreasonable.

In essence, Innu Nation argued that language in the preamble of the MOU referring to the NCC as “an Indigenous collective capable of holding section 35 Aboriginal rights, for the purpose of entering into discussions regarding rights recognition and self-determination,” affords NCC legal recognition to which it is not entitled. Only the Aboriginal peoples of Canada, as defined in section 35 of the *Constitution Act, 1982*, are capable of holding section 35 rights. Because NCC is not an Aboriginal people of Canada the decision to enter into the MOU was inconsistent with section 35 and therefore incorrect.

Innu Nation submitted the decision is unreasonable because it exceeds the Minister’s statutory authority, which is limited to relations with the Aboriginal peoples of Canada, and could not be justified in relation to the facts, including Canada’s previous finding that there was insufficient evidence that the NCC is one of the Aboriginal peoples of Canada.

Innu Nation also submitted that the duty to consult was triggered by the decision to enter into the MOU because the lands in relation to which NCC asserts Aboriginal rights and title overlap with lands that are the subject of treaty negotiations between Innu Nation, Canada and Newfoundland and Labrador. Innu Nation submitted that the Minister failed to discharge that duty.

The Court dismissed the application for judicial review.

The Court found that the decision to enter into the MOU is not justiciable because the MOU itself does not affect legal rights, impose legal obligations or cause prejudicial effects to any of the parties. It does not recognize NCC as an Aboriginal people of Canada and does not determine that NCC holds section 35 rights. It is an expression of good will and political commitment, and it serves to confirm a Recognition of Indigenous Rights and Self-Determination [RIRSD] discussion table process through which NCC may, or may not, be ultimately recognized as an Aboriginal people of Canada.

Federal Court



Cour fédérale

The Court also found the duty to consult was not triggered by the MOU, as the MOU itself does not have the potential to adversely affect Innu Nation's asserted rights. The duty to consult may be triggered at a later date if Innu Nation's or another Aboriginal group's rights may be affected by a product of the RIRSD discussion table, and such a possibility is contemplated by the MOU. As yet, however, any potential impacts remain speculative.

The decision is posted on the [News Bulletins](#) page of the Federal Court website.