



Ottawa, May 16, 2019 – Judgment was issued today by the Federal Court of Appeal (Pelletier, de Montigny and Gleason JJ.A.) in file A-269-18: *Canadian Judicial Council v. The Honourable Justice Michel Girouard et al.*, [2019 FCA 148](#).

The reasons are being released in French only at this time since the applications for judicial review on the merits will be considered by the Federal Court on May 22, 2019. The English translation will follow as soon as possible.

The following is an unofficial description of the Court's judgment and reasons. The text of the Court's judgment and reasons are alone authoritative.

The Canadian Judicial Council (CJC) appealed the judgment of the Federal Court rendered on August 29, 2018 ([2018 FC 865](#)), dismissing its motions to strike the applications for judicial review filed by the Honourable Justice Michel Girouard of the Superior Court of Quebec. The CJC argued that its reports and recommendations as well as those of its Inquiry Committees are not subject to judicial review under section 18.1 of the *Federal Courts Act*, R.S.C. 1985, c. F-7.

Decision: The Federal Court of Appeal has dismissed the appeal. The reports and recommendations of the CJC and its Inquiry Committees are subject to judicial review.

The CJC and its Inquiry Committees are included in the definition of “federal board, commission or other tribunal” in section 2 of the *Federal Courts Act*. They exist and exercise their powers because they were created by the *Judges Act*, R.S.C. 1985, c. J-1. While some members of the CJC are appointed under section 96 of the *Constitution Act, 1867*, they are not exercising judicial functions when they sit on the CJC. Subsection 63(4) of the *Judges Act*, which states that the CJC “shall be deemed to be a superior court”, has a limited scope and grants the usual judicial protection needed to the investigating judges. It does not, however, place the CJC beyond the reach of judicial review. The CJC is thus not subject to any exception set out in section 2 of the *Federal Courts Act*.

The reports and recommendations of the CJC and its Inquiry Committees have a major impact on the rights and interests of the judge, and, accordingly, are subject to the judicial review power of the Federal Court.