**Summary of the Case**

*ENvironnement JEUnesse v. Attorney General of Canada*

On **28 November 2018**, ENvironnement JEUnesse filed an application for authorization to bring a class action on behalf of all Quebec young people aged 35 and under against the Government of Canada. The class action is seeking a declaration that the Canadian government’s behaviour in the fight against climate change infringes on the rights of young people, as well as an order to pay punitive damages.

In **January 2019**, Justice Gary D.D. Morrison was designated to manage the authorization stage. On **6 June 2019**, ENvironnement JEUnesse presented its application for authorization of a class action to the Superior Court of Québec. The Government of Canada also delivered its position against the class action.

On **11 July 2019**, Judge Morrison delivered his judgment in which he refuses to grant ENvironnement JEUnesse the authorization to institute a class action on behalf of all young Quebeckers 35 years old and under against the Government of Canada.

Apart from this surprising element, the important issues have been decided in favor of ENvironnement JEUnesse: the judge recognizes that the impact of climate change on human rights is a justiciable issue and that the actions of the government in this area are subject to the Canadian and Quebec Charters of rights and freedoms. On the other hand, with respect for Justice Morrison, it seems clear that youth is more affected by climate change.

ENvironnement JEUnesse, represented *pro bono* by Trudel Johnston & Lespérance, will appeal the judgment.

**The Procedural Steps of a Class Action**

Prior to the institution of the class action, the plaintiff must seek and obtain authorization from the Quebec Superior Court. In order to obtain authorization, a class action must:

1. raise identical, similar or related questions of law or fact;
2. the facts alleged must seem to justify the conclusions sought;
3. the proposed class must be large enough that it is not feasible to obtain a mandate from all members;
4. the representative plaintiff must show that he or she is able to adequately represent the interests of the class.

If a case is authorized to proceed as a class action, the Court will authorize the class action.

In the case *ENvironnement JEUnesse vs Canada*, according to Judge Morrison, "[i]n having regard to the nature of the class action that [ENvironnement JEUnesse] seeks to exercise and the nature of the alleged infringements of the fundamental rights of the putative members, the choice of the age of 35 by [ENvironnement JEUnesse] as the maximum age of members, leaves the Tribunal perplexed. [...] But why choose 35 years? Why not 20, 30 or 40? Why not 60?" (decision, p. 21)

To this question, it goes without saying that a 60-year-old could not qualify as a young person.

ENvironnement JEUnesse will appeal the judgment. Il will add about one year to the process.

Subsequently, the case proceeds like a normal case. Timelines vary, but it could take a few years, though we will do our best to ensure that the process comes to a conclusion as quickly as possible given the urgency of the climate crisis.

**A Question of Fundamental Rights**

ENvironnement JEUnesse allege that the Canadian government is infringing on a generation’s fundamental rights because its greenhouse gas reduction targets are not ambitious enough to avoid dangerous climate change and it doesn’t even have a plan that would allow it to reach this inadequate target.

Thus, while Canada had accepted the scientific consensus that a reduction of at least 25% from the 1990 base year was necessary to avoid a disaster, it nonetheless targeted a level that was up from its 1990 emissions. Canada pledged to reduce by 17% its GHG emissions by 2020 compared to the 2005 level, an increase from 1990 levels.

Canada's total GHG emissions in 2017 were 716 megatons of carbon dioxide equivalent (Mt CO2 eq), a dangerous increase by 19% since 1990.

The Canadian government’s behaviour infringes on a number of rights protected by the *Canadian Charter of Rights and Freedoms* and Quebec’s *Charter of Human Rights and Freedoms*.

* In particular:
  + The right to life and security of the person: Canadian Charter (section 7) and Quebec Charter (section 1);
  + The right to live in a healthful environment in which biodiversity is preserved (section 46.1 of the Quebec Charter); and
  + The right to equality (section 15 of the Canadian Charter and section 10 of the Quebec Charter): intergenerational equity.
* This behaviour also constitutes a fault of the Canadian government under Quebec civil law.

**Overview of other legal actions underway internationally**

ENvironnement JEUnesse’s class action has similar foundations to one filed in the Netherlands (*Urgenda Foundation vs Kingdom of the Netherlands*). ENvironnement JEUnesse’s action furthermore alleges an infringement of the right to live in a healthful environment in which biodiversity is preserved.

In this case, the plaintiffs are young residents of Quebec aged 35 years and under. In this respect, the action brought by ENvironnement JEUnesse is similar to a lawsuit filed in the United States (*Juliana et al. vs United States of America*).

Finally, this action is distinct from other cases because it is brought as a class action. Class members do not have to take any action and are automatically included in the class action. As such, all young people aged 35 and under who reside in Quebec are part of the class action.