

**Canadian Human
Rights Tribunal**



**Tribunal canadien
des droits de la personne**

Citation: 2025 CHRT 4
Date: January 27, 2025
File No.: HR-DP-2975-23

[ENGLISH TRANSLATION]

Between:

Jan Zawilski

Complainant

- and -

Canadian Human Rights Commission

Commission

- and –

Cogeco Connexion Inc.

Respondent

- and -

Council of Canadians with Disabilities

Interested person

Ruling

Member: Sarah Churchill-Joly

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I. OVERVIEW

[1] This is a ruling on a motion for interested person status.

[2] The Complainant, Jan Zawilski, filed a complaint against the Respondent, Cogeco Connexion Inc., a communications company that provides customers in Quebec and Ontario with Internet, video and telephony services through its coaxial cable and fibre optic broadband networks.

[3] Mr. Zawilski is visually impaired. He claims that Cogeco has not adapted the video service offered on the Cogeco On Demand platform to his disability. This platform allows customers, like Mr. Zawilski, to enjoy instant access to a vast selection of films and programs on demand. However, described video, i.e. an oral description of a program's main visual elements enabling Mr. Zawilski to follow what is happening in the program, is still unavailable. Mr. Zawilski argues that the lack of described video deprives him and other visually impaired Cogeco Connexion Inc. customers of full access to videos on the platform.

[4] The case thus raises issues relating to the duty to accommodate in the context of telecommunications and broadcasting services. On August 16, 2021, Mr. Zawilski filed a complaint of discrimination against the Respondent with the Canadian Human Rights Commission (the "Commission"). On November 14, 2023, the Commission referred the complaint to the Canadian Human Rights Tribunal (the "Tribunal") for inquiry.

[5] The Council of Canadians with Disabilities (CCD) asked the Tribunal to grant it interested person status at the inquiry.

II. DECISION

[6] The Tribunal grants interested person status to CCD, in accordance with the conditions limiting the scope of its participation, which are set out in this decision.

III. ISSUES

[7] The issues are as follows:

1. Should CCD be granted interested person status?
2. If so, to what extent would it be allowed to participate?

IV. ANALYSIS

A. Interested person status is granted to CCD

[8] Paragraph 48.9(2)(b) of the *Canadian Human Rights Act*, R.S.C. 1985, c. H-6 (CHRA) provides that “[t]he Chairperson of the Tribunal may make rules of procedure governing the practice and procedure before the Tribunal, including, but not limited to, rules governing ... (b) the addition of parties and interested persons to the proceedings”. The *Canadian Human Rights Tribunal Rules of Procedure, 2021*, SOR/2021-137 (the “Rules of Procedure”) came into force on June 11, 2021.

[9] Section 27 of the Rules of Procedure explains the procedure that a person wishing to obtain interested person status before the Tribunal must follow. Under subsection 27(2), the notice of motion must specify the assistance the person wishes to provide to the inquiry and the extent to which the person wishes to participate in the inquiry. If the panel grants the motion, it will specify the extent to which the interested person is permitted to participate in the inquiry (s. 27(3)). The Rules also specify in their definition of the word “person” that the term includes “an employee organization, employer organization and unincorporated entity”.

[10] The Complainant, the Commission and the Respondent have all consented to CCD’s motion for interested person status on the terms proposed by CCD. However, the Respondent has reserved the right to make submissions to the Tribunal to circumscribe CCD’s interventions, if it considers this necessary.

[11] When called upon to decide a motion brought by a person seeking interested person status, the Tribunal considers three criteria (*Letnes v. Royal Canadian Mounted Police*

Canada, 2021 CHRT 30, at paras. 8–13 [*Letnes*]; *Liu v. Public Safety Canada*, 2024 CHRT 14, at paras. 8, 9), namely, whether

- A) the prospective interested person's expertise will be of assistance to the Tribunal;
- B) its involvement will add to the legal positions of the parties; and
- C) the proceeding may have an impact on the moving party's interests.

[12] The analysis must be performed not strictly and automatically, but rather on a case-by-case basis, applying a flexible and holistic approach (*Letnes*, at paras. 13, 18). In *A.B. v. C.D.*, 2022 FC 1500, at paragraph 35, the Federal Court confirmed the use of these criteria and this approach when reviewing the Tribunal's decision regarding the interested person status of the applicant *A.B.* under section 27 of the Rules of Procedure.

[13] Moreover, in accordance with subsection 48.9(1) of the *CHRA*, to determine the extent of an interested person's participation, the Tribunal must take into account its responsibility to conduct proceedings as informally and expeditiously as the requirements of natural justice and the rules of procedure allow (*Letnes*, at para. 20).

[14] The Tribunal has consistently held that the burden of proof rests on the proposed interested person.

[15] It recently considered the application of the *Letnes* criteria to CCD in the context of another motion by CCD to act as an interested person, in *Lidkea v. Correctional Service of Canada*, 2024 CHRT 91 [*Lidkea*]. For reasons similar to those of my colleague, Member Hadjis, I am of the opinion that CCD also meets these three criteria in this case.

[16] CCD filed an affidavit in support of its motion. This affidavit, signed by CCD's national chairperson, describes the organization's activities.

[17] CCD was founded in 1976 to represent the interests of persons with disabilities. Its mandate encompasses diverse disability justice advocacy efforts to improve the status of persons with disabilities. CCD comprises multiple provincial and national organizations run by people with disabilities. It participates in public policy work, in particular by supporting the development of regulatory protections ensuring access to accommodations, engaging in public interest litigation and advocating for the elimination of discriminatory barriers. CCD

participated in the enactment of the *Accessible Canada Act*, a federal law aimed at eliminating systemic barriers to accessibility.

[14] This expertise will help the Tribunal to better understand the allegations of discrimination and the effects that persons with disabilities, particularly those with visual impairments, may experience when they do not have equal access to telecommunications and broadcasting services, as well as the accommodations they may require.

[18] CCD can contribute to the Tribunal's work by providing a broad national perspective on accessibility issues and sharing its expertise in the historical and ongoing realities experienced by persons with disabilities, including those with visual impairments, in accessing telecommunications and broadcasting services in Canada. This expertise can prove invaluable in deciding issues relating to accommodation and, where applicable, remedies.

[19] Should the Tribunal find that discrimination has occurred in this case, CCD's experience as a national representative on accessibility issues would enable it to provide valuable input and contribute to the positions of the Complainant and the Commission in their request for systemic remedies.

[20] Finally, these proceedings could have an impact on the interests of people who use CCD's services. Indeed, it could have an impact on case law affecting Canadians with disabilities, represented by CCD, who use the Respondent's services. In a broader sense, the proceedings could affect the rights of persons with disabilities to accommodation in the provision of telecommunications and broadcasting services.

[21] Given this analysis and CCD's unique expertise and perspective, which would not otherwise be available to the Tribunal, I grant it interested person status in these proceedings.

B. Conditions for CCD's participation

[22] CCD is seeking leave, as an interested person, to make written and oral submissions at the hearing. It has pledged to work with the parties and the Tribunal to ensure the effectiveness of these proceedings. It will be careful not to repeat arguments already made or cause any delay or change to the Tribunal's schedule for the hearing on the merits in February. CCD will concentrate on those aspects on which it can offer a different viewpoint and undertakes to comply with any time limits set by the Tribunal.

[23] I find these undertakings to be reasonable.

[24] I grant CCD leave to make written and oral submissions at the hearing. I would like to point out that CCD, although it has not requested it, will not be able to examine or cross-examine witnesses or present evidence in these proceedings. Moreover, similar to the conditions for CCD's intervention ordered by this Tribunal in *Lidkea*, CCD's submissions in this case must be limited to the issues in dispute and must not go beyond the remedies requested by the parties.

[25] CCD is also seeking copies of the parties' statements of particulars, as well as all information disclosed in connection with the complaint.

[26] Since CCD will not have the opportunity to examine or cross-examine witnesses or submit evidence at the hearing, it does not seem justified to me that it should be given copies of all the information disclosed by the parties in preparation for the hearing, especially since the parties have already determined what evidence they plan to present.

[27] I am, however, granting CCD access to this anticipated evidence, which will enable it to follow and participate fully in the inquiry, in accordance with the conditions set out in this order.

V. ORDER

[28] I order that CCD be granted interested person status in accordance with the following conditions:

1. CCD is authorized to make final written and oral submissions at the hearing.
2. The Complainant, the Commission and the Respondent are required to provide CCD with the following documents no later than January 29, 2025:
 - a. Copies of their respective statements of particulars
 - b. Copies of their respective anticipated evidence
3. CCD representatives may observe the hearing but will not be authorized to present evidence or examine or cross-examine witnesses.
4. CCD will be required to read and comply with all confidentiality orders relating to this complaint.
5. CCD will be obliged to comply with any evidence-related order made by the Tribunal during the inquiry.
6. CCD will not participate in any case management conferences.

Signed by

Sarah Churchill-Joly
Tribunal Member

Ottawa, Ontario
January 27, 2025

Canadian Human Rights Tribunal

Parties of Record

Tribunal File: HR-DP-2975-23

Style of Cause: Jan Zawilski v. Cogeco Connexion Inc.

Ruling of the Tribunal Dated: January 27, 2025

Motion dealt with in writing without appearance of parties

Written representations by:

Sarah-Claude L'Ecuyer, for the Interested Person (CCD)

David Taylor, for the Complainant

Sarah Chênevert-Beaudoin, for the Canadian Human Rights Commission

Josée Gervais, for the Respondent