Canadian Human Rights Tribunal

Tribunal canadien des droits de la personne

Citation: 2026 CHRT 14
Date: February 23, 2026
File No.: T1340/7008

Between:

First Nations Child and Family Caring Society of Canada

- and -

Assembly of First Nations

Complainants

- and -

Canadian Human Rights Commission

Commission

- and -

Attorney General of Canada
(Representing the Minister of Indigenous and Northern Affairs Canada)

Respondent

- and -

Chiefs of Ontario

- and -

Nishnawbe Aski Nation

- and -

Amnesty International

- and -

Assembly of Manitoba Chiefs

- and -

Southern Chiefs' Organization Inc.

- and -

Our Children, Our Way Society

Interested parties

Ruling

Members: Sophie Marchildon
Edward P. Lustig

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I. Context

[1] In 2016, the Tribunal issued its decision in *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada),* 2016 CHRT 2 [Merit Decision], concluding that the case centers on children and the ways in which both past and current child welfare practices in First Nations communities on reserves across Canada have adversely impacted, and continue to impact, First Nations children, their families, and their communities. The Tribunal determined that Canada engaged in systemic racial discrimination against First Nations children living on reserves and in the Yukon, not only by underfunding the First Nations Child and Family Services Program (FNCFS Program) but also in the way that Canada designed, managed, and controlled the FNCFS Program.

[2] One of the most significant harms identified was that the structure of the FNCFS Program created financial incentives to remove First Nations children from their homes, families, and communities. Another major harm was that no cases were approved under Jordan's Principle, due to Canada's narrow interpretation and restrictive eligibility criteria.

[3] The Tribunal concluded that beyond simply addressing funding issues, there is a need to realign the program's policies to uphold human rights principles and sound social work practices that prioritize the best interests of children. The Tribunal has since clarified that the best interest of children must be viewed through an Indigenous lens.

[4] As a result, the Tribunal ordered Canada to cease its discriminatory practices, implement measures to remedy the harm, prevent recurrence, and reform both the FNCFS Program and the 1965 Agreement in Ontario to reflect the findings of the Merit Decision.

[5] The Tribunal also determined that implementation would occur in phases: immediate, mid term, and long-term relief, allowing for urgent changes first, followed by adjustments, and ultimately sustainable long-term solutions. These solutions would be guided by data collection, new studies, best practices identified by First Nations experts, the specific needs of First Nations communities and agencies, the National Advisory Committee on child and family services reform, and input from all parties involved.

[6] In the Merit Decision (2016 CHRT 2), the Tribunal issued final, injunction-like general orders to cease the systemic racial discrimination it found and to prevent its recurrence. These important orders could not subsequently be abrogated, modified, or replaced. The Tribunal also issued a series of rulings providing immediate and mid-term relief, as well as final orders concerning compensation. It retained jurisdiction to ensure it could make long-term, sustainable orders once data collection and new studies were completed. This approach was requested by First Nations, who argued that updated information was necessary to inform long-term relief requests in accordance with best practices benefiting First Nations children at the time of the Merits Decision.

[7] In 2018 CHRT 4, the Tribunal found that it had now entered the long-term remedy.

[8] In 2022 CHRT 8, the Tribunal, on consent of the parties, issued significant long-term orders respecting prevention services and funding, effectively aimed at reversing the mass removal of First Nations children from their homes, families, and communities.

[9] As part of their consent order requests, the parties advised the Tribunal that the outstanding requests for final orders would be presented in March 2023.

[10] In 2023 CHRT 44, the Tribunal issued final orders approving one of the largest compensation settlement agreements in Canadian history, as characterized by the parties, addressing harms committed by Canada against First Nations children and families.

[11] On July 11, 2024, the Chiefs of Ontario (COO), the Nishnawbe Aski Nation (NAN), the Assembly of First Nations (AFN), and Canada announced a draft Final Agreement (the “national agreement”).

[12] On October 9 and 10, 2024, respectively, the NAN Chiefs-in-Assembly and the Ontario Chiefs-in-Assembly ratified the national agreement at their Special Chiefs Assemblies.

[13] On October 17, 2024, at an AFN Special Chiefs Assembly held in Calgary, the national agreement was put to a vote by the First Nations’ Chiefs-in-Assembly and was rejected.

[14] In November 2024, at the COO's Annual General Assembly, the Ontario Chiefs-in Assembly mandated the COO to pursue an Ontario-specific agreement.

[15] On February 10, 2025, after five weeks of negotiations, the COO, the NAN, and Canada reached a provisional Ontario Final Agreement (OFA) and a provisional Trilateral Agreement.

[16] On February 25 and 26, 2025, the provisional OFA and the provisional Trilateral Agreement were ratified by the NAN Chiefs-in-Assembly and the Ontario Chiefs-in-Assembly, respectively.

[17] On February 26, 2025, the Ontario Chiefs-in-Assembly passed Resolution #25/02S affirming that the Chiefs-in-Assembly had expressed their will to move ahead with reforms outlined in the OFA and the Trilateral Agreement. Resolution #25/02S also called on the other parties in the Tribunal proceedings to refrain from interfering with the approval or implementation of the OFA.

[18] On March 7, 2025, the COO and the NAN brought a joint motion for approval of the Final Agreement on Long-Term Reform of the First Nations Child and Family Services Program in Ontario (the "OFA") and Trilateral Agreement in Respect of Reforming the 1965 Agreement (the "Trilateral Agreement") (the "OFA joint motion"). According to the COO and the NAN, the OFA and the Trilateral Agreement are the collective expression of the self governance and self-determination rights of the 133 First Nations in Ontario through the COO and the NAN. If approved, both of these agreements would only apply to First Nations and FNCFS Agencies within Ontario and would impact First Nations children, youth, and their families in Ontario.

[19] The Tribunal received multiple notifications from First Nations and First Nations organizations indicating an intention: (a) to seek leave to file motions for interested party status in the OFA joint motion proceedings; (b) to seek interested party status both in the OFA joint motion proceedings and in the proceedings more generally; or (c) to seek participation in the proceedings more generally. In each instance, the notifying parties requested direction from the Tribunal on the manner and timing for filing such motions.

[20] In exercising its authority as master of its own proceedings and to ensure the timely progression of the matter, the Tribunal fixed April 15, 2025, as the deadline for any moving party wishing to obtain interested party status in the OFA joint motion process.

[21] On August 11, 2025, Canada filed an amended joint motion including Canada as a co-moving party.

[22] On April 15, 2025, the Tribunal received motions seeking interested party status in the OFA joint motion proceedings from the Neqotkuk (Tobique) First Nation of the Wolastoqey Nation, Ugpi'ganjig (Eel River Bar) First Nation, the Mi'gmaq Child and Family Services of New Brunswick Inc., the Federation of Sovereign Indigenous Nations (FSIN), the Assembly of Manitoba Chiefs (AMC), the Council of Yukon First Nations (CYFN), Our Children, Our Way Society (OCOW), the Confederacy of Treaty Six First Nations, the Treaty 7 First Nations Chiefs Association, the Treaty 8 First Nations of Alberta.

[23] The Tribunal denied some motions in full and some in part in 2025 CHRT 86.

[24] Moreover, three other motions seeking interested party status in the OFA joint motion proceeding have also been received, those three motions were dealt with separately (see 2025 CHRT 85 and 2025 CHRT 87).

[25] The Tribunal recently ruled in 2025 CHRT 80, that the Tribunal is moving forward without further delay into the long-term phase of remedies both for Ontario and the National FNCFS long-term reform concurrently but separately. Moreover, the Tribunal, at paragraph 98 decided to proceed with the OFA without delaying the National FNCFS long-term reform until the OFA motion has been determined. The Tribunal determined that the OFA will not apply to other regions, and the Tribunal will not rely on the OFA to determine a National FNCFS long-term reform remedy.

[26] Furthermore, the Tribunal has consistently stated that long-term reform must reflect the specific and unique needs of diverse and distinct First Nations and must avoid a one-size-fits-all approach. Further, the Ontario region is distinct from other regions, as it operates under the 1965 Agreement, which is easily distinguishable from how the FNCFS Program operates in other regions.

[27] The Tribunal's approach was, in part, adopted to address concerns raised by multiple moving parties outside Ontario seeking participation in the OFA joint motion proceedings, including apprehensions that Canada might rely on the OFA to implement national reforms to the Program.

[28] Subsequently, Canada has sought judicial review of 2025 CHRT 80, and currently, the process is at its early stages at the Federal Court.

[29] The Tribunal recently sought additional submissions from the parties and the moving parties seeking participation in the proceedings more generally on recent Tribunal rulings, including 2025 CHRT 80 and a decision addressing the principle of proportionality (*Liu (on behalf of IPCO) v. Public Safety Canada,* 2025 CHRT 90), (Liu).

[30] The Tribunal has received the submissions of the parties and the moving parties and now turns to determining the various motions, as well as the outstanding portions of certain motions, that seek broader participation in the proceedings.

[31] The Tribunal has received motions from the Assembly of Manitoba Chiefs (AMC), the Our Children, Our Way Society (OCOWS), the Southern Chiefs Organization Inc.(SCO), the First Nations of Quebec and Labrador Health and Social Services Commission (FNQLHSSC)- Assembly of First Nations Quebec-Labrador (AFNQL) joint motion, and, more recently, in November 2025, the National Children's Chiefs Commission (NCCC). To avoid any further delay in determining the motions above, the NCCC motion will be dealt with separately.

[32] Furthermore, the Tribunal as master of its own procedure, has determined that it will address the FNQLHSSC-AFNQL's joint motion separately, given the additional legal questions it raises concerning linguistic issues.

[33] The Tribunal allows the AMC, the SCO and the OCOWS's motions in part subject to certain conditions and limitations set out below.

[34] Moreover, as part of these conditions and limitations, the OFA joint motion will not be affected by the addition of any new interested parties participating in these Tribunal proceedings.

[35] The OFA joint motion cross-examinations hearing took place on December 10-12, 2025, and December 15-16, 2025.

[36] Furthermore, the Tribunal will hear final arguments on the OFA joint motion on February 26 and 27, 2026.

II. Summary of the Moving parties' submissions

Summary of the submissions of the Assembly of Manitoba Chiefs

[37] The Assembly of Manitoba Chiefs seeks interested party status to participate generally in these proceedings on the basis that the determinations arising from them will have direct and significant implications for First Nations children, families, and governments in Manitoba.

[38] Founded in 1988 by the Chiefs of First Nations in Manitoba, AMC serves as the political and technical coordinating body for 63 First Nations, representing more than 172,000 citizens from Anishinaabe, Nehetho/Ininew, Anishininew, Denesuline, and Dakota Oyate Nations accounting for approximately 12% of the provincial population and Treaty territories 1, 2, 3, 4, 5, 6 and 10. The AMC's member First Nations exercise inherent and Treaty rights over their reserve land and traditional territories. Member First Nations include adherents to Treaties 1, 2, 3, 4, 5, 6,10 and the Dakota Nations that are party to a pre-Confederation Treaty with the Crown.

[39] The AMC's mandate set out in its Constitution includes protecting Aboriginal and Treaty rights, advancing self-determination and self-governance, and providing a unified advocacy voice for First Nations in the province.

[40] The AMC submits that its institutional knowledge, governance mandate, and technical expertise will assist the Tribunal in its consideration of long-term reform of the First Nations Child and Family Services program and Jordan's Principle, drawing on extensive policy work, research initiatives, and direct service delivery, including the First Nations Family Advocate Office and the Eagle Urban Transition Centre.

[41] The AMC asserts that it brings operational insight into the lived realities of First Nations children and families. The AMC also points to their recent advocacy in response to federal changes to Jordan's Principle, which the AMC argues have centralized decision-making, created funding delays, and undermined culturally grounded service delivery in Manitoba.

[42] The AMC further submits that it is involved in ongoing litigation against Canada and Manitoba concerning the collective harms arising from systemic failures in the child welfare system, alleging that longstanding practices of apprehension and culturally inappropriate care have disrupted language, culture, and community connections and produced intergenerational impacts. The AMC submits that this litigation experience informs its perspective and underscores the relevance of its participation before the Tribunal.

[43] The AMC has signed two Memorandum of Understanding (MOU) of relevance with Canada in relation to Jordan's Principle and child welfare reforms. On December 7, 2017, an MOU was entered into to establish joint discussions to improve the wellbeing of First Nations, children, youth and families within the context of child and family services. In 2024, the AMC also signed an MOU with Canada to enhance the implementation of Jordan's Principle for First Nations children, youth and families in Manitoba. A key element of the 2024 MOU was a provision to support First Nations-led implementation of Jordan's Principle.

[44] The AMC emphasizes that the Tribunal retains broad discretion to grant interested party status where an intervenor contributes distinct expertise, advances perspectives not otherwise before the Tribunal, and demonstrates a direct interest in the outcome. The AMC submits that it meets these criteria by providing a Manitoba-specific governance perspective grounded in the diversity of its member Nations and their legal, cultural, and service-delivery realities, and that its participation will assist the Tribunal in shaping remedies consistent with First Nations sovereignty, cultural safety, and self-determination.

[45] The AMC submits that its participation in this proceeding advances the principle of proportionality. Proportionality does not equate to speed or minimal process; rather, it requires balancing procedural economy and the level of comprehensiveness warranted by the importance and complexity of the issues at stake. Where the matter is as consequential

and multi-dimensional as the reforms contemplated in this proceeding, proportionality calls for procedures that enable the Tribunal to reach a confident, well-informed, and just outcome. Allowing the AMC to participate in this proceeding reflects its significance and ensures the Tribunal is equipped with regionally grounded, Treaty-based insights necessary to address its inherent complexity. The AMC's distinct expertise will enhance representativeness, contribute meaningfully to the Tribunal's understanding of the issues, avoid duplication, and support procedural economy. Its participation will further the Tribunal's commitment to substantive equality and the best interests of First Nations children.

[46] The AMC emphasizes the importance of balancing procedural economy with comprehensiveness, ensuring that proceedings remain efficient while still allowing for a thorough and fair examination of all relevant issues.

[47] The AMC emphasizes that efficiency in proceedings is only one element of proportionality. Proportionality requires balancing procedural economy with the level of thoroughness warranted by the significance and complexity of the issues.

[48] Relying on the Supreme Court of Canada's decision in *Hryniak v Mauldin*, 2014 SCC 7 (*Hryniak*), at paragraphs 28–31, 33, and 50, the AMC submits that proportionality recognizes that justice requires both efficiency and appropriate procedural depth. Procedures must be comprehensive enough to allow the decision maker to be confident in the fairness and accuracy of the outcome. In complex matters, greater time, expense, diverse perspectives, and more elaborate procedural steps will be proportionate and necessary.

[49] The AMC submits that this proceeding requires a careful balance between its national importance and the procedural demands it imposes, ensuring that its broader public significance is addressed without compromising the integrity and manageability of the process.

[50] The AMC submits that the importance of this proceeding cannot be overstated. The Tribunal has approved one of the largest compensation agreements in Canadian history. If Canada refuses to negotiate long term reform with the National Children's Chiefs

Commission and the other co-complainants, the Tribunal will issue orders to reform Canada's First Nations Child and Family Services outside of Ontario. Those orders will fundamentally reshape the delivery of First Nations child welfare services across Canada and constitute a major step forward on the path to reconciliation. Ensuring that any resulting reforms are effective, durable, and appropriately nuanced is of paramount concern to First Nations and to all Canadians.

[51] The AMC recognizes the serious procedural challenges the Tribunal faces in managing this proceeding. While the Tribunal is not a royal commission and has finite resources, the exceptional importance of these proceedings requires caution in restricting participation. The Tribunal should not reject unique or representative submissions solely to expedite the process. Instead, it must determine what level of participation is required to ensure a fully informed understanding of the issues while balancing the requirement of efficiency.

[52] The AMC argues that the participation that meaningfully contributes to the Tribunal's comprehensive assessment, without causing undue delay, advances, rather than undermines, proportionality.

[53] The AMC submits that recent changes made by Canada to the Jordan's Principle program have created significant challenges for First Nations in Manitoba, compelling the AMC to bring the present motion for interested party status. Funding shortfalls and delays by Canada in the administration of Jordan's Principle have impaired the ability of First Nations in Manitoba to adequately meet the needs of children, youth, and families. Canada has further altered the structure of Jordan's Principle without the consultation or consent of First Nations, shifting it to a centralized, top-down model. This approach undermines First Nations' decision-making authority in Manitoba, increases bureaucratic delays, and disrupts the timely delivery of funding for essential supports to First Nations communities.

[54] In response to these changes, among other actions, the AMC directed a Chiefs Task Force to address the systemic challenges caused by Canada's centralized decision-making and Manitoba Region's administration, and to advocate for culturally relevant, community-based support for First Nations children and families. The AMC has requested that Canada

end the top-down approach by restoring decision-making authority to First Nations leadership. The Chiefs-in-Assembly have further called upon Canada to immediately commit to addressing the backlog of Jordan's Principle requests and to ensure that outstanding proposals submitted by First Nations and First Nations organizations in Manitoba are adequately and promptly addressed.

Summary of the submissions of the SOUTHERN CHIEFS' ORGANIZATION INC.

[55] The Southern Chiefs Organization (SCO) seeks interested party status to participate generally in these proceedings. The SCO was established in 1999 as an independent political organization dedicated to protecting, preserving, promoting, and enhancing the inherent and Treaty rights of its member First Nations, while advocating to hold the Crown accountable for its fiduciary duties and obligations. It represents 32 Anishinaabe and Dakota Nations in southern Manitoba, serving more than 87,000 citizens and acting as the designated political advocacy body for its members. SCO also provides oversight of the Southern First Nations Network of Care (SFNNC), a child and family services authority mandated by southern First Nations and Manitoba legislation, which supervises 11 agencies responsible for about 5,300 children and youth, more than half of all children in care in Manitoba, many funded through the First Nation Child and Family Services (FNCFS) program.

[56] SCO proposes limited participation as an interested party that aligns with proportionality principles and recent Tribunal decisions. Its role would complement existing parties by offering focused submissions on the regional impacts of long-term FNCFS Program reform, particularly regarding service delivery realities for southern Manitoba First Nations and child and family services agencies. SCO argues it is uniquely positioned to provide these perspectives, which would otherwise not be presented to the Tribunal without its involvement.

[57] SCO submits that its oversight of child and family services in southern Manitoba places it in a unique position to assist the Tribunal with decisions on long-term reform of the FNCFS program and Jordan's Principle, especially as they affect First Nations in the region.

While recognizing the Assembly of First Nations' national advocacy role, SCO submits that it can provide distinct southern Manitoba perspectives that would otherwise be missing. Through its oversight of the Southern First Nations Network of Care (SFNNC), SCO submits that it can also contribute practical, on-the-ground service-delivery evidence from agencies funded through FNCFS, which is directly relevant to reform discussions. SCO further submits that its participation will not cause undue delay, as it will follow existing timelines, and that the Tribunal has significant discretion to impose limitations on the participation of interested parties to ensure efficiency of the proceedings; in any event, any minimal delay would be outweighed by the value of SCO's regional expertise and contributions.

[58] The Tribunal's ruling in *Liu* stresses the need to avoid vague expansion, duplication of evidence, and "royal commission" style proceedings, and SCO's proposed participation reflects these principles through a focused and limited role. SCO also agrees that the Tribunal is correct in 2025 CHRT 80 that it cannot hear directly from all 634 First Nations without causing significant delay in these proceedings, which highlights the importance of regional representative bodies. SCO argues that its participation would provide essential southern Manitoba regional perspectives and practical implementation insights in a proportional and manageable way.

[59] The Tribunal noted in 2025 CHRT 80 that national long-term reform must be based on evidence that includes regional and local First Nations perspectives. SCO argues it is well positioned to provide this input because it represents 32 Anishinaabe and Dakota Nations in southern Manitoba and can offer specific regional service-delivery realities related to FNCFS reform. While the Assembly of First Nations presents national positions, SCO would contribute distinct regional facts and evidence not otherwise before the Tribunal, similar to the regional role played by Nishnawbe Aski Nation for northern Ontario First Nations.

Summary of the submissions of the Our Children, Our Way Society

[60] Our Children Our Way Society (OCOWS) seeks interested party status to participate generally in these proceedings. The OCOWS is a British Columbia society incorporated

under the *Societies Act*, S.B.C. 2015, c. 18, whose membership consists of 24 Indigenous Child & Family Service Agencies ("ICFSAs") in that province. These ICFSAs provide child and family services to 120 First Nations in British Columbia. Of the 24 ICFSAs that the OCOWS represents, 19 ICFSAs are First Nations agencies that receive federal funding under the First Nations Child and Family Services Program ("FNCFS Program") and other related provincial/territorial agreements.

[61] The OCOWS submits that it has specific expertise in the challenges of providing child and family services to First Nation children, families, and communities in British Columbia. It submits that its members ICFSAs have extensive on-the-ground experience with the impacts of past and ongoing discriminatory practices, having delivered delegated services since 1996 under varying levels of provincial authority.

[62] The OCOWS further submits that its membership brings a unique perspective on the effects of discriminatory funding and the needs of diverse First Nations communities, including the number and diversity of First Nations in British Columbia, with over 200 First Nations with 34 distinct languages, distinct cultural identities, distinct geographies, and differing population sizes, as well as its member ICFSAs' expertise and experience in delivering child and family services to these highly varied communities.

[63] The OCOWS submits that the ICFSAs they represent possess direct, on-the-ground experience with the significant barriers created by past and ongoing discriminatory practices in the delivery of child and family services in British Columbia.

[64] The OCOWS submits that, since the 1996 provincial delegation of authority, their member ICFSAs have provided services under differing levels of authorization, with some agencies delivering guardianship, resource and voluntary, and child protection services, while others operate within more limited mandates.

[65] The OCOWS submits that their experience includes the challenges faced by their member ICFSAs in transitioning to new funding approaches mandated by the Tribunal, particularly in relation to prevention services that were not funded in British Columbia prior to the implementation of 2018 CHRT 4, placing the province's ICFSAs behind service providers in other jurisdictions.

[66] The OCOWS submits that their participation will assist the Tribunal by providing specialized expertise on the front-line delivery of First Nations child and family services in British Columbia, including during the remedies phase, where the province's distinct service structure, community sizes, and varying agency authorities differ from other jurisdictions. The OCOWS submits that interested party status is therefore necessary given the significant impact that national long-term reform will have on service delivery to First Nation children, families, and communities in British Columbia.

[67] The OCOWS submits that they will ensure that the evidence it tenders and that the submissions it makes are not duplicative of other parties. It will work collaboratively with other parties and interested parties to avoid duplication and repetitiveness. OCOWS will abide by the timelines imposed by the Tribunal.

[68] The OCOWS submits that the principle of proportionality guides the Tribunal's active and effective management of its process by ensuring that proceedings are conducted as expeditiously and informally as the requirements of natural justice permit, while preserving each party's right to a full and ample opportunity to present its case.

[69] The OCOWS submits that proportionality is concerned with the fair and efficient adjudication of the complaint through the imposition of reasonable limits on timelines, subject matter, and evidence, rather than forming part of the legal test for granting interested party status. In OCOWS' view, the proper application of proportionality lies in shaping the conditions of participation so as to reduce delay and cost, maintain access to the Tribunal, and balance procedural efficiency with meaningful participation, thereby advancing both fairness and access to justice within the proceeding.

[70] The OCOWS argues that requiring affected parties to speak "through" others creates an unjustified barrier to participation that will exclude voices that would otherwise assist the Tribunal and will erode confidence in the Proceeding's legitimacy. The Tribunal should prefer case-management tools that control the direct participation of parties such as coordinated submissions on common issues, page limits, witness-sharing protocols, and streamlined cross-examinations over categorical exclusions.

Summary of the Co-complainant First Nations Child and Family Caring Society of Canada (Caring Society's) submissions

[71] The Caring Society consents to the requests of the AMC, the SCO and the OCOWS.

[72] The Caring Society is generally supportive of the interested parties' submissions, and notes in particular that the proportionality principle finds its expression within the context of the participatory rights of interested parties, whether those seeking to join a proceeding or who have had such status granted. This principle has already been repeatedly applied in the context of this proceeding.

[73] The Caring Society submits that the proportionality principle must be applied on a case-by-case basis, particularly in the context of the present complaint, which is at the stage of seeking long-term remedies for tens of thousands of First Nations children and families, now and for generations to come.

[74] The Caring Society submits that the Supreme Court of Canada, in its seminal decision in *Hryniak v Mauldin*, 2014 SCC 7, held that "proportionality is inevitably comparative" (at para 33). A proper proportionality analysis involves consideration of the relative efficiencies of the alternatives in question, and a comparison of the evidence that would be available, and the opportunity to evaluate it, under either alternative (*Hryniak* at paras 58-59).

The Co-complainant Assembly of First Nations

[75] The AFN takes no position on the motions.

The Canadian Human Rights Commission (Commission)

[76] The Commission takes no position on the motions.

The interested party Amnesty International

[77] The Amnesty International did not participate in the motions.

Summary of the submissions of interested party the Chiefs of Ontario (COO)

[78] The COO has no position on the addition of AMC, SCO and OCOWS to the proceedings concerning national long-term reform of the First Nations Child and Family Services Program (the "FNCFS Program") outside Ontario.

[79] The COO submits that the AMC, SCO and OCOWS should not be granted interested party status in these proceedings insofar as they relate to Jordan's Principle. The addition of any interested parties at this late stage of the proceedings risks further delaying Jordan's Principle reform, contrary to the Tribunal's responsibility to conduct proceedings as informally and expeditiously as the requirements of natural justice and the rules of procedure allow. This is not in the best interests of First Nations children, and would leave First Nations children, families, and communities without the benefit of critical Jordan's Principle reform.

[80] The COO submits that granting interested party status to the AMC, the SCO and the OCOWS would cause significant delay to the proceedings that outweigh the benefit of its unique regional perspective.

[81] The COO argues that the Tribunal held that adding interested parties at the remedial stage of proceedings is "not only rare but adds to the challenge of effectively managing this case", (see 2016 CHRT 11 at para 13). The remedial stage is now significantly more advanced.

[82] The COO submits that the Tribunal stated in its February 10, 2025, letter that it is better for children to complete the long-term remedial phase promptly rather than face further delays. Reform of Jordan's Principle is already significantly behind schedule, with more than two years having passed since the Agreement in Principle committed the parties to reforms by March 2023. The Tribunal has also advised that mediation resources will expire and any flexibility depends on meaningful progress. Adding a new interested party that is unfamiliar with the extensive evidence, interim reforms, and Canada's implementation to date would likely cause further delay.

[83] The COO further submits that in considering the AMC, the SCO and the OCOWS's motions, the Tribunal should also weigh the risk that other prospective interested parties

may seek to join the proceedings. Many First Nation communities, organizations, and Agencies could argue that they are affected by Jordan's Principle reform and possess unique regional expertise. Granting the AMC, the SCO and the OCOWS interested party status could therefore create a precedent leading to numerous additional participation requests.

[84] The COO argues that in determining whether to admit FSIN as an interested party to the approval motion for the Final Settlement Agreement on Compensation for First Nations Children and Families, the Tribunal noted that having every First Nation bring its expertise and specific view forward would "not only be impossible to manage for this Tribunal but it would also have the detrimental effect of halting the proceedings for months or possibly years. This would not be in the best interest of First Nations children and families", (2022 CHRT 26 at para 47). Even though every First Nation community or organization may have expertise to offer, "these proceedings are not a commission of inquiry, a truth and reconciliation commission or a forum of consultation", (2022 CHRT 26 at para 42).This Tribunal is informed by the AFN, COO, NAN, and the Caring Society, (see 2022 CHRT 26 at para 41). As a result, the Tribunal found that an argument based on "bringing a regional perspective is not the most compelling argument" given the risk the Tribunal would face if every First Nation sought to participate in order to share its expertise and perspective.

[85] The COO submits that adding the AMC, the SCO and the OCOWS at this stage of the proceedings would overburden the Tribunal, which must manage its limited resources while ensuring a fair and expeditious process. Further delay risks bringing the administration of justice into disrepute and would cause significant prejudice to the victims of discrimination.

[86] The COO argues that a flexible and holistic approach to the AMC, the SCO and the OCOWS's motions requires a careful cost benefit analysis that weighs the likelihood of numerous additional prospective interested parties seeking participation against the risk of further delay for First Nations children and families. That analysis leads to a clear conclusion: the costs of adding the AMC, the SCO and the OCOWS substantially outweigh any potential benefits.

[87] At this stage, unique regional perspectives may be sought and advanced by the current parties using their internal mechanisms for seeking and representing those perspectives, as they have been doing for the entirety of this proceeding. The COO submits that this is the only practical way forward.

[88] The COO submits that proportionality should be the guiding principle when the Tribunal decides whether to grant interested-party status in the Jordan's Principle proceedings. The COO submits that the Tribunal must weigh whether a proposed participant's expertise will genuinely assist the decision-making process against the risk of added delay, cost, and procedural complexity.

[89] While acknowledging that many First Nations organizations may have valuable perspectives, COO submits that admitting too many parties could make the proceedings unmanageable and undermine timely reform, especially given the broad scope of Jordan's Principle across health, education, and social services.

[90] The COO further argues that the case is now in a late remedial phase, where the focus is implementing effective remedies rather than expanding participation.

[91] The COO submits that adding new interested parties at this stage is rare and likely to slow urgently needed changes for First Nations children and families. Overall, the COO submits that the Tribunal already has sufficient representation and should limit new participants to preserve efficiency and advance meaningful reform without further delay.

Summary of the submissions of the interested party Nishnawbe Aski Nation

[92] The NAN takes no issue with the prospective interested parties, the AMC, the SCO and the OCOWS, in seeking participation in the matters before the Tribunal on national long-term reform of the FNCFS program, outside of the OFA motion.

[93] NAN's position repeats and relies on the COO's concerns regarding delay regarding Jordan's Principle if the AMC, the SCO and the OCOWS are granted interested party status in these proceedings.

Summary of the submissions of the Attorney General of Canada representing Indigenous Services Canada (Canada)

[94] Canada opposes the motions of the AMC, the OCOWS and the SCO.

[95] Canada submits that this Panel has previously addressed why it is simply not practical to add as interested parties all parties who may have a regional perspective, in particular given the role of the AFN within the proceedings, (see 2022 CHRT 26 at paras 47–48).

[96] Canada submits that participation of the AMC, the OCOWS will not assist the Tribunal in resolving the matters at issue. While they seek broad involvement, such participation would unnecessarily complicate and risk disrupting the orderly conduct of these proceedings. To the extent their interests and expertise are relevant, they are already adequately represented by the AFN or the Caring Society, rendering their direct intervention unnecessary.

[97] Moreover, Canada argues the lateness of the motions for interested party status is inherently prejudicial to the expeditious resolution of this matter. Allowing intervention at this stage would introduce additional delays and undermine the Tribunal's mandate to ensure efficient proceedings.

[98] Canada submits the AMC and the OCOWS have raised issues that are not in dispute and will not advance any position beyond those already articulated by the existing parties. Their participation would therefore add no substantive value to the Tribunal's determination of the issues.

[99] Canada submits that the AMC and the OCOWS have failed to establish that the current impact of these proceedings warrants their intervention.

[100] Canada submits that Southern Chiefs' Organization Inc. ("SCO") has not met the criteria required to obtain interested party status in these proceedings. Canada argues that the motion has been brought at a very late stage in a lengthy remedial process and that granting the SCO broad participatory rights would expand the scope of the litigation, introduce additional procedural complexity, and delay the Tribunal's ability to move toward

resolution. In Canada's view, the SCO has not demonstrated that its proposed participation would assist the Panel in determining the outstanding remedial issues, particularly where the perspectives of First Nations communities are already advanced by existing parties, including the Assembly of First Nations and the First Nations Child and Family Caring Society of Canada.

[101] Canada further submits that SCO's proposed expertise does not add a distinct or necessary perspective beyond what is already before the Tribunal. Canada argues that regional viewpoints are adequately represented through the current parties and that permitting additional organizations to intervene on that basis would make the proceedings difficult to manage and risk prolonging reforms intended to benefit First Nations children and families.

[102] Canada also contends that the SCO has not established that it is directly impacted by the present stage of the proceedings, nor has it provided a sufficient explanation for its delay in seeking interested party status despite the national scope of earlier orders.

[103] In addition, Canada submits that SCO seeks an overly expansive role that includes adducing evidence, conducting examinations, and participating in negotiations and procedural steps. According to Canada, such broad participation would hinder, rather than assist, the Tribunal's mandate to conduct proceedings expeditiously. Canada therefore requests that the motion be dismissed.

[104] In the alternative, Canada submits that any participation granted to SCO should be subject to strict limits, including restricting SCO to making written representations on remedies within a defined scope, prohibiting it from supplementing the evidentiary record or bringing motions, and excluding it from case management and dispute resolution processes unless specifically directed by the Tribunal.

[105] Canada submits that the Tribunal should dismiss the motions for interested party status brought by AMC, OCOWS and SCO on the basis of the principle of proportionality. Canada argues that proportionality requires the Tribunal to impose reasonable limits on litigation in order to ensure fairness, efficiency, and timely resolution, particularly given the Tribunal's limited public resources and its statutory mandate to proceed informally and

expeditiously. In Canada's view, the proceeding has already become overly complex and burdensome, and further participation by additional groups would divert attention away from resolving the substantive issues before the Tribunal.

[106] Canada emphasizes that proportionality is intended to restrict, not expand, access to participation where doing so would cause delay or duplication. Canada submits that the proposed participation of the AMC, the OCOWS and the SCO would increase costs, complexity, and inefficiency, even if their rights were limited, because the Tribunal and parties would still be required to review and respond to additional submissions.

[107] Canada maintains that the organizations' arguments are largely repetitive of positions already advanced by existing parties and that their claim to provide unique regional perspectives is unsupported. According to Canada, those perspectives can be conveyed through the Assembly of First Nations or the Caring Society without granting formal interested party status, thereby preserving efficiency while still allowing regional views to be considered.

[108] In *Liu*, the Tribunal declined to admit additional expert witnesses where their testimony would duplicate existing evidence and strain resources. The AMC, the OCOWS and the SCO's intervention should be declined for the same reason (See *Liu*, at paras 74-76, 81).

[109] Canada further submits that the AMC, the OCOWS and the SCO's claim that only they can provide their unique regional perspectives is unsupported. The AFN or Caring Society can incorporate their specific views through affidavits or submissions without their intervention. This Tribunal has already recognized that these organizations can consult and incorporate relevant local and regional perspectives in national long-term reform plans, and that inviting every First Nations into the proceedings would paralyze the proceedings and harm the children at the heart of this matter, 2025 CHRT 80, at paras. 108, 110. Allowing the AMC, the OCOWS and the SCO's intervention would undermine the proportionality of this proceeding since their views can be provided through less intrusive and more efficient means.

[110] Canada argues that this is an exceptionally complex systemic proceeding that already requires careful management, and that granting additional participatory rights to the AMC, the OCOWS and the SCO would undermine the Tribunal's ability to control its process.

[111] Canada relies on recent Tribunal jurisprudence applying proportionality to limit duplicative evidence and participation, arguing that similar reasoning should apply here. Canada submits that the Tribunal has previously found comparable submissions from these organizations to be duplicative and warns that allowing further interventions would encourage additional motions, prolonging litigation nearly a decade after the Merits decision.

[112] Canada argues that the participation of the AMC, the OCOWS and the SCO is unnecessary, disproportionate, and contrary to the Tribunal's mandate to resolve proceedings efficiently, and that their motions for interested party status should therefore be denied. Unless the Tribunal applies the proportionality principle to restrict these motions, more intervention motions will follow, delaying resolution and frustrating the Tribunal's mandate. Ten years after the Tribunal's Merit Decision, such motions continue to arise.

III. Applicable Law

[113] The *CHRA* contemplates interested parties in s. 50(1) and 48.9(2)(b) and accordingly confirms the Tribunal's authority to grant a request to become an interested party.

[114] The Old Rules of procedure have recently been revised in Canadian Human Rights Tribunal Rules of Procedure, 2021, SOR/2021-137 (the "New Rules"). Given that this case is ongoing and was initiated under the Old Rules, the Old Rules of procedure (03-05-04) will continue to govern this motion.

[115] The procedure for adding interested parties is set out in Rules 3 and 8(1) of the Tribunal's Old Rules of procedure (03-05-04).

[116] Consequently, the Tribunal has the jurisdiction to allow any interested party to intervene before this Tribunal regarding a complaint. "The onus is on the applicant to demonstrate how its expertise will be of assistance in the determination of the issues"

(*Canadian Association of Elizabeth Fry Societies and Renee Acoby v. Correctional Service of Canada*, 2019 CHRT 30 at para. 34). In determining the request for interested party status, the Tribunal may consider amongst other factors if:

> A. the prospective interested party'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 will have an impact on the moving party's interests.

[117] However, while the criteria listed above and developed in *Walden* are still helpful in similar contexts, in *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, 2016 CHRT 11 (NAN), the Tribunal held that what is required is a holistic approach on a case-by-case basis. This approach was also applied in *Attaran v. Citizenship and Immigration Canada*, 2018 CHRT 6 (Attaran) and in *Letnes v. RCMP and al,* 2021 CHRT 30 at para. 14. Therefore, the Tribunal case law shows that the analysis must be performed not strictly and automatically, but rather on a case-by-case basis, applying a flexible and holistic approach. Interested party status will not be granted if it does not add significantly to the legal positions of the parties representing a similar viewpoint. See, for example, *Attaran* at para. 10.

[118] As noted, the Panel addressed the test for granting interested party status in 2016 CHRT 11 when the Panel granted interested party status to the Nishnawbe Aski Nation (NAN). In that ruling, the Tribunal outlined the considerations on granting interested party status, at paragraph 3, as follows:

> An application for interested party status is determined on a case-by-case basis, in light of the specific circumstances of the proceedings and the issues being considered. A person or organization may be granted interested party status if they are impacted by the proceedings and can provide assistance to the Tribunal in determining the issues before it. That assistance should add a different perspective to the positions taken by the other parties and further the Tribunal's determination of the matter. Furthermore, pursuant to section 48.9(1) of the *CHRA*, the extent of an interested party's participation must take into account the Tribunal's responsibility to conduct proceedings as informally and expeditiously as the requirements of natural justice and the rules of procedure allow (see *Nkwazi v. Correctional Service Canada*, 2000 CanLII 28883 (CHRT) at paras. 22-23; *Schnell v. Machiavelli and Associates Emprize Inc*., 2001 CanLII 25862 (CHRT) at para. 6; *Warman v. Lemire*, 2008 CHRT 17 at paras. 6-8; and *Walden et al. v. Attorney General of Canada*

> *(representing the Treasury Board of Canada and Human Resources and Skills Development Canada*), 2011 CHRT 19 at paras. 22-23).

[119] Subsequently, in 2020 CHRT 31, at paragraph 28, the Panel noted:

> [28] The Tribunal in granting interested party status within the context of this specific case, recognized the challenge in determining which potential organisations or First Nations governments should be granted interested party status when the nature of the issues means that a large number of First Nations communities are directly affected by this case:
>
> The Panel's role at this stage of the proceedings is to craft an order that addresses the particular circumstances of the case and the findings already made in the [Merit] Decision. The Tribunal's remedial clarification and implementation process is not to be confused with a commission of inquiry or a forum for consultation with any and all interested parties. If that were the case, every First Nation community or organization could seek to intervene in these proceedings to share their unique knowledge, experience, culture and history. Processing those applications, let alone admitting further parties into these proceedings, would significantly hinder the Panel's ability to finalize its order,
> (2016 CHRT 11, at para. 14).

[120] In 2022 CHRT 26, the Tribunal reiterated that the proper analysis is a case-by-case holistic approach rather than a strict application of the factors from *Walden*. The interested party has to bring expertise and add a different perspective to the positions including the legal positions taken by the other parties and further the Tribunal's determination of the matter. Further, *Walden and Letnes* are distinguishable for another reason. In both cases, the interested party was a bargaining agent and the complainants were members of the bargaining agent. As noted in *Letnes* at para. 19, "absent exceptional circumstances, a union will automatically be granted intervention status in proceedings dealing with human rights in the workplace when one of its members is the complainant." That is very different from the current context where many organizations represent different First Nations.

[121] Furthermore, in 2022 CHRT 26, the Tribunal determined that its approach to rulings on interested party status in these proceedings is the most relevant and authoritative to motions seeking interested party status, given that they arise from the same case and historical context. These findings remain unchallenged. The parties have, in fact, agreed with the Tribunal on this point.

[122] The Tribunal discussed these proceedings in detail and stated the following:

> [37] In analyzing the expression "further the Tribunal's determination of the matter" the Tribunal considers the legal and factual questions it must determine, the adequacy of the evidence and perspectives before it, the procedural history of the case, the impact on the proceedings as well as the impact on the parties and who they represent. The Panel also considers the nature of the issue and the timing in which an interested party status seeks to intervene. Moreover, if adding another interested party will positively or negatively impact the Tribunal's role to appropriately determine the matter. Finally, the Tribunal will consider the public interest in the matter.
>
> [38] The Panel stresses the importance of considering the context and specific facts of the case in all proceedings before the Tribunal including interested parties' status. Otherwise, it may lead to legalistic, technical and unjust outcomes. Furthermore, the Parties cannot ignore the previous interested party rulings in this case. The approach taken in those rulings is the most relevant and authoritative to this motion given that this is the same case with the same historical context.
>
> [39] At the time of this motion, the Panel has been on this case for a decade and heard the merits of the case including compensation and has released its substantive decisions. The Panel remains seized of this case to supervise adequate implementation of its previous orders and to issue new orders if necessary to eliminate systemic discrimination and prevent it from reoccurring. Over the years, the Panel added 5 interested parties at various times and for various reasons. Two before the hearing on the merits, one at the beginning of the remedies phase and two others for specific motions and for specific reasons summarized above. The Panel ruled on the issue of compensation and on the compensation process (compensation decisions) on a time frame of over a year considering a large evidentiary record, complex and numerous legal and factual questions assisted by the parties especially First Nations complainants. Moreover, the Federal Court affirmed the compensation decisions. Therefore, the Panel is acutely aware of what may assist or hinder its consideration of the matter. This analysis cannot be overlooked. The Panel has consistently identified the need to take a contextual and holistic approach. This approach refined and developed the approach from *Walden*. *Attaran and Letnes* similarly added to the jurisprudence. The Tribunal cannot now ignore these subsequent cases. Of note, both *Attaran and Letnes* rely on this Panel's earlier ruling. The request must be considered in a holistic manner, case-by-case approach taking into consideration if it furthers the Tribunal's determination of the matter. The Panel clarifies that the Tribunal's determination of the matter is informed by the list of criteria mentioned above.

> [40] Further, the *Letnes* ruling was made at the early stages of the complaint before the Tribunal yet the Tribunal still limited the interested party's participation.
>
> [41] Moreover, in this wide-ranging case, impacting First Nations communities in Canada, the Tribunal has to consider that every First Nation community in Canada, the Tribunal has to consider that every First Nation community or organization could seek to intervene in these proceedings to share their unique knowledge, experience, culture and history. Would they have expertise to offer? Absolutely. However, it is impossible for all of the First Nations to join this case without halting the work of the Tribunal. The Tribunal is informed by three large organizations representing First Nations (AFN, COO, NAN) and an organization with expertise in child welfare and other services offered to First Nations children regardless of where they reside (Caring Society) to consult with First Nations by different means and bring their perspectives to these proceedings.
>
> [42] Moreover, the Panel recognizes that the rights holders are First Nations people and First Nations communities and governments. While it is ideal to seek every Nations' perspective again, these proceedings are not a commission of inquiry, a truth and reconciliation commission or a forum for consultation. The Panel relies on the evidence, the parties in this case and the work that they do at the different committees such as the National Advisory Committee on Child Welfare (NAC), tables, forums and community consultations to inform its mid and long-term findings.

[123] Finally, the Tribunal continues to rely on all its previous rulings on interested party status including those that impose limitations on the interested party's participation.

[124] The foregoing sets out the factors that the Tribunal considers when determining motions seeking interested party status in these proceedings, particularly at this late stage, just over ten years after the Tribunal's decision on the merits in 2016 CHRT 2.

IV. Analysis

Proportionality principle and the history, nature and impact of these proceedings

[125] In *Liu*, The Tribunal emphasizes that its work must be guided by proportionality, given its limited public resources and its mandate to provide expeditious, informal, fair, and efficient adjudication rather than conduct broad public inquiries. It cannot abdicate its responsibility to manage proceedings and must set reasonable limits to ensure matters

remain focused and workable. Even in complex systemic discrimination cases, the Tribunal must impose reasonable limits on scope, time frame, and evidence to ensure fair and efficient proceedings. While the *CHRA* offers an important avenue to address systemic discrimination, the Tribunal remains an administrative decision-maker expected to resolve matters promptly and accessibly, and parties share responsibility for advancing their cases in a balanced and proportionate manner.

[126] While the Tribunal's comments in *Liu* were not provided in the context of a motion seeking interested party status, the Tribunal agrees with the COO, the NAN and Canada that the principle of proportionality may inform the Tribunal's analysis in determining motions seeking interested party status at this very late stage in the proceedings.

[127] This Tribunal generally agrees with the proportionality principles explained in *Liu* bearing in mind that the Tribunal conducts a case-by-case analysis and must work with the factual and procedural matrix in each given case.

[128] The Tribunal is faced with an exceptional procedural posture: the present motions for interested party status were filed nearly a decade after the Tribunal rendered its Merit Decision, and more than twelve years after this complaint was remitted to the Tribunal and scheduled to proceed on its merits. This case has long been a matter of significant public record. It has been the subject of two National Film Board documentaries, was raised during the Missing and Murdered Indigenous Women and Girls (MMIWG) National Inquiry and before the Public Inquiry Commission on relations between Indigenous Peoples and certain public services in Québec: listening, reconciliation and progress (Viens Commission) and has been reflected in recommendations issued by United Nations committees to Canada, as well as in numerous public forums over the past decade. In light of this extensive and sustained public exposure, First Nations organizations cannot credibly assert that they were unaware of these proceedings or that they lacked an earlier opportunity to seek interested party status.

[129] A brief reminder of the origins of the complaint and the history of the proceedings assists the reader in understanding the Tribunal's approach and how it aligns with access to justice, reconciliation, and ensuring that human rights protections have full meaning. A

finding of systemic racial discrimination is meaningless if it does not lead to the cessation of that discrimination. This principle is widely recognized and has been extensively discussed in the Tribunal's numerous rulings.

[130] This single Tribunal case significantly advanced access to justice for tens of thousands of First Nations children and families. The parties' assistance and expertise informed the Tribunal's work and contributed to major outcomes, including substantial compensation for harms, a reduction in the mass removal of children from their communities, and a shift toward community-based prevention services, among many other important reforms.

[131] The complaint was filed in 2007 with the Commission. The Commission chose not to investigate and instead referred the matter directly to the Tribunal.

[132] The complaint spans ten provinces and the Yukon Territory, effectively affecting 634 First Nations; it is a national complaint. While the Tribunal Panel agreed to add Dr. Cindy Blackstock's retaliation allegations to the complaint, it did not choose the scope of the complaint referred to it.

[133] The Tribunal subsequently rendered its 2015 decision on the issue of retaliation, substantiating certain of those allegations.

[134] The systemic racial discrimination found is of critical importance because it relates to the **massive removal** of First Nations children from their families, extended families, communities, and Nations, an issue that previous Ministers have described as a national crisis. This has been ongoing for decades and successive governments who were proven resistant to change. This forms part of the Tribunal's evidentiary record and findings.

[135] The Tribunal faced that resistance during these proceedings with over 90 000 relevant documents that were undisclosed by Canada and Canada's narrow interpretation of some of the Tribunal's orders.

[136] The best interests of children is a principle recognized by the Supreme Court of Canada and in international law. Given the importance of the issue, the magnitude of the task, and the diversity of the 634 First Nations and 11 regions, long-term reform orders

needed to be informed by First Nations themselves, through their own institutions and rigorous studies, to guide reform and identify best long-term practices in the best interests of First Nations children.

[137] The Tribunal made findings in previous rulings concerning the MMIWG reports. The MMIWG found that First Nations children involved in the child welfare system face heightened risks of entering prostitution, human trafficking, mental health issues, incarceration, as well as homelessness and a wide range of other social problems. The Truth and Reconciliation Commission's first five Calls to Action focus on child welfare. The MMIWG interim and final reports, called on Canada to fully implement this Tribunal's merits decision and its Jordan's Principle decisions (2017 CHRT 14 and 2017 CHRT 35). Further, the United Nations Economic and Social Council recommended that Canada fully comply with this Tribunal's merits decision. ''The United Nations Economic and Social Council recommends that the State party (Canada) fully comply with the decision of the Canadian Human Rights Tribunal of January 2016''. (See, E/C.12/CAN/CO/6 at para. 36).

[138] The United Nations' Committee on the Elimination of Racial Discrimination (CERD) recommended the full implementation of all the Canadian Human rights Tribunal rulings and orders in the First Nations children child welfare case. See Discrimination against Indigenous children. (See CERD/C/CAN/CO/21-23 at paragraphs 27 et 28).

[139] Further, the self-determination of First Nations is a complex issue. This complexity is amplified here, given that the case involves the entire country rather than a single region or a limited number of First Nations.

[140] The Tribunal had the AFN representing the First Nations, the Caring Society representing First Nations agencies and First Nations children, the Commission who had carriage of the file at the AFN's request since their funding had been cut by the government following the filing of the complaint, the COO were present not solely to represent the Ontario region but precisely because the Ontario region operates under the 1965 Agreement as opposed to other regions in Canada.

[141] Notably, no other region requested interested party status to advance their interests in joining the proceedings generally before 2016 and a few did for specific motions only over the years.

[142] The Tribunal received an unprecedented number of motions for interested party status in 2025, following the rejection by the First Nations Chiefs-in-Assembly at the AFN of a final national long-term settlement agreement with Canada concerning this complaint.

[143] Canada indicated that it only wanted to move forward with negotiations with the Ontario First Nations organizations, which ultimately resulted in the OFA, and that the Tribunal's decision may inform reform on a national scale, which worried some First Nations organizations.

[144] Given that this lasted for months without any movement, that the parties had committed to submit a final long-term reform agreement to the Tribunal by March 2023, and that we were now in 2025, the Tribunal requested submissions from the parties on the best way to achieve final long-term reform expeditiously in the best interests of First Nations children and, following receipt of those submissions, adopted an approach to move the proceedings forward toward finality for long-term reform and avoid procedural burdens associated with allowing multiple interested parties in the proceedings.

[145] Furthermore, it was always understood by the parties and the Tribunal that the 634 true rights-holder First Nations could not appear individually before the Tribunal without fundamentally transforming it into a commission of inquiry, an outcome that would be unproductive given that this is not the Tribunal's mandate and could paralyze the proceedings. In its rulings, the Tribunal found that resolutions from Chiefs-in-Assembly would assist in understanding their expressed views on the issues before it. The Tribunal also repeatedly emphasized the need for the parties to incorporate the specific needs of children, First Nations communities, and Nations in their final agreement and/or requested long-term reform orders. It is not reasonable to conclude that the Tribunal anticipated that all First Nations and First Nations organizations would need to join the proceedings in order for their perspectives to be considered. With this in mind, the Tribunal denied multiple motions seeking interested party status in the OFA joint motion and ordered the co-

complainants to consult them to bring their distinct perspectives into their national long-term reform plan outside Ontario (2025 CHRT 80).

[146] Over the last decade, the Tribunal consistently emphasized the need to move away from a one-size-fits-all solution and to consider the specific needs of every First Nations child, community, and Nation. This necessarily required the parties to bring their diverse and distinct perspectives to the Tribunal.

[147] Following the release of 2025 CHRT 80, Canada immediately wrote to the Tribunal asking it to clarify why it was ordering the complainants to consult non-parties, with or without Canada, while opposing the addition of other First Nations organizations to these proceedings and despite having indicated that it no longer wished to negotiate with the complainants and was only willing to negotiate with Ontario First Nations organizations. Canada later disagreed with the Tribunal's approach in 2025 CHRT 80 and sought judicial review of that ruling. It was only on December 22, 2025, when Canada filed its national long-term reform plan as ordered by this Tribunal in 2025 CHRT 80, that Canada provided its long-term approach outside Ontario, indicating that it will be seeking regional agreements on long-term reform.

[148] As mentioned above, the Tribunal recently allowed the parties and moving parties to make submissions on the Tribunal's 2025 CHRT 80 ruling.

[149] Canada has indicated to the Tribunal that its relationship with the Caring Society had deteriorated and, over the course of 2025, this has become evident. Moreover, since the rejection of the final settlement agreement by the Chiefs-in-Assembly, as expressed in their 2025 resolutions, Canada and the AFN appear to have a different relationship.

[150] The dialogic approach between the parties in this case is no longer yielding the positive results it once produced. For example, the parties were unable to resolve issues relating to interim Jordan's Principle consultation orders through Tribunal-assisted mediation. The proceedings have become inherently adversarial, with little collaboration, creating delays as parties adopt more contentious positions and procedural issues multiply. This is not what the Tribunal had in mind, and matters must now shift toward a final resolution. While the dialogic approach among the parties led to significant, real, and

measurable changes in the lives of tens of thousands of First Nations children, families, and communities, there is now a need to complete the work.

[151] The context described above impacts these proceedings and the final resolution of such a large and complex complaint.

[152] Canada reiterated in its recent submissions on proportionality and 2025 CHRT 80, that the Tribunal should rely on the AFN and the Caring Society who can incorporate the moving parties' specific views through affidavits or submissions without their intervention. Canada also submits that in 2025 CHRT 80, the Tribunal has already recognized that the complainants can consult and incorporate relevant local and regional perspectives in national long-term reform.

[153] Canada now desires to proceed with long-term reform consultations region by region and hopefully come to some regional agreements and proposes to do so by April 2027; it has also proposed a hearing schedule ending in January 2027. The co-complainants, who have filed a National long-term reform plan including regional perspectives, desire to complete long-term reform as soon as possible and have proposed a schedule ending with a hearing in November 2026. The moving parties desire that their unique regional perspectives be considered and disagree with having the co-complainants bring them forward.

[154] As noted above, and consistent with its prior rulings, the Tribunal considers additional factors beyond the Walden approach; the factors that follow arise from the Tribunal's analysis in 2022 CHRT 26:

> In analyzing the expression **"further the Tribunal's determination of the matter" the Tribunal considers the legal and factual questions it must determine, the adequacy of the evidence and perspectives before it, the procedural history of the case, the impact on the proceedings as well as the impact on the parties and who they represent**. The Panel also considers the **nature of the issue and the timing in which an interested party status seeks to intervene**. Moreover, if adding another interested party will **positively or negatively impact the Tribunal's role to appropriately determine the matter.**

> Finally, the Tribunal will consider the **public interest in the matter (..**.), (2022 CHRT 26, at para 37), (emphasis added).

[155] Long-term reform negotiations regarding Jordan's Principle have been bifurcated from the long-term reform of the FNCFS Program by the parties. The Tribunal issued interim orders, and the parties participated in 16 mediation sessions with an experienced Tribunal member; however, the issues remained unresolved. The Tribunal Chair ultimately ended the mediation, as it was not yielding any progress. This remains an outstanding matter. The relationship dynamics must undergo transformation. As Ontario-based interested parties, the COO and NAN are confined to their regional context and to their role as interested parties before the Tribunal. They cannot advance national long-term reform agreements or final long-term order requests, nor pursue regional agreements or long-term orders outside Ontario. This leaves the co-complainants and Canada to assist the Tribunal in determining the long-term reforms within the unfortunate context discussed above.

[156] This was not what the Tribunal had anticipated. However, insisting on maintaining the same original approach, at the risk of further delay, will not assist the parties or the Tribunal.

[157] In this case, unlike others that do not involve a large, systemic national complaint affecting 634 First Nations and spanning multiple territorial and regional agreements across Canada, the portion of the test that analyzes the impacts on the moving party's interests cannot, on its own, determine a motion for interested party status, even where it is shown that the proceedings may affect the moving parties' interests. Concluding otherwise could invite participation from all 634 First Nations and hundreds of First Nations child and family services agencies that may be affected by this case, potentially bringing the Tribunal's determination to a standstill. Such a result would hinder, rather than assist, the Tribunal in carrying out its mandate. The Tribunal is now in the final stages of these proceedings and must be able to resolve the matter in the near future, in the best interests of First Nations children and families.

[158] In 2016 CHRT 11, the Tribunal, in granting interested party status to the NAN, stated that it was rare to grant interested party status at the remedial stage. We are now in 2026, a decade later. This context is unprecedented; accordingly, a mechanical application of

general principles and tests for interested party status would not result in an appropriate outcome.

[159] The Tribunal, as master of its own procedure, has the discretion to establish mechanisms to manage its process, including appropriate limitations to ensure the orderly progression of the proceedings.

[160] The Tribunal was fully aware that the AFN's structure, which includes regional chiefs from every region and rights-holder Chiefs entitled to vote at Chiefs-in-Assembly meetings, enabled it to obtain regional perspectives to inform long-term reform.

[161] Moreover, long-term reform needs to allow individual First Nations, as rights holders, to have a voice and to have their self-governance and self-determination respected. However, the process in these proceedings is not designed for First Nations to appear before the Tribunal one by one to present their views. This is not due to a lack of interest or respect for their positions, but because there is no viable way for all 634 to be included individually or in small groups in these proceedings.

[162] As early as 2016, and even more clearly in 2018, the Tribunal emphasized that long-term reform must be informed by First Nations and should not adopt a one-size-fits-all approach

[163] In 2018 CHRT 4, the Tribunal foresaw that First Nations rights holders could negotiate a self-government agreement or a Nation-to-Nation agreement with Canada and included this in its findings and orders. The Tribunal is in a very difficult position now that the parties are having difficulty working together. The AFN, as co-complainant and the organization recognized by this Tribunal as representing First Nations by way of Chiefs-in-Assembly, takes no position on interested party status motions. The Caring Society has welcomed them all. The reason advanced is that this demonstrates the importance of these issues for First Nations. That point has never been in dispute. However, waiting more than a decade to seek participation in these proceedings inevitably raises the question of what prompted these interventions at this time.

[164] What developments took place beyond the breakdown in relationships? Canada recently signaled a preference to engage with regional organizations rather than the complainants. This appears to have followed the rejection, by a majority of AFN Chiefs-in-Assembly, of the final agreement on long-term reform of the FNCFS Program. At the request of the COO and the NAN, Canada subsequently focused its negotiations with Ontario First Nations, where the OFA agreement received majority support from Chiefs-in-Assembly for the COO and NAN.

[165] All those years, the Tribunal expected an outside process of broad consultation with First Nations rights holders, regional organizations, and national organizations to avoid a top-down, one-size-fits-all approach to reform. Everyone involved in these proceedings, including this Tribunal panel, agrees that First Nations ought to be able to decide for themselves and are best placed to decide how to care for their children. Truly empowering this will embody reconciliation. Long-term reform was always envisioned by this Tribunal as respecting these principles and as involving consultations outside the Tribunal. The Tribunal also never envisioned that long-term reform would be determined by a small group of leaders and subsequently presented to others for acceptance as final. This is the type of top-down approach the Tribunal has not favored. This is not to say that it has occurred in this case; however, the dramatic change in dynamics is raising questions.

[166] In 2025 CHRT 80, the Tribunal opted for an expeditious way to move forward and receive multiple perspectives.

[167] This provides some context and some reasons why the Tribunal originally did not want to include more actors at this late stage. Another major reason is the need to protect these proceedings from an overflow of requests that would paralyze the process and not help the children. The Tribunal agrees with Canada, the COO and the NAN that there is a real risk of opening the floodgates that the Tribunal must consider and evaluate every time a motion seeking interested party status is brought to the Tribunal. The Tribunal must also be able to close the door when its proceedings are at risk and will do so if necessary. There is a limit to the moving parties' argument that effective case management and limitations will prevent any negative impact on the proceedings.

[168] Adding other regional First Nations organizations as interested parties in a limited manner will transform the relationship dynamics and assist the Tribunal in determining the matters toward finality, while ensuring that the proceedings are not paralyzed or that the parties are unduly burdened. The orders are carefully crafted to reflect this.

[169] The specific context and reasons set out above inform the Tribunal's analysis and guide its determination of the motions.

[170] The Tribunal emphasizes that the complaint was filed by the Caring Society and the AFN at the request of the First Nations Chiefs-in-Assembly. Without their involvement, we would not be where we are today: many thousands of children's lives have been transformed, over ten million services and products have been approved under Jordan's Principle, and the parties have worked tirelessly to stop the mass removal of First Nations children from their communities and Nations, and to ensure that the lives of First Nations children are free from racial and systemic discrimination. This is transformative justice. In accepting new organizations, the Tribunal is in no way diminishing, discounting, or ceasing to rely on their expertise and assistance.

[171] The Tribunal also recognizes the other parties' invaluable expertise and significant efforts to bring transformative change to First Nations communities in Ontario and across Canada. Similarly, the Tribunal will continue to rely on their expertise and assistance.

[172] More work remains to be done, and these proceedings must move forward toward finality in the foreseeable future.

The prospective interested parties' expertise will be of assistance to the Tribunal in determining long-term reforms

[173] The Tribunal finds the AMC, the SCO and the OCOWS have demonstrated that their respective expertise will assist the Tribunal in determining long-term reforms. The orders set out below achieve this objective while permitting the proceedings to advance without undue delay.

[174] The AMC has been at the forefront of policy work advocating for the implementation of Jordan's Principle and addressing systemic funding challenges. It serves as the collective voice of its member First Nations through resolutions adopted by the Chiefs-in-Assembly, composed of Chiefs from all member First Nations. The AMC has extensive involvement in studies, projects, and initiatives related to First Nations child and family wellness, including Keewaywin: Our Way Home, Manitoba First Nations Engagement on First Nations Child and Family Services (the "Keewaywin Report") and The Implementation of Jordan's Principle in Manitoba Final Report (the "Jordan's Principle Implementation Report"). The AMC Women's Council and Grandmother's Council oversee the Jordan's Principle Service Coordination Project, which implements the recommendations identified in both the Keewaywin Report and the Jordan's Principle Implementation Report.

[175] Furthermore, the Women's Council oversees the child and family welfare file at the AMC and developed the foundational strategy set out in the Setting the Foundation for Change Report to assist in navigating the current Manitoba child and family services landscape. This work is also intended to guide further progress under the AMC and Canada's Memorandum of Understanding ("MOU") on child welfare reform. This expertise will assist the Tribunal in determining the long-term reforms.

[176] Given its role in various projects that relate to Jordan's Principle, long-term reform of the First Nations child and family services program, and First Nations children and families in Manitoba, the AMC is uniquely positioned to provide the specific perspective and direct experiences of the approximately 172,000 First Nations citizens in Manitoba.

[177] Finally, the AMC's recent advocacy in response to federal changes to Jordan's Principle, as well as the 2024 MOU it signed with Canada to enhance implementation for First Nations children, youth and families in Manitoba, including a provision supporting First Nations-led implementation, will assist the Tribunal in determining long-term reforms.

[178] The Tribunal finds the SCO possesses specific expertise relating to the delivery of child and family services to First Nations in southern Manitoba, which will assist the Tribunal in making determinations regarding long-term reforms.

[179] The SCO will bring the important perspectives of its 32 member First Nations and their citizens to the proceedings. The SCO will also provide the perspectives of 11 child and family services agencies delivering services to First Nations in southern Manitoba, the majority of which receive funding through the FNCFS Program. This combined representation of First Nations and First Nations agencies in southern Manitoba will assist the Tribunal in determining the long-term reforms, particularly in a context where recent proceedings have revealed evolving power dynamics raised by the parties between First Nations and First Nations agencies.

[180] According to the AMC, there are approximately 12,000 children under the care of child and family services in Manitoba, 90 percent of whom are Indigenous. The Tribunal finds that the AMC and the SCO will assist the Tribunal with this aspect and with their unique perspectives.

[181] The OCOWS submits that Canada's argument that Our Children Our Way's interests can be represented by the Caring Society (and AFN) is no longer tenable in light of the current procedural and substantive posture of these proceedings when a national remedy was contemplated, it may have been appropriate for the Caring Society to represent the interests of service providers across the country. However, Canada itself fundamentally changed the landscape when it began pursuing regional remedies, as evidenced by the Ontario Agreement.

[182] The OCOWS submits that the Caring Society, while a critically important national voice, does not have the day-today operational experience or regional expertise necessary to speak to the realities of British Columbian ICFSAs.

[183] Canada and the COO also argue that OCOWS' application is late and that this lateness should weigh against granting interested party status. The OCOWS submits that this argument overlooks the fact that its intervention became necessary only as a result of Canada and the COO's pursuit of a regional agreement. It was only when Canada, COO, and NAN sought to have the Ontario Agreement serve as a template for other regions, without input from those regions, that the OCOWS' direct and substantial interests in the proceedings crystallized. The timing of its application is therefore reasonable and justified in

the circumstances. The OCOWS submits that once it became clear that the Tribunal's decision on the Ontario Agreement could have direct and significant implications for British Columbian ICFSAs, the OCOWS acted promptly. To penalize it for not seeking to participate earlier, when there was no need to do so, would be unfair and contrary to the interests of justice.

[184] The Tribunal determined that, aside from general principles, the OFA would not serve as the model for long-term reform in other regions outside Ontario (2025 CHRT 80), thereby addressing some of the concerns expressed above by many First Nations organizations that sought to join these proceedings for that specific reason. However, Canada has sought judicial review of the 2025 CHRT 80 ruling, which may have revived those concerns.

[185] The Tribunal finds that the OCOWS's experience with the alleged challenges faced by its member ICFSAs in transitioning to new funding approaches mandated by the Tribunal is particularly relevant, especially with respect to prevention services, which the OCOWS submits were never funded in British Columbia prior to the implementation of this Tribunal's decision in 2018 CHRT 4. The OCOWS argues that this has placed the province's ICFSAs behind First Nations child and family service providers in other jurisdictions with respect to those services.

[186] The OCOWS is in a unique position, as British Columbia encompasses more than 200 First Nations, reflecting significant diversity, including 34 distinct languages, varied cultural identities, unique geographies, and differing population sizes. OCOWS's member ICFSAs bring direct expertise and experience in delivering child and family services across these highly diverse communities. Of the 24 ICFSAs that OCOWS represents, 19 are First Nations agencies that receive federal funding under the First Nations Child and Family Services Program ("FNCFS Program") and related provincial or territorial agreements.

[187] The Tribunal finds that the OCOWS perspective above will assist the Tribunal in determining the long-term reforms.

The long-term reforms proceedings will have an impact on the moving parties' interests

[188] As discussed above, this aspect of the test cannot, in these particular proceedings, be determinative on its own.

[189] The AMC's interests will be impacted by these proceedings as the collective advocacy body for all First Nations in Manitoba. The AMC also provides supports for First Nations in Manitoba at the regional, First Nation-level, family and individual level in relation to child and family wellness, health and Jordan's Principle.

[190] The Tribunal finds that the First Nations on whose behalf the SCO advocates, together with their children and families, will be directly impacted by these proceedings and by any orders made by the Tribunal in relation to the long-term reform of the FNCFS Program and Jordan's Principle.

[191] The Tribunal finds that the interests of the OCOWS's members, and of the 120 of Canada's 634 First Nations they serve, have been and will continue to be impacted by these proceedings relating to long-term reforms.

The moving parties' involvement will add to the legal positions of the parties

[192] The Tribunal finds that the AMC has a unique perspective and expertise that will add to the legal position of the parties. The AMC's member First Nations have diverse and distinct child rearing practices that are grounded in the knowledge, language, culture, economy and worldview of each First Nation. First Nations in Manitoba have their own laws around and systems of caring for and educating children.

[193] The AMC submits that Jordan's Principle implementation evolved in Manitoba, in line with previous Tribunal rulings, shifting from a focus on children with special needs and responding to First Nations requests, to a more expansive approach focused on meeting the needs of First Nation children. This led to the development of First Nations and Manitoba regional-level programs. The AMC and its member First Nations are now concerned that

Canada is backtracking on that approach to re-establish the same centralized approach that failed First Nations families and children in the first place.

[194] The Tribunal finds that SCO's combined representation of First Nations and First Nations agencies in southern Manitoba will assist the Tribunal. This will add to the legal positions of the parties.

[195] The OCOWS submits that they reviewed the draft National Settlement Agreement after it was released. They hosted expert panels and webinars to better understand and communicate the deficits of the agreement. Ultimately, OCOWS rejected it on the basis that it would be inadequate to achieve long-term reform in British Columbia. In October 2024, the National Settlement was rejected by the First Nations-in-Assembly. Following the rejection of the agreement by the First Nations-in-Assembly, the National Children's Chiefs Commission ("NCCC") was established through AFN Resolutions 60/2024 and 61/2024. The OCOWS submits that these resolutions called for renewed negotiations of long-term reform, with oversight and strategic direction provided by the newly formed NCCC, ensuring that all First Nations voices are included in reforming the FNCFS Program and Jordan's Principle in alignment with the United Nations Declaration on the Rights of Indigenous Peoples, as well as the principle of free, prior and informed consent.

[196] The OCOWS submits the NCCC's work is grounded in transparency and accountability. Representatives from the following regions have been appointed to the Commission: Newfoundland, Quebec & Labrador, Prince Edward Island, Nova Scotia, New Brunswick, Manitoba, Saskatchewan, Alberta, Northwest Territories, British Columbia, and Yukon. OCOWs is involved in the negotiations for new long-term agreements, including by providing secretariat support to the NCCC.

[197] The Tribunal finds this position will add to the legal positions of the parties. The OCOWS's position on British Columbia service delivery, and its submission that its member ICFSAs face unique challenges transitioning to Tribunal-mandated funding approaches, particularly for prevention services not funded in British Columbia prior to 2018 CHRT 4, which it argues has left them behind service providers in other jurisdictions, will also add to the legal positions of the parties.

V. Order

[198] FOR THESE REASONS, THE CANADIAN HUMAN RIGHTS TRIBUNAL:

Grants the AMC's motion in part;

Grants the SCO's motion in part;

Grants the OCOWS' motion in part;

[199] The AMC, the SCO and the OCOWS (new interested parties) are granted limited interested party status with the following conditions:

a) The new interested parties shall not participate in or bring interim motions. The new interested parties shall not bring any motions, whether procedural or substantive, before the Tribunal. The new interested parties will not participate in the Ontario Final Agreement joint motion scheduled for final arguments on February 26-27, 2026.

b) The new interested parties shall abide by all Tribunal directions.

c) The new interested parties may participate in the national long-term reform plan hearing process and the long-term reform of Jordan's Principle but shall not participate in interim motions.

d) The new interested parties shall not be permitted to participate in case management, motions, mediation, or other dispute resolution or administrative processes unless specifically directed by the Tribunal.

e) The new interested parties shall take the case as they find it and shall not seek to reopen matters, add or raise new issues, expand the scope of the complaint, revisit the evidence, or challenge previous orders or rulings. The new interested parties shall assist the Tribunal, through their expertise, in determining future final, long-term reforms applicable for their respective regions.

f) The new interested parties shall not duplicate the submissions of other parties and may adopt the submissions of parties with whom they are aligned.

g) The AMC and SCO, both from Manitoba, shall coordinate their submissions to avoid duplication.

h) The new interested parties shall provide submissions limited to their expertise in child and family services and Jordan's Principle within their respective regions and shall not make submissions concerning other regions.

i) The new interested parties shall not seek adjournments, postponements, or other modifications to Tribunal deadlines and shall comply with all Tribunal timelines. Missed deadlines will be considered a renunciation of participation in the motion, round of submissions, or other procedural or substantive matter for which they are late.

j) The new interested parties shall make themselves available in accordance with the Tribunal's schedule.

k) The new interested parties shall seek permission from the Tribunal before filing affidavits or exhibits and shall comply with any page limits imposed where such filings are permitted. Should the Tribunal permit the new parties to present evidence related to potential future long-term orders, that evidence shall assist the Tribunal, avoid duplicating that of the other parties or generating unnecessary procedural issues, and be relevant, useful, and focused.

l) The new interested parties shall not cross-examine witnesses.

m) The Tribunal reserves the right to determine the time allocated to the new interested parties for oral submissions. The Tribunal will establish time limits, and the new interested parties shall comply with those limits.

n) All parties shall be provided with a meaningful opportunity to respond to any written and oral submissions from new interested parties, where such submissions are permitted by the Tribunal.

o) The new interested parties shall familiarize themselves with the procedures of administrative tribunals and govern themselves accordingly. The Tribunal

reserves the right to add to or modify the above conditions, depending on the evolution of the case and as required by the circumstances, particularly if the proceedings risk being slowed or halted.

p) The Tribunal will not delay motions, hearings, or established schedules to accommodate new groups seeking to join these proceedings at this late stage, except in extraordinary circumstances or where a long-term reform agreement is reached with Canada and Canada seeks the Tribunal's approval of that agreement. This is not an invitation to bring forward regional long-term agreements one at a time, year after year, as occurred with the OFA; rather, it reflects Canada's proposed approach as set out in its national long-term reform plan. The Tribunal is not deciding the merits of Canada's national long-term reform plan here. This is for procedural planning purposes only.

[200] The Tribunal remains focused on final long-term reform orders relating to the FNCFS Program and Jordan's Principle and, aside from Jordan's Principle interim orders, will not prioritize adjudicating other matters before addressing these important long-term issues. At any given time, the Tribunal may pause or limit the number of interventions and/or matters before it to ensure that the proceedings are not halted and continue to move forward effectively toward a final resolution.

Conclusion

[201] The Tribunal reminds the parties and their counsel that this is an administrative human rights tribunal, not a court, and that its mandate is to adjudicate matters involving fundamental rights. The Tribunal is concerned by the recent and unnecessary level of contention over minor matters. All participants are encouraged to reflect on how their conduct may contribute to delays and on the impact such delays may have on the children; the Tribunal is undertaking the same reflection. Moving forward, parties and interested parties should prioritize finality by advancing final order requests and/or reaching agreements as promptly as possible, without allowing the process to extend unnecessarily

over multiple years. The Tribunal will establish an appropriate timeframe after consulting with the parties.

VI. Retention of jurisdiction

[202] The Panel retains jurisdiction over all of its prior orders, with the exception of its compensation orders. The Panel will revisit the issue of retained jurisdiction once the National long-term reform plan proceedings have concluded, or as it considers appropriate in light of the future evolution of this matter.

Signed by

Sophie Marchildon
Panel Chair

Edward P. Lustig
Tribunal Member

Ottawa, Ontario
February 23, 2026

Canadian Human Rights Tribunal

Parties of Record

Tribunal File: T1340/7008

Style of Cause: First Nations Child and Family Caring Society of Canada and Assembly of First Nations v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)

Ruling of the Tribunal Dated: February 23, 2026

Motion dealt with in writing without appearance of parties

Written representations by:

David P. Taylor, Sarah Clarke, Kiana Saint-Macary and Robin McLeod, counsel for the First Nations Child and Family Caring Society of Canada, the Complainant

Paul Vickery, Sarah-Dawn Norris, Meg Jones, Dayna Anderson, Kevin Staska, Sarah Bird, Jon Khan, Alicia Dueck-Read and Aman Owais, counsel for the Attorney General of Canada, the Respondent

Maggie Wente, Jessie Stirling, Ashley Ash and Katelyn Johnstone, counsel for the Chiefs of Ontario, Interested Party

Julian Falconer, Asha James, Shelby Percival and Meaghan Daniel, counsel for the Nishnawbe Aski Nation, Interested Party

Justin Safayeni, counsel for Taykwa Tagamou Nation and Chippewas of Georgina Island, Interested Parties

Carly Fox and Jasen Erbeznik, counsel for Assembly of Manitoba Chiefs

Harold Cochrane and Alyssa Cloutier, counsel for Southern Chiefs' Organization Inc.

Alexandra Heine and Dan Goudge, counsel for Our Children Our Way