



NOTICE TO THE PARTIES AND THE PROFESSION

TO: Parties and the Profession

FROM: The Honourable Marc Noël,
Chief Justice of the Federal Court of Appeal
and
The Honourable Paul Crampton,
Chief Justice of the Federal Court

DATE: 28 November 2019

SUBJECT: Formal implementation of the pilot project on procedural
bijuralism

The pilot project on procedural bijuralism will officially take effect on November 28, 2019.

This pilot project will allow for the application of the Quebec *Code of Civil Procedure*, with the necessary adaptations, in specified judicial proceedings in which all parties are represented by lawyers who are members of the Barreau du Québec.

The Court invites parties who are intending to file an action and are in contact with a defendant already represented by legal counsel who is a member of the Barreau du Québec to obtain his or her consent to be part of the pilot project. In the alternative, the defendant in an action undertaken by a legal counsel who is a member of the Barreau du Québec is encouraged to seek his or her consent to proceed pursuant to the pilot project so that an answer can be filed in accordance with sections 145 and 147 of the Quebec *Code of Civil Procedure*.

For informational purposes, the following requirements shall apply to actions that proceed as part of the pilot project:

- The parties shall be represented by a legal counsel who is a member of the Barreau du Québec;

- The parties shall agree in writing that the action be subject to the pilot project;
- A case protocol shall be filed in accordance with section 148 of the *Quebec Code of Civil Procedure*;
- The proceedings shall include " PILOT PROJECT – BIJURALISM QUEBEC" in bold in their header;
- Each of the proceedings that are part of the pilot project will be under special case management. A case management judge will be appointed for each file in the pilot project. The case management judge may, on application or of his or her own motion, summon the parties to a case management conference if he or she deems it necessary and will be responsible for approving the case protocol prepared by the parties or for establishing the protocol if the parties do not cooperate or do not reach an agreement;
- The case management judge will also be responsible for ruling on applications brought in the course of a proceeding. In such a case, the parties shall communicate with the case management judge to determine the method in which and/or the date on which the application will be argued during the course of a proceeding. The case management judge may also make this determination in a case management conference, namely any conference that may be held to approve the case protocol;
- In an action that is part of the pilot project, with the exception of registry fees payable to the registry office, the legal costs set out in the *Quebec Code of Civil Procedure* shall apply unless the parties agree otherwise in writing;
- In the event that a decision of the Federal Court made in the proceeding under the pilot project is appealed, the pilot project shall also apply in the Federal Court of Appeal. The appeal will also be under special case management.
- At trial and on appeal, the *Federal Courts Act* and the *Canada Evidence Act* continue to apply to actions within the scope of the pilot project. In the event of conflict, those acts shall apply.

For more information about the pilot project, please refer to the consent form and information document for the parties found on the websites of the Federal Court (<https://www.fct-cf.gc.ca/en/pages/law-and-practice/notices>) and Federal Court of Appeal (https://www.fca-caf.gc.ca/fca-caf_eng/bijuralism-bijuridisme_eng.html).

As of November 28, 2019, the parties represented by lawyers who are members of the Barreau du Québec will be able to avail themselves of the pilot project.

The duration of the pilot project will be a function of the extent to which parties are availing themselves of it. The Chief Justices may, at their discretion, terminate it if its use is deemed insufficient.

The Chief Justices,

« Marc Noël »

« Paul Crampton »

Chief Justice
Federal Court of Appeal

Chief Justice
Federal Court