

Federal Court



Cour fédérale

Ottawa, February 3, 2021 – A public version of the confidential Judgment and Reasons in file 2020 FC 757 was issued today by the Honourable Patrick Gleeson of the Federal Court:

**IN THE MATTER OF AN APPLICATION BY [REDACTED] FOR
WARRANTS PURSUANT TO SECTIONS 16 AND 21 OF THE CANADIAN
SECURITY INTELLIGENCE SERVICES ACT, RSC 1985 C C-23 AND IN THE
MATTER OF AND IN THE MATTER OF [A FOREIGN STATE, GROUP OF
STATES, CORPORATION OR PERSON]**

Summary: The Canadian Security Intelligence Service (“CSIS”) applied for warrants enabling it to initiate, from a location inside Canada, the collection of information outside Canada (the “investigative powers”).

The Court denied the applications. Justice Gleeson found the proposed use of the investigative powers did not meet the “within Canada” requirement of section 16 of the *Canadian Security Intelligence Service Act*, RSC 1985, c C-23.

The Court heard factual evidence showing the investigative powers would allow CSIS to collect information in specific foreign countries. This supported two conclusions: using the investigative powers would not assist the Minister “within Canada” and would violate foreign domestic and/or international law and/or the international principle of non-intervention.

The Court concurred with Justice Noël’s analysis of the same issue in *X (Re)*, 2018 FC 738: Parliament imposed the “within Canada” requirement because collecting foreign intelligence in foreign countries can harm Canada’s international relations. Using the investigative powers could cause that exact harm, as it would breach foreign domestic and/or international law and/or the international principle of non-intervention.

The Court distinguished cases on information in foreign jurisdictions because those cases did not deal with collection violating foreign domestic and/or international law and/or the international principle of non-intervention.

A copy of the decision can be obtained via the [website](https://decisions.fct-cf.gc.ca/) of the Federal Court:

<https://decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/492304/index.do>.