Canadian Human Rights Tribunal

Tribunal canadien des droits de la personne

Citation: 2018 CHRT 17

Date: June 8, 2018

File No.: T2207/2917

Between:

Cecilia Constantinescu

Complainant

- and -

Canadian Human Rights Commission

Commission

- and -

Correctional Service Canada

Respondent

Ruling

Member: Gabriel Gaudreault

I. Background of the complaint, the motion and the parties' position

[1] In October 2015, Celicia Constantinescu (Complainant) filed a complaint with the Canadian Human Rights Commission (Commission) against the Correctional Service of Canada (Respondent or CSC). More specifically, she alleges that (1) she was subject to employment-related discrimination (pursuant to section 7 of the *Canadian Human Rights Act*, R.S.C. 1985, C. H-6 (*CHRA* or *Act*); and (2) she was subject to employment-related harassment (pursuant to paragraph 14(1)(*c*) CHRA), on the basis of her sex and ethnic origin. The Commission referred the complaint to the Canadian Human Rights Tribunal (Tribunal) on May 31, 2017.

[2] On March 21, 2018, Cecilia Constantinescu filed a notice of motion with the Tribunal to expand the scope of her original complaint. The Complainant asked the Tribunal to expand the scope of her complaint to add new incidents that she considers discriminatory, more specifically:

A. The private shooting practices organized by one of the Respondent's employees, who was also a shooting instructor for the Collège du personnel de Laval (College), the breakdown of security at the Armoury of the Regional Reception Centre (RRC) as well as the subsequent investigations that followed this breakdown;

B. The Respondent's different treatment of her complaints following the denunciation of the acts of aggression and harassment that she allegedly suffered compared with the handling of the complaints of employees of an Edmonton penitentiary.

[3] The Complainant was careful to state to the Tribunal that, when she filed her complaint with the Commission in October 2015, she was unaware of the existence of these alleged facts. As a result, she was unable to include them in her original complaint. The Respondent filed a reply on April 12, 2018, supported by an affidavit from Isabelle Bastien, Acting Director, Incident Investigations Directorate, CSC.

[4] The Tribunal read the parties' representations, the case law and the documentation submitted. For the following reasons, I partially allow the Complainant's request. However, I will issue certain specific ranges.

II. Law

[5] The Tribunal recently summarized, in *Polhill v. Keeseekoowenin First Nation*, 2017 CHRT 34, the applicable law with respect to amending complaints, in paragraphs 13 to 16 and 18:

> [13] It is important to remember that the original complaint does not serve the purposes of a pleading (*Casler v. Canadian National Railway, 2017 CHRT 6* at para. 9 [Casler]; see also *Gaucher v. Canadian Armed Forces, 2005 CHRT* 1 at para. 10 [Gaucher]). Moreover, as explained in Casler:
>
> > [8] … [I]t must be kept in mind that filing a complaint is the first step in the complaint resolution process under the Act. . . . As the Tribunal stated in *Gaucher*, at paragraph 11, "[i]t is inevitable that new facts and circumstances will often come to light in the course of the investigation. It follows that complaints are open to refinement."
>
> [14] The Tribunal enjoys considerable discretion in terms of hearing the complaint under sections 48.9(1), 48.9(2), 49 and 50 of the CHRA. It has been confirmed repeatedly that the Tribunal has the power to amend the original complaint referred to it by the Commission (*Canada (Attorney General) v. Parent, 2006 FC 1313* at paras. 30, 41, 43).
>
> [15] The decision in Canada (*Human Rights Commission) v. Canadian Association of Telephone Employees, 2002 FCT 776*, also helps to establish the general principles that guide the Tribunal with regard to applications for amendments:
>
> > [T]he general rule is that an [application for] amendment [filed before the Tribunal] should be allowed at any stage of an action for the purpose of determining the real questions in controversy between the parties, provided, notably, that the allowance would not result in an injustice to the other party not capable of being compensated by an award of costs and that it would serve the interests of justice. (*Canada (Human Rights Commission) v. Canadian Association of Telephone Employees, 2002 FCT 776* at para. 31, referring to *Canderel Ltd. v. Canada, 1993 CanLII 2990 (FCA)*, [1994] 1 F.C. 3 (F.C.A.)).
>
> (see also *Attaran v. Immigration, Refugees and Citizenship Canada (formerly Citizenship and Immigration Canada), 2017 CHRT 21* at para. 16 [Attaran]; *Canadian Museum of Civilization Corporation v. P.S.A.C. (Local*

> *70396*), 2006 FC 704 at paras. 40, 50 [Museum Corporation]; Gaucher at para. 10).
>
> [16] Furthermore, the proposed amendments cannot, by themselves, amount to a brand new complaint that was not initially referred by the Commission (Museum Corporation at paras. 40, 50). These amendments must necessarily be linked in fact or law to the original complaint: this is what is referred to as a nexus (see *Blodgett v. GE-Hitachi Nuclear Energy Canada Inc., 2013 CHRT 24* at paras. 16-17; see also *Tran v. Canada Revenue Agency, 2010 CHRT 31* at para. 17).
>
> […]
>
> [18] Lastly, when the Tribunal is required to analyze an application to amend and modify a complaint, the Tribunal should not embark on a substantive review of the merits of these amendments and modifications (see Bressette v. Kettle and Stony Point First Nation Band Council, 2004 CHRT 2 at para. 6 [Bressette]). The merits of the allegations should be assessed at the hearing when the parties have full and ample opportunity to provide evidence (see Saviye at para. 19, referring to Bressette at para. 8). Including these amendments does not in itself establish a violation of the CHRA: The Complainant must still meet the burden of proof, on the balance of probabilities.

[6] Recently, the Tribunal Chairperson, David L. Thomas, also referred to the same analysis in *Brickner v. Royal Canadian Mounted Police*, 2018 CHRT 2. He wrote in paragraphs 10 and 11 of his decision:

> [10] As stated above, pursuant to subsection 50(1) of the Act, parties before the Tribunal must be given a full and ample opportunity to present their case.
>
> [11] The legal test for amending an SOP is well established and was recently set out in the Tribunal's decision in Tabor v. Millbrook First Nation, 2013 CHRT 9 (Tabor). Ms. Tabor was also a complainant who wished to amend her SOP to add allegations of retaliation. The Tabor decision described the legal requirements as follows:
>
> > [4] It is well established that the Tribunal has the authority to amend complaints "...for the purpose of determining the real questions in controversy between the parties" (Canderel Ltd. v. Canada, [1994] 1 FC 3 (FCA); cited in Canada (Attorney General) v. Parent, 2006 FC 1313 at para. 30). In determining whether to allow an amendment, the Tribunal does not embark on a substantive review of the merits of the proposed amendment. Rather, as a general rule, an amendment is

> granted unless it is plain and obvious that the allegations in the amendment sought could not possibly succeed (see Bressette v. Kettle and Stony Point First Nation Band Council, 2004 CHRT 2 at para. 6 [Bressette]; and, Virk v. Bell Canada, 2004 CHRT 10 at para. 7 [Virk]).
>
> [5] That said, an amendment cannot introduce a substantially new complaint, as this would bypass the referral process mandated by the Act (see *Gaucher v. Canadian Armed Forces, 2005 CHRT 1 (CanLII)* at paras. 7-9; and, *Cook v. Onion Lake First Nation, 2002 CanLII 45929 (CHRT)* at para. 11). The proposed amendment must be linked, at least by the complainant, to the allegations giving rise to the original complaint (see Virk at para. 7; and, *Cam-Linh (Holly) Tran v. Canada Revenue Agency, 2010 CHRT 31* (CanLII) at paras. 17-18; and, *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), 2012 TCDP 24 (CanLII), 2012 CHRT 24 at para. 16 [FNCFCS et al.]).
>
> [6] Furthermore, the issue of prejudice must be considered when an amendment is proposed. An amendment cannot be granted "...if it results in a prejudice to the other party" (Parent at para. 40).

III. Analysis

[7] It is clear to the Tribunal that the parties do not agree on most of the allegations in the present case. It is also obvious that the parties have their own interpretations of the facts, which are in most cases, diametrically opposed.

[8] That said, when the Tribunal must rule on a motion to expand a complaint, it is not at this stage that it must engage in an in-depth analysis of the merits of the amendments requested. My role in this motion is thus not to establish the veracity of the new facts that Ms. Constantinescu wishes to add to her original complaint, but rather to determine whether there is a nexus—a connection to the original complaint.

[9] As noted in *Casler*, at paragraph 8, the original complaint is the first step in the complaint resolution process. The complaint is not necessarily frozen in time. During the investigation, new facts and circumstances may be revealed. It is difficult to conceive that

someone who has filed a complaint with the Commission and then receives new facts during the investigation and instruction process would be required to file a new complaint to deal with the new facts. That would do a disservice to the statutory scheme of our Tribunal, which requires it, among other things, to act informally and expeditiously (see subsection 48.9(1) *CHRA*).

[10] In my opinion, the Complainant is not asking for the addition of a new proscribed ground of discrimination under section 3 *CHRA* or the addition of a new discriminatory practice under sections 5 to 14.1 *CHRA*. The Complainant is asking the Tribunal to deal with new incidents that she became aware of after filing her complaint and receiving new documents from the Respondent or other organizations. The new incidents that Ms. Constantinescu would like to add to her complaint do not, in themselves, constitute new complaints against CSC.

A. Shooting practices, security breaches and subsequent investigations

[11] With regard to the first addition requested by the Complainant with regard to shooting practices, security breaches and investigations following the breach, contrary to what the Respondent alleges, I conclude that there is a factual nexus between certain incidents and the original complaint. In this regard, one should not look at incidents related to shooting practices, security breaches and subsequent investigations in a vacuum. On the contrary, we should look at the facts within the overall context.

[12] The new facts alleged are part of a continuum of incidents that already occurred between the Complainant and the Respondent. I recall that the original complaint began with alleged incidents such as degrading comments made in class by a co-worker and a pat-down search. The alleged incidents are just the beginning of Ms. Constantinescu's complaint. Further to these incidents, the Complainant also alleges that many other incidents occurred, which were allegedly perpetrated by the Respondent and that she considers discriminatory.

[13] The way that the incidents surrounding the security breaches, shooting practices and the investigation were handled by the Respondent is just another part of the plethora

of discriminatory allegations made by the Complainant. Once again, she considers that the Respondent, in its handling of the shooting practices, security breach and subsequent investigations, continued in this direction—namely of continuing to commit other discriminatory practices against her. This necessarily constitutes a nexus with the original complaint.

[14] I also agree with Ms. Constantinescu that the Tribunal has jurisdiction to expand and refine the complaint initially filed with the Commission. The Tribunal also has the authority to restrict and limit the scope of the complaint.

[15] That said, I am open to giving the Complainant flexibility in order to provide evidence of these alleged incidents. For example, the Complainant submits that the Respondent knowingly concealed facts from her about security breaches, but allegedly did not do so with the other recruits. She also submits that the Respondent asked the other recruits not to inform her of the circumstances surrounding those incidents. She also alleges that the way the Respondent acted contributed to her being eliminated from the CTP 5 program. She believes that these are discriminatory practices by the Respondent. Once again, without determining whether these allegations are founded, I am of the opinion that there is a nexus with the original complaint. I authorize the Complainant to adduce evidence regarding this matter.

[16] However, I will set limits and guidelines because I find that certain incidents alleged by the Complainant have no nexus with the original complaint.

[17] Before describing these limits, I would like to point out that, for the Tribunal to state that there is discrimination under the *CHRA*, **a single proven discriminatory practice is sufficient**. In other words, a complainant does not have to prove 10 discriminatory practices according to the prima facie burden of proof in order to succeed. A Complainant only has to prove a single discriminatory practice. That said, this general comment by the Tribunal is not intended to restrict the parties in adducing their respective evidence. For example, the demonstration of several discriminatory practices or willful or reckless acts could potentially have an impact on remedies the Tribunal may order under section 53

CHRA. Nevertheless, the Tribunal inevitably encourages the parties, in all proceedings before it, **to focus on their strongest arguments**.

[18] I find that many of the aspects raised by Ms. Constantinescu are unrelated to the original complaint. I would add that some of the allegations are not relevant to the dispute. In other words, the Tribunal does not need these facts to determine the merits of the case. I am also of the view that adding these facts is not in the interest of justice and, for certain allegations, they are not within the Tribunal's jurisdiction. As a result, certain limits must be set.

[19] In this regard, the Tribunal will not go into the details of the investigation that was conducted regarding Reno Ouellet and the security breach or the details of the subsequent national inquiry. To be clear, I do not intend to allow the complaint to be sidetracked with respect to the composition of investigations, their mandates, how they were conducted, their conclusions or their recommendations. The Tribunal has no jurisdiction to review these investigations. I find that they are not relevant to the issues in dispute in this case.

[20] Similarly, the Tribunal will not hear any evidence about the legality of the shooting practices on October 4 and 5, 2014, about the number of instructors required to conduct shooting practices or on legislative and regulatory standards with regard to the safety of such practices. Neither will the Tribunal hear evidence on the skills necessary to conduct shooting practices. I believe that these aspects are not related to original complaint and are not relevant to the dispute.

[21] As I stated in my previous decision (*Constantinescu v. Correctional Service Canada*, 2018 CHRT 8), requests for access to the documents of a public body, including the Respondent, are subject to their own laws, regulations, conditions and guidelines. Such requests also have their own challenge process. The Complainant states that the way her requests were handled constitutes a discriminatory practice. Access to documents is not related to the issues in dispute in this case. I will not hear any evidence on the way that requests for access were handled by the Respondent or any other federal or

provincial public agency. These points are too far removed from the original complaint and, I feel that there is no nexus.

[22] The Tribunal reminds the parties that to establish prima facie discrimination at the hearing, Ms. Constantinescu must demonstrate, on the balance of probabilities, **and for each of the alleged incidents**:

1. that it has one or more of the characteristic(s) protected(s) against discrimination (either sex or national or ethnic origin);

2. that she suffered an adverse impact under sections 7 and 14 of the Act (e.g., that she was prematurely eliminated from the CTP 5 program and therefore did not have access to employment based on said program); and

3. that the protected characteristic(s) constituted one or more of the factor(s) in the occurrence of the adverse impact (**existence of a link between sex and national or ethnic origin and the adverse impact**, e.g., having been prematurely eliminated from the CTP 5 program and therefore not having access to employment based on said program because of her sex or her national or ethnic origin).

Of course, CSC will also have the opportunity to disprove the allegations and present a defence permitted by the Act, if applicable (*Commission des droits de la personne et des droits de la jeunesse v. Bombardier Inc. (Bombardier Aerospace Training Center)*, 2015 CSC 39 at paras. 63-64 [*Bombardier*]).

B. Different treatment in a disciplinary investigation at the Collège du personnel de Laval

[23] Without going into all the details, the Tribunal understands that Ms. Constantinescu, while participating in the CTP 5 program, complained to the Respondent about disturbing events, including a pat-down search by a co-worker. The Tribunal also understands that an internal investigation was launched to handle some of the Complainant's allegations.

[24] The Complainant complains of the manner in which the Respondent's investigation was conducted and believes that there were several discriminatory incidents. She refers in particular to the choice of the investigators mandated to investigate her allegations, who were selected from among the co-workers, superiors and acquaintances of the people involved in the practices denounced. The Complainant also draws an analogy with an investigation at the Respondent's Edmonton Institution in Alberta (Edmonton Institution). That investigation was led by a third party, TLS Enterprises, which issued a report on March 12, 2017. She alleges that she was given different treatment compared with the Edmonton employees who had an external survey, conducted by a third party. I will return to that aspect in the following paragraphs.

[25] The Respondent agrees that the choice of investigators for the disciplinary investigation held at the College be included in the subject of the complaint before the Tribunal. This is one of the additions that Ms. Constantinescu is asking for. Considering the consent of the parties, the Tribunal agrees to expand the complaint to incorporate this specific aspect.

[26] However, following a close reading of Ms. Constantinescu's representations, it is my opinion that her claims go beyond the process to appoint investigators mandated to conduct the disciplinary investigation. In fact, she raises certain incidents that she considers disturbing, for example, the various contacts that the College allegedly had, and specifically that the director had, during the disciplinary investigation with one of the investigators. She also refers to certain comments made with respect to her and found in various emails exchanged during the disciplinary investigation process. The Complainant emphasizes certain events concerning the investigation itself and its conduct, and not only the choice of investigators.

[27] In so doing, with respect to allegations regarding the investigation itself, the Tribunal must ask whether there is a nexus with the original complaint. Once again, I am of the opinion that we should not look at each allegation by the Complainant out of context. All the incidents alleged by Ms. Constantinescu are part of a continuum of events. Once again, the Complainant is asking only to add new facts that she was not aware of when filing her original complaint and that she considers discriminatory.

[28] Although I am open to giving the Complainant some flexibility, the parties are advised that the objective of the Tribunal is not to monitor, supervise, review or even reverse the disciplinary investigation conducted at Collège de Laval. The role of the Tribunal is to determine whether there is a discriminatory element in the disciplinary investigation and not to redo the investigation itself. The parties should, in particular, put the disciplinary investigation in context, by explaining the procedure and the choice of internal rather than external investigators. This list is not exhaustive. Through its comments, the Tribunal simply wants to inform the parties that they will have some flexibility in this regard.

[29] As for the TLS Enterprises report, I believe that it could potentially be relevant for one specific purpose. This report was prepared following allegations of workplace harassment in the Edmonton Institution. In the circumstances, the Respondent decided to mandate a third party outside the Edmonton Institution to conduct the investigation. Similarly, the College investigated Ms. Constantinescu's allegations of workplace harassment. However, it did not entrust the investigation to a third party from outside its establishment. The Tribunal sees some relevance in allowing the report to be filed, not for its content or the truth of the facts it contains, but to try to demonstrate that the Respondent decided, on the one hand, to mandate external investigators and, on the other hand, chose investigators inside its own establishment.

[30] That said, the Respondent specifically asked the Tribunal that the factual circumstances related to the environmental assessment arising from the investigation conducted by TLS Enterprises at the Edmonton Institution not be included in the complaint since they have no connection with the discrimination alleged by the Complainant. The Tribunal understands, conversely, that the Complainant is, in a sense, asking for the factual elements of the report made to the Edmonton Institution to be included in her complaint. She seems to connect the factual circumstances of the environmental assessment described in that report and the factual circumstances in her own complaint. As a result, the Tribunal must determine whether the factual circumstances leading to the TLS Enterprises report may be imported into the present case.

[31] In order to fully understand the scope of the investigation conducted at the Edmonton Institution, the Tribunal had to read the report by TLS Enterprises, dated March 12, 2017. This report was filed by the Complainant herself together with her request to broaden the scope of her complaint. A summary of the investigation mandate is found in the "Part One: Overview" section, under "1. Background," which reads as follows:

> 1. Background
>
> On October 24, 2016, Peter Linkletter, Deputy Commissioner of Correctional Services of Canada (CSC), contracted with TLS Enterprises, an external investigation company, to conduct an independent assessment of the working environment at Edmonton Institution (EI). The overall objective was to understand the corporate culture and to make recommendations for a more inclusive and respectful work environment.
>
> [Emphasis added]

[32] In accordance with the mandate of TLS Enterprises and after reading its report, it is clear to me that the firm's investigation **only concerns the Edmonton Institution and does not constitute a national** investigation of the CSC work environment and organizational culture.

[33] In her motion of March 21, 2018, Ms. Constantinescu, at paragraph 24 of section B, appears to want to expand the scope of the mandate of TLS Enterprises. For this purpose, she writes at point r: [Translation] "That the problems of Edmonton are everywhere in Canada in CSC institutions (page 79, question 43)." It is necessary to put the report in context and to read it carefully in order to put the elements back into perspective.

[34] The TLS Enterprises report is 45 pages long. The 45th page is the beginning of the "Appendices." The subsequent pages of the "Appendices" are not numbered. Page 79, to which the Complainant refers, is page 79 of the document she has in her possession. That said, the Complainant has summarized a very specific portion of the report that alleges that the problems at the Edmonton Institution are present in all of the Respondent's institutions in Canada (TLS Enterprises report dated March 12, 2017, page 79, question 43). As I mentioned previously, I am of the opinion that this report is not national in scope as the mandate was to complete an investigation of the Edmonton institution. This page

79, question 43, is part of Appendix C of the report. This appendix is entitled “Summary of Results of Employee Interviews” and its section 1 is entitled “Section #1 Synopsis of Answers from Staff at Edmonton Institution.” When the Tribunal consults the report, on page 10 (or page 11 of the Complainant’s document), Appendix C is in reality a summary of the results obtained from interviews conducted with Edmonton Institution employees. The employee interviews are part of step four of the TLS Enterprises investigation process (see page 5 of the report or the Complainant’s document, page 6). This step is described as follows:

> **Step Four:** Questions and Interview Plan
>
> Standard questions were developed to address the points outlined in the Deputy Commissioner's letter. However, this was not considered a numerical survey with comparable results but questions were purposely open ended to allow the investigators to pursue what was important to the interviewees, and any new information that may be useful in improving the workplace. There were five questions that were based "On a scale of 1 to 10" which were comparable (see Appendix C).
>
> […]
> [Emphasis added]

[35] As a result, question 43 on page 79 is a response by an anonymous employee at the Edmonton Institution who answered the questions pre-established by TLS Enterprises during an interview. It is the vision of one interviewee. The Tribunal finds it difficult to see how it would be possible use such a specific portion of the report to draw general inferences about issues within CSC. It is clear that the report’s scope cannot be extended to the national level: the investigation **specifically targets the Edmonton Institution**.

[36] That said, I agree with the Respondent that the factual circumstances of the Edmonton Institution and those arising from the TLS Enterprises report cannot be included in the present case in order to draw inferences about incidents that took place at the College. I find that the use, for this purpose, of the report and its circumstances are not relevant to the issues in dispute for the following reasons.

[37] First, the Tribunal seems to understand that Ms. Constantinescu wishes to use the incidents, report, allegations, conclusions and recommendations and to import them into her case before the Tribunal. The objective is necessarily to lead the Tribunal to draw certain inferences about the facts or factual circumstances related to the environmental assessment which, according to the Complainant, are similar, if not identical, between the Edmonton Institution and the College during its CTP 5 program.

[38] However, Ms. Constantinescu's complaint is not a systemic complaint: she alleges very specific circumstances related to her treatment by the Respondent at the College, during her participation in the CTP 5 program. I have already concluded that the TLS Enterprises report was prepared further to an investigation conducted solely at the Edmonton Institution. I have also concluded that this report was not national in scope.

[39] Second, I believe that the factual circumstances of Edmonton and the College are not totally similar. There are many differences between these establishments, in particular:

- people who were involved in Edmonton (anonymously), and people involved in the College;
- different geographic locations (Edmonton, Alberta and Laval, Quebec);
- the establishments themselves (Edmonton Institution, which is a penitentiary and the Collège du personnel de Laval, which is a training facility);
- the factual circumstances are not necessarily similar.

[40] I am also of the opinion that it would be imprudent to import facts and factual circumstances related to the environmental assessment of the Edmonton Institution into the present case whereas the Tribunal never participated in such investigation. The Tribunal does not have the mandate to investigate those allegations. It has not heard the witnesses or assessed the documentary evidence filed. It did not participate in the conclusions or propose recommendations to correct the situation. In fact, the Tribunal is totally foreign to this investigation.

[41] Every complaint before the Tribunal must be judged based on the specific and particular facts of the complaint itself that are admitted at the hearing. As explained by the Tribunal in *Hewstan v. Auchinleck*, 1997 CanLII 699 (CHRT):

> It would be objectionable for a tribunal to uphold a complaint based on past conduct alone and similar fact evidence must never become a substitute for evidence supporting the allegations themselves.

[42] Moreover, as the Supreme Court of Canada noted in its *Bombardier* decision, at paragraph 88: “Evidence of discrimination, even if it is circumstantial, must nonetheless be tangibly related to the impugned decision or conduct.” I therefore conclude that the facts and factual circumstances related to the environmental assessment conducted by TLS Enterprises dated March 12, 2017, cannot be imported into the complaint.

IV. Decision

[43] With regard to points A of her motion filed on March 21, 2018, I will authorize Ms. Constantinescu to present her evidence with respect to:

- Section A entitled [Translation] “Discriminatory Handling of Private Shooting Practices, Security Breech and Investigations Following the Incidents of October 4 and 5, 2014;”
    - paragraphs 1 to 8;
    - paragraph 9 (only to put in context and not on the legality of the practices or the use of weapons);
    - paragraph 10;
    - paragraph 11 (only to put in context and not on the legality of the practices or the use of arms nor on the security measures and the number of instructors necessary);
    - paragraphs 12 to 20;
    - paragraph 21:

- point a (on not being informed when the other recruits were informed, or not, of the legality of practices);
- point b;
- point c (on not having been informed when other recruits were informed, or not, of the legality of practices);
- point e (once again, on the fact of not having been informed when the other recruits were informed, or not, on the legality of practices); and
- points j and k (excluding the issue of the legality of practices).

[44] Conversely, I will not authorize evidence to be adduced in respect of points d, f, g, h and i of paragraph 21, Section A.

[45] As for point B of her motion filed on March 21, 2018, I will authorize Ms. Constantinescu to present her evidence with respect to:

- Section B entitled [Translation] “Discriminatory Treatment That I Received From the Respondent With Respect to My Complaints:”
    - paragraphs 1 to 9;
    - paragraph 10 (only on the fact that the Complainant refused to physically participate in the investigation, that she submitted written representations and not on the Respondent’s environmental culture at a national level);
    - paragraphs 11 to 14 (only to put in context);
    - paragraphs 15 to 19;
    - paragraphs 20 (on the fact that threats exist; the rest of the sentence being part of the disclosure process);

- paragraph 21 (as to the correspondence between management and investigators and not the actions of the Commission, since the Respondent is CSC and not the Commission);
- paragraph 22 (for the context);
- paragraph 23 (the fact that the Edmonton employees benefitted from an external investigation and not regarding the similarity of facts and factual circumstances related to the environmental assessment);
- the second-to-last paragraph, beginning [Translation] “Other measures were taken…” up to “more than three years to obtain them”(only on the fact that the College did not ask for an independent investigation during CTP 5 regarding the Complainant’s allegations).

[46] On the other hand, I will not allow evidence to be adduced related to points a to s of paragraph 24 in Section B.

Signed by

Gabriel Gaudreault
Tribunal Member

Ottawa, Ontario
June 8, 2018

Canadian Human Rights Tribunal

Parties of Record

Tribunal File: T2207/2917

Style of Cause: Cecilia Constantinescu v. Correctional Service Canada

Ruling of the Tribunal Dated: June 8, 2018

Motion dealt with in writing without appearance of parties

Cecilia Constantinescu, for herself

Paul Deschênes and Patricia Gravel, for the Respondent