

**For Information**

**Panel on Administration of Justice and Legal Services**

**Translation of court judgments**

**Introduction**

The Panel requested the Department of Justice to provide the following information on overseas jurisdictions that practise bilingualism -

- (a) whether all court judgments are translated;
- (b) the legal status of court judgments in both the original and translated versions; and
- (c) whether translation of court judgments is undertaken by the Judiciaries concerned or private agencies.

2. The Department of Justice does not have readily available information on the above. We have obtained some basic information on two jurisdictions that appear to practise bilingualism: Canada and Macau Special Administrative Region (SAR) through the internet and informal enquiries.

**Translation of Court Judgments in Canada**

3. The decisions of the courts at the federal level, which includes the Supreme Court of Canada, the Federal Court of Canada and the Tax Court of Canada, are governed by section 20 of the Official Languages Act. That section requires decisions of general public interest or importance and decisions conducted in both official languages to be issued in both official languages. Full text of the relevant section is at Annex.

4. A summary of the information we found concerning the translation of court judgments is set out below. We are unable to find any information on the legal status of the translated versions of court judgments.

### **Supreme Court**

5. The Supreme Court's judgments have been published in both official languages in the Supreme Court Reports since 1970. However, prior to 1977, only the major decisions of the Court were published in the Reports. Only since 1983 have all of the Court's judgments have been released in both official languages simultaneously.

6. We are unable to find precise information regarding the preparation of the translations. The Supreme Court website however mentions that the Law Branch of the Court Operations Sector of the Court is responsible for providing legal support to the Court, editing and summaries of reasons for judgment, and translation and publication of Court judgments.

### **Federal Court**

7. We are unable to find any detailed information on the practices in the Federal Court. They do publish judgments in both official languages in the "Federal Court Reports" but only the major decisions are published there. There is no information on who prepares the translations.

### **Tax Court**

8. Since 2001, the Tax Court of Canada has translated all of its judgements. Prior to that, a priority system was used to determine which decisions should be translated first, with the result that the less significant decisions were translated only if resources permitted. There is no information on who prepares the translations.

### **Translation of Judgments in Macau**

9. The following information have been obtained through the Cabinet of the President of the Court of Final Appeal, Macau SAR -

- (a) **translation of court judgments:** not all court judgments are translated. Judgments of their court of the first instance are pronounced in either of their official languages. A translation will be provided only upon request of parties. Judgments of their intermediate court are translated if they involve questions of law or

are of academic value. Judgments of the Court of Final Appeal are invariably translated.

- (b) **Legal status of court judgments:** the translations that are released by the courts have been regarded to have very high referential value, but they remain translations only. If there is any discrepancy the original version prevails.
  
- (c) **Parties undertaking the translation:** translations of judgments of the court of first instance that are supplied to parties upon request are prepared and provided by the court. Translations of judgments of their intermediate court are undertaken by private agencies which have been screened by their judiciary. These translations are nevertheless vetted by professional court staff and judges. Translations of judgments of the Court of Final Appeal are done by professional court staff and again vetted by judges.

**Department of Justice**  
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**Official Languages Act R.S., 1985, c. 31 (4th Supp.), s. 20**

*Decisions, orders and judgments that must be made available simultaneously*

**20.** (1) Any final decision, order or judgment, including any reasons given therefor, issued by any federal court shall be made available simultaneously in both official languages where

- (a) the decision, order or judgment determines a question of law of general public interest or importance; or
- (b) the proceedings leading to its issuance were conducted in whole or in part in both official languages.

*Other decisions, orders and judgments*

(2) Where

- (a) any final decision, order or judgment issued by a federal court is not required by subsection (1) to be made available simultaneously in both official languages, or
- (b) the decision, order or judgment is required by paragraph (1)(a) to be made available simultaneously in both official languages but the court is of the opinion that to make the decision, order or judgment, including any reasons given therefor, available simultaneously in both official languages would occasion a delay prejudicial to the public interest or resulting in injustice or hardship to any party to the proceedings leading to its issuance,

the decision, order or judgment, including any reasons given therefor, shall be issued in the first instance in one of the official languages and thereafter, at the earliest possible time, in the other official language, each version to be effective from the time the first version is effective.

*Oral rendition of  
decisions not affected*

(3) Nothing in subsection (1) or (2) shall be construed as prohibiting the oral rendition or delivery, in only one of the official languages, of any decision, order or judgment or any reasons given therefor.

*Decisions not  
invalidated*

(4) No decision, order or judgment issued by a federal court is invalid by reason only that it was not made or issued in both official languages.