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FEDERAL COURT

Court File No.

MADINA ILTIREH

Applicant

and

**MINISTER OF FOREIGN AFFAIRS
ATTORNEY GENERAL OF CANADA**

Respondents

**APPLICATION UNDER SECTION 18.1 OF THE FEDERAL COURTS ACT
NOTICE OF APPLICATION**

TO THE RESPONDENT:

A PROCEEDING HAS BEEN COMMENCED by the applicant. The relief claimed by the applicant appears on the following page.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the applicant. The applicant requests that this application be heard at Toronto.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must prepare a notice of appearance in Form 305 prescribed by the Federal Courts Rules and serve it on the applicant's solicitor, or where the applicant is self-represented, on the applicant, **WITHIN 10 DAYS** after being served with this notice of application.

Copies of the Federal Courts Rules information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

Date: July 4, 2022

Issued by : _____
(Registry Officer)

Address of local office: 180 Queen St W, Suite 200, Toronto, ON M5V 1Z4

TO: **Attorney General of Canada**

284 Wellington St.

Ottawa, ON K1A 0H8

AND TO: **Minister of Foreign Affairs of Canada**

125 Sussex Drive,

Ottawa, ON K1A 0G2

APPLICATION

This is an application for judicial review in respect of

1. The Values, Ethics and Workplace Wellbeing Committee (“**Committee**”) acting on behalf of Global Affairs Canada (“**GAC**”), made an unreasonable decision, acted unfairly and abused its authority when it failed to apply elementary principles of procedural fairness and natural justice when it determined that the Applicant’s allegations of racial discrimination and office harassment did not fall within the scope of the Values and Ethics Code of the GAC (“**Code**”). This decision (“**Decision**”) was communicated to the Applicant by email on June 2, 2022, by a letter dated May 27 2022.

The applicant makes application for:

1. A declaration that the Decision is contrary to principles of natural justice and procedurally unfair;
2. A declaration that the Committee reached an unreasonable decision;
3. A declaration that the Committee abused its authority;
4. Cost of the proceedings; and
5. Such further and other reliefs as may be sought and this Honorable Court may permit.

The grounds for the application are:

2. The Applicant, Mrs. Madina Iltireh (“Mrs. Iltireh”), was employed as the Ambassador’s Assistant to the Embassy of Canada to Kuwait for a period of 3 years, starting on August 4, 2018, and ending on July 18, 2021.
3. On May 3 2022, The Applicant made a Complaint to the Committee alleging amongst other things work place bullying and racial discrimination by her direct manager.
4. The Committee by a letter dated May 27 2022 erroneously, unreasonably and unfairly decided that the acts forming the subject matter of the Applicant’s did not fall within the scope of the Code. Further, they decided that the acts complained of were acts that fell within the managerial discretion of her former manager.

5. The Committee failed to provide materials, documentation, evidence and or particulars its erroneous and unreasonable decision was predicated on. Further, the Committee in its letter failed and neglected to explain how the unprofessional and discriminatory actions of her former manager fell within the scope of managerial discretion.

The Decision Under Review

6. The Committee's conclusions that Applicant's complaint fell outside the scope of the Values and Ethics Code of Global Affairs Canada; and that the acts complained off were within the managerial discretion of the Applicant.
7. In accordance with Section 18.1 (4) (a), (b), (c), (d) of the Federal Courts Act, the decision is reviewable on the following grounds:
 - a. The Committee failed to observe principles of procedural fairness by failing to consider the materials, evidence and reports provided by the Applicant.
 - b. The Committee erred in law in making the Decision by failing to properly interpret the Code; and
 - c. The Committee based its Decision on an erroneous finding of fact regarding whether the actions complained off well within the scope of managerial discretion, and this finding was made without regard to the evidence.
 - d. The Committee failed to provide materials, particulars and or evidence of said erroneous finding. Further, it failed to take in to consideration of rudimentary principles of law with respect to the limits and extent of discretionary authority.
 - e. In furtherance to paragraph (d) above, the Decision's failure to meet threshold contemplated under Section 18 and its subsections renders it liable to be unturned.

This application will be supported by the following material:

1. The affidavit of Mrs. Madina Iltireh, and the exhibits attached thereto;
2. Such further and other material as counsel advise and this Honorable Court my permit.

The Applicant requests the Respondents to send certified copy of the material that is not in the possession of the applicant but is in possession of the GAC to the Applicant and to the Registry:

1. All documents for this and all items below, see definition of "documents" in Rule 222(1) of the Federal Court Rules, constituting the records available to the Committee for consideration in

making the Decision;

2. All documents relating to the Decision and discussions or deliberations of the Committee leading thereto;
3. All instructions or searches made by the Committee in relation to the Complaint and Decision; and
4. All correspondence or other documents shared by members of the Committee in relation to the Complaint and Decision.
5. For greater certainty, the Applicant has not received reasons for the Committee's decision.

Date: July 4, 2022

Courtney Betty

(Signature of solicitor or applicant)

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MADINA ILTIREH
Applicant

-and- **MINISTER OF FOREIGN AFFAIRS**
ATTORNEY GENERAL OF CANADA Court File No. :
Respondent

FEDERAL COURT
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

Application under Section 18.1 of the Federal Court Act

**NOTICE OF APPLICATION FOR JUDICIAL
REVIEW**

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Solicitor for the Applicant