



Ottawa, January 16, 2026 – Today, the Federal Court of Appeal published the judgment and reasons for judgment in dockets A-73-24, A-74-24, A-75-24, A-76-24, A-29-23 & A-30-23: *Attorney General of Canada et al. v. Canadian Civil Liberties Association et al.*, 2026 FCA 6.

The Federal Court of Appeal confirms that the federal government’s invocation of the *Emergencies Act* was unreasonable and *ultra vires* [beyond their legal authority], and that it infringed paragraph 2(b) and section 8 of the *Canadian Charter of Rights and Freedoms*.

These appeals related to the first ever use of the *Emergencies Act*, which authorizes the federal government to take certain special temporary measures when Canada is seriously threatened by a national emergency.

On February 14th, 2022, following a number of border blockades and a protest convoy that saw hundreds of vehicles converge on Ottawa, ON, the Governor General accepted the Prime Minister’s recommendation and issued the *Proclamation Declaring a Public Order Emergency*, as well as related Regulations and an Economic Order.

Challenging this decision to declare a public order emergency, four applications were brought to the Federal Court. Justice Mosley found that the reasons provided by the government did not satisfy the requirements of the *Emergencies Act*, and that certain temporary measures infringed paragraph 2(b) and section 8 of the *Charter*.

The Attorney General of Canada then appealed the matters before this Court. The appeals are dismissed.

The decision to invoke the *Emergencies Act* was unreasonable and *ultra vires*.

To avoid the excesses and abuses of the *War Measures Act*, Parliament drafted the *Emergencies Act* with narrowly defined terms to constrain the executive’s use of its extraordinary powers, that amount to a temporary amendment of the Constitution in times of national emergency. The government did not demonstrate that it had reasonable grounds to believe that a threat to national security or a national emergency existed within the meaning of the Act, or that existing laws were unable to resolve the situation.

The Regulations infringed paragraph 2(b)’s freedom of expression.

Freedom of expression is one of the fundamental institutions of representative democracy, and can only be restricted for the most substantial and compelling reasons.

The symbolic location of protests at border crossings and in front of Parliament, disruptive though they were, did not fall outside the protection of paragraph 2(b). Because they criminalize these protests, whether or not participants were breaching the peace, the Regulations infringed the protesters' freedom of expression and were not justified under section 1 of the Charter.

The Order infringed section 8's right against unreasonable search and seizure.

While the government had a pressing and substantial objective in enacting the Economic Order, its implementation was *ad hoc* and fraught with confusion, requiring financial institutions to disclose the existence of property they had "reason to believe" was owned, held or controlled by a "designated person", without a warrant or specific procedures. Accordingly, the searches authorized by sections 5 and 6 of the Order were not reasonable within the meaning of section 8 of the Charter and were not justified under section 1 because they did not minimally impair the right to be free from unreasonable searches and seizures.