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AIMUATEU-MASHINAIKAN  
NE E UITAKANIT  
ESHI-PIMUTENANUT KAMASHINATAUTISHUNANUT

Dionne Schulze

INNU TAKUAIKAN UASHAT MAK MANI-UTENAM



## LISTE DE LA JURISPRUDENCE PERTINENTE

**Corbière c. Canada (Ministre des Affaires indiennes et du Nord canadien) [1999] 2 R.C.S. 203**

<http://www.canlii.org/fr/ca/csc/doc/1999/1999canlii687/1999canlii687.pdf>

**Clifton c. Hartley Bay (Président d'élection), 2005 CF 1030**

<http://www.canlii.org/fr/ca/cfpi/doc/2005/2005cf1030/2005cf1030.html?resultIndex=1>

**Thompson c. Conseil de la Première nation Leq'à:mel 2007 CF 707**

<http://www.canlii.org/fr/ca/cfpi/doc/2007/2007cf707/2007cf707.pdf>

**Esquega c. Canada (Procureur général), 2007 CF 878, rev'd 2008 CAF 182, mais pas sur ce point, sur lequel les parties ont consenti.**

<http://www.canlii.org/fr/ca/cfpi/doc/2007/2007cf878/2007cf878.pdf>

Révisé :

<http://www.canlii.org/fr/ca/caf/doc/2008/2008caf182/2008caf182.pdf>

**Joseph c. Première nation Dzawada'enuxw (Tsawataineuk), 2013 CF 974 :**

<http://www.canlii.org/fr/ca/cfpi/doc/2013/2013cf974/2013cf974.pdf>

**Joseph v. First nation Dzawada'enuxw (Tsawataineuk), 2014 FC 364**

<http://decisions.fct-cf.gc.ca/fc-cf/decisions/fr/item/72397/index.do#>

**McLeod Lake Indian Band c. Chingee, (1998) 153 FTR 257**

<http://www.canlii.org/fr/ca/cfpi/doc/1998/1998canlii8267/1998canlii8267.html?resultIndex=1>

**Descheneaux c. Canada (Procureur général), 2015 QCCS 3555**

<http://www.canlii.org/fr/qc/qccs/doc/2015/2015qccs3555/2015qccs3555.html>

## 4. Passe eshi-katshitaitshemakaki netuenitakaniti tshetshi mishkutunakaniti

- 4.1 Tshetshi pushipaniakaniht anitshenat upime ka apiht, anite nenua ka pimipanniti kamashinatautishuniti mak nenua ka tshimanatishuniti, tshetshi pushipaniht anite eshi-pimutenannut kamashinatautishunannut
- 4.2 Essishuemakak ne "auen anite ka apit" kie ne "auen eka anite ka apit"
  - 4.2.1 Auen unapema kie ma utishkuema, kie ma uikanis himau ka uitsheuat katshishkutamuakanishiniti
  - 4.2.2 Katshishkutamatsheht
  - 4.2.3 Auen minekash ka natukuiakanit upime innu-assit
- 4.3 Eshi-natuenitamuakanit auen ka ui tshimanitishut : tshika ui nishtutamu innu-aimunnu mak tshika ui innu-aimu.
- 4.4 Tshetshi apashtakanit ne aimun "Uashat mak Mani-utenam innu-assi" anite ne e issishuemakak "auen ka mashinatautishut"
- 4.5 Essishuemakak "ka pet ueeshiakaniht auen"
  - 4.5.1 Tshetshi tshimanitishut kamashinatautishunannut
  - 4.5.2 Tshetshi unitat utapun ka tshimanakanit
- 4.6 Tshe ishpish tat utatusseunnuat
- 4.7 Tshe ui itashuht pitu-innu-utshimauat
- 4.8 Tshe ishi-atshitashunanut
- 4.9 Tshe ishi-pimutenanut kamashinatautishunanut
- 4.10 Tshetshi akunakaniti nenua mashinaikanuiana kamashinatautishunanut
- 4.11 Kamashinatautishunanut kanatu-tshissenitakanit
- 4.12 Ka tshimanitanut mak tshe ishi-pimutenanut neme tshe ishpish mashinatautishunanut
- 4.13 Tshe ui kuishk<sup>u</sup> ishi-pimuteht, ishi-atusseht anitshenat ka tshimanakaniht
- 4.14 Ka tshimanakaniht ukanieunnuau mak tshe ishi-uitshiakaniht utatusseunnuat
- 4.15 Tshe ishi-pimutenanut tshetshi mishkutunakanit Eshi-pimutenanut kamashinatautishunanut
- 4.16 Tshe pimipantakanit ne eshi-mishkutunakanit Eshi-pimutenanut kamashinatautishunanut
- 4.17 Kutaka tshekuana tshetshi uauitakaniti

kaeueshtakaniti uitakanu miam nenua Ushkat Innua ka taniti eka mishkutunaminiti nenu eshi-pimuteht tshetshi utinaht nenua upime ka taniti, ne kaeueshtakanit tshika tutam<sup>u</sup> ueuetashuennu tshetshi nashakannit.

Tshetshi eka kaeueshtakanit natshit anite Uashat mak Mani-utenam utatusseunnit tshetshi uin ui uitak tshe ishi-pimutenannut, anitshenat e tshitapamakaniht upime ka apiht, tshetshi pushipaniakaniht anite ne e uitakanit kamashinatautishunanut, ITUM natuenitamueu innua tshetshi mamu naushunaminiti aimunnu. Tshe ishi-utinakaniht anitshenat upime ka apiht tshe ishi-pushipaniht anite ne e katshitaukuht tshishe-utshimau-aitunnu, iapit tshipa katshitaitshemakan ne tshe ishpaniuet tshe ishi-tshimanakanit auen anite ITUM, tshe ishi-atshitashunanut miam kamashinatautishunanut mak tan tshe ishi-natuenitakanit auen tshetshi tshimanitishut.

Ne e tshitapatakanit Eshi-pimutenanut kamashinatautishunanut iapit takuana kutaka kukuetshitshemuna, atusseuakana e tshitapatakaniti, muk<sup>u</sup> tshitshue meshta-ishpaniuet anite ne tshe ishi-pimutenanut kamashinatautishunanut. Kaimit Luc Dion, ka pimipanitat kamashinatautishunannut shash mitshetupipuna uitamupan eka menu-uitakannit tshekuannu anite ne ka tutakanit Eshi-pimutenanut kamashinatautishunanut, eka shuka menupaniuenit anite meshinatautishunannut, kie mitshetuau uitamuat innuat Uashat mak Mani-utenam miam anite meshinatautishunannut kie nenua kutaka eshi-mashinatautishunanuti.

### **Uiuitakanit ne atusseun ua tutakanit Aimuateu-mashinaikan**

*Ume mashinaikan aieshkushtakanipan tshe ishi-pimutenanut ui mishkutunakanit ne «Eshi-pimutenanut kamashinatautishunanut» ne e tshitaptakanit kamashinatautishunanut Innu-takuaikan Uashat mak Mani-utenam (ITUM) anite innit Uashat mak Mani-utenam» (ne «Eshi-pimutenanut»). Ume mashinaikan aieshkushtakanipan anite ut ka mamuituht tshetshi ueueshi-tshitapatahk utshenat etaht pitu-innu-utshimauat Antoine Maniteu Grégoire (ushtikuanit etat), Matshieu Mckenzie, William Fontaine mak Dave Vollant. Anitshenat mi-amuituht uenua uitshikuat kamashinaitshesht uetshimau-aiminannut kaiminiti Jessica Jourdain, ka ut tipenitakanit uauitshiaushiun kaeueshtakanit, Kaiminiti Nancy Jourdain, mishue katakuaitshet Ricky Fontaine mak ue ka ut tatishkuat Jessica Jourdain, Mélanie Simon.*

*Ua utitaikanit ume mashinaikan e uitakanit, eukuan tshetshi natash-tuakaniht Innuat Uashat mak Mani-utenam nenua passe tshekuana ua mishkutunakaniti ne e tshitapatakanit Eshi-pimutenanut kamashinatautishunanut mak tshetshi aimuatet tshe ishi-pimutenanut natua-pamakanitai innuat. Nenua passe ka natuenitakaniti tshetshi mishkutunakaniti, ka ishi-natuenitakanit anite pet utat kamashinatautishunanut, innuat ka natuenitahk, kie ma ne ka pimipanitat kamashinatautishunannut, kaimit Luc Dion.*

*Muk<sup>u</sup>, anitshenat ka mamuiht tshetshi ueueshi-tshitapatahk apu uesha itenitahk tshetshi unuipanitahk aimuna nenua tshipa ui mish-*

*tunakanua kie natuenitamueuat innua tshetshi natshi-ashtaniti kutakanu tshekuannu tshetshi ut mishkutunakannit, nenu tshipa ishi-pakushenitaminua, nete mekuat natshishkuakanitai.*

### **1. Eshinakuak ka utinakanit ne Eshi-pimutenanut kamashinatautishunanut mekuat pemipanit**

Ne «*Eshi-pimutenanut kamashinatautishunanut kiatshitaitshemakak kamashinatautishunanut Innu-takuaikanit Uashat mak Mani-utenam (ITUM) anite innit Uashat mak Mani-utenam*» («ne Eshi-pimutenanut») 1992 ka ut pimipanit. Eshk<sup>u</sup> eka ne utitshipanit pipun, kamashinatautishunanut Uashat mak Mani-utenam anite ut ueuetashuapatepan eshkushtet 74 mak nenua uet nashatumakaki anite *Innu-ueuetashueunit (Loi sur les Indiens)*.

Tshetshi minu-mashinataikanit Innu-tshishe-utshimau («MAI») eshi-uitak nenua eshi-pimutenannut «nakana ka ishinakuak». Muk<sup>u</sup>, ne MAI atut tshipa mineu innua tshetshi eka katshitaukuniti nenua innu-tshishe-utshimaua ueuetashuennua anite ne *Innu-ueuetashueun* eka e utinakanit tshetshi mashinaikanashtakannit nenu eshi-pimutenannut.

Pipun 1992, ITUM pami-itishaimupan e akunakanniti nenua ushkat ka atushkateniti eshi-pimutenannut kamashinatautishunannut, ashit e minu-uauitak nenu eshinakuannit e apashtat mishtukushiu-aimunnu kie innu-aimunnu, etishaimuakaniht kassinu kautishkuemiht epiht

anite meshinatautishunannut.

At nenua utat ka ishi-patshitinakaniti aimuna, ne Eshi-pimutenanut kamashinatautishunanut apu nita ut mishkutunakanit ne e tshitapatakanit ka tapuetakanit tshetshi utinakanit ne aimun.

### **3. Tshekuan ne eshi-pimutenanut ua mishkutunakanit tshekuan ?**

At ne *Eshi-pimutenanut kamashinatautishunanut* tshissinuatshitakan ishpush mishta-apatak e takuaimatishuht innuat Uashat mak Mani-utenam anite e naushunakaniht tshe ishi-tshimanakaniht mak tshe ishinakuak ne takuaimatun, ne tshipa ishi-pimutenanu tshipa ui etatu minushtakanu tshetshi ut minushkakuht innuat kie ne eshi-mishkutshipanit kaueueshtakanit.

Ka ut utinakanit ne Eshi-pimutenanut kamashinatautishunanut, kamishta-ueueshtakanit ute Kanata patshitinamupan aimunnu ne e tshitapatakanit eshinkatet *Corbière* mak ekue tutak tshetshi eka apatannit tshetshi mashinatautishunannut ne e tshitapatakanit *Innu-ueuetashueun*, eka e anat tshetshi mashinatautishuniti nenua eka ka apiniti innu-assit. Ne ka ut utinakanit aimun anite ne pipun 1999, passe nenua kaueueshtakaniti patshitinamupanat utaimunnuau miam ne eshi-pimutenanut anite anitshenat Ushkat Innuat ka taht, eka ua minaht auennua eka ka apiniti innu-assit («auen eka ka apit innu-assit») tsheshi mashinatautishuniti kie ma ui tshimanitishuniti anite meshinatautishunannut innu-takuaikanit. Anite nenua

mak Mani-utenam anite ut Ushkat Innua ka taniti eshi-uinakanniti mishkut tshematat Innu-takuaikannu miam etashtenit anite eshkushtet 74 mak nenua niashatumakanniti etashteniti anite *Innu-ueuetshueunit*.

## **2. Ka natuapamakaniht innuat mak utat ka ishi-unuipanit aimun**

Pipun 2005, ITUM atushkatamupan tshetshi natuapamaht innua Uashat mak Mani-utenam tshipa ishi-mishkutunakanu ne Eshi-pimutenanut kamashinatautishunanut. Pamipanipan aimun ne kanatu-tshissenitakanit, mitshetuait ishi-kukuetshimakanuat kamashinautishuht ne e uitakanit tshipa ishi-pimipanitakanu kamashinatautishunanut mak tan tshipa ishi-tshimatinanu anite Innu-takuaikanit. Ekue atushkatet tshetshi mishkutunakanit ne Eshi-pimutenanut katshi ne natu-tshissenitakanit, muk<sup>u</sup> apu nita ut patshitinakanit tshipa ishi-pimutenanu tshetshi mishkutunakanit miam eshi-uapatakanit anite ne Eshi-pimutenanut, ekue eka mishkutunakanit ne Eshi-pimutenanut.

Mitshetuau anite kutunnuepipuna utat, ITUM natuenitamuakanipan tshetshi mishkutunakannit nenu Eshi-pimutenannut, kaiminiti netuenitamakut mak nenua ka pimipananiti kamashinatautishunanut, kaiminiti Luc Dion. Ka ishi-patshitinakanit aimun eukuana umenua kukuetshitshemuna tshipa ishi-uitshieua kie ma atusseuakana e tshitapatakaniti, iapit nenua ka mishta-itenitakuaki miam ne, auen eshinakuannit tshetshi mashinatautishut, tshetshi tshimanitishut

innu-assit Uashat mak Mani-utenam. ITUM iapit nishuau mishta-utshimau-aimipan anite innit ne e tshitapatakanit ka atushkatet tshe ishi-pimutenanut kie uauitamuepan innua anite innu-kanatutakannit eshi-natshi-ashtakannit tshe ishi-takuannit anite nenu tshe ishi-pimutenannut.

Ka atushkatet tshe ishi-pimutenanut kamashinatautishunanut ekue mikutunakanipan katshi mishta-utshimau-aiminanut innit mak anite nenua kutaka ka ishi-natuapamakaniht innuat. Ne ka mishkutunakanit,

ekue pami-itishaikanniti anite kautishkuemiht ashit nenua nish<sup>u</sup> uet takuaki mashinaikana menu-uitamatshemakaki kuenatuenitakanit ne mashinaikan tshetshi ut mashinatautishunanut eka menu-utinakanit ne ka mishkutunakanit eshi-pimutenanut. Ne mashinaikan kanuenitakanipan patetat (5) tatutshishikua anite innu-mashinaikanitshuapit Uashat mak Mani-utenam kie anite innu-kanatutakanit Mani-utenam. Peik<sup>u</sup> muk<sup>u</sup> eka ka minuenitamiet mashinataikanipan.

Katshi ne takuak eshi-pimutenanut tshetshi tapuetakanit ne Eshi-pimutenanut, 7 e tshishtuakanit pishimuss 1992, ITUM ekue utinak, ashit tapuetatishun-mashinaikannu ITUM e apashtat etashtenit 92-93-32, ne «*Eshi-pimutenanut kamashinatautishunanut ne e uitakanit kamashinatautishunanut Innu-takuaikanit Uashat mak Mani-utenam (ITUM) anite innit Uashat mak Mani-utenam*. Tshishe-pishim<sup>u</sup> 25 e tshishtuakanit 1993, Innu-tshishe-utshimau itsheneu Innua Uashat