

The Ministère des Transports ensures the mobility of people and goods throughout Québec through efficient, safe transportation systems. It manages financial support programs in a variety of areas, such as:

- public transit and adapted transportation;
- local road network maintenance;
- bike path development;
- the restoration and operation of secondary rail lines;
- air and maritime service to isolated areas.

It also offers consulting services, and administers programs to support research and provide assistance in transportation development.

The Department is also responsible for issuing certain permits related to the road network.

## THE TABLE QUÉBÉCOISE DE LA SÉCURITÉ ROUTIÈRE

In December 2005, the Ministère des Transports established the Table québécoise de la sécurité routière. Around 30 representatives make up this authority, whose mandate is to recommend to the minister measures to improve the accident record in Québec. While the accident record saw a marked improvement between 1978—the year the Régie de l'Assurance automobile du Québec was created—and 2001, it has since deteriorated.<sup>1</sup> The work of the Table, whose report is expected in 2007, will influence the new version of the road safety policy, also planned for release this year.

The Québec Ombudsman will study this report carefully.

### Complaints Reviewed by the Québec Ombudsman

Ministère des Transport	Complaints*	Complaint Grounds	Unsubstantiated Grounds	Substantiated Grounds
2006-2007	12	13	11	2

\* Excluding complaints whose processing was interrupted or which were referred

1/ Société de l'assurance automobile du Québec, *Rapport annuel de gestion 2005, Le rapport du Président-directeur général*, Québec, 2006, pages 8 and 10.

## TYPE OF COMPLAINTS

Because of the limited number of complaints considered admissible and examined, no significant trends are apparent. The complaints have to do in particular with expropriation and the slowness of work done by territorial divisions on road infrastructures. The wait time for responses to claims is also a source of complaints.

Except for its power to approve municipal regulations regarding speed and the use of certain types of vehicles, as provided by the *Highway Safety Code*, the department plays essentially an advisory role with the municipalities. It must respect their managerial autonomy. The Québec Ombudsman can check whether the department is playing this role effectively, making sure it offers technical expertise as needed for conducting studies on accident rates.

## CITIZENS DENIED THEIR RIGHT TO RECOURSE BEFORE THE COURTS

On April 12, 2006, the Ministère des Transports tabled Bill 9, *An Act to amend the Act respecting off-highway vehicles*. This bill was intended to better control the use of off-highway vehicles in Québec while ensuring the survival of the industry. It followed a consultation process that began in spring 2005 in the wake of a Superior Court decision handed down in 2004.<sup>2</sup> The government believed that this decision could harm the snowmobile and all-terrain-vehicle industry in Québec.

In order to better control the use of off-highway vehicles, the bill set out the following measures:

- regulations regarding the age and equipment of drivers, the power of the vehicles available for rent, sound and pollution emissions, vehicle equipment and access rights to trails;
- progressive fines for violations;
- increased powers for trail security officers.

<sup>2/</sup> *Coalition pour la Protection de l'environnement du parc linéaire "Petit train du Nord" v. Laurentides (municipalité régionale de comté)* REJB 2004-81143 (C.S.).

To protect trail managers against the impact of other class actions like that which resulted in the Superior Court decision, the bill also provided for the extension of the moratorium on legal recourse until May 2011 and the re-evaluation of its usefulness in three years. This moratorium was imposed in December 2004 through the adoption of Bill 90.

In March 2006, in a parliamentary commission, the Québec Ombudsman had already opposed the principle of immunity from prosecution. It was expressing an opinion on a policy paper that proposed transforming the moratorium into permanent immunity. The bill tabled in April did not reflect the policy paper proposal for permanent immunity but extended the moratorium. In May 2006, the Ombudsperson intervened to ask that the moratorium be lifted immediately.

According to the Ombudsperson, the moratorium was no longer relevant, because the urgency created by the Superior Court decision in 2004 no longer existed. The impact of this decision created awareness within the government, municipalities and user clubs as to the actual prejudice caused to properties along trails by the disorderly use of off-highway vehicles. Following this decision, measures were taken, and the minister held regional consultations and established regional issue tables. Measures are forthcoming, including stricter rules regarding the use of trails. The Québec Ombudsman believes that this new coexistence is an opportunity to re-establish the right of recourse of citizens before the courts. When she intervened, she also reiterated the recommendation, made in March 2006, that a permanent, independent mechanism for complaints regarding nuisances caused by the use of off-highway vehicles be established.

The bill was adopted June 13, 2006, and the provisions regarding the moratorium were kept in their entirety. The law targets two networks of snowmobile and all-terrain vehicle trails, each some 10,000 kilometres long, which were identified by a departmental order on November 20, 2006. The Québec Ombudsman will be watching for the decision regarding lifting the moratorium, extending it or transforming it into permanent immunity.