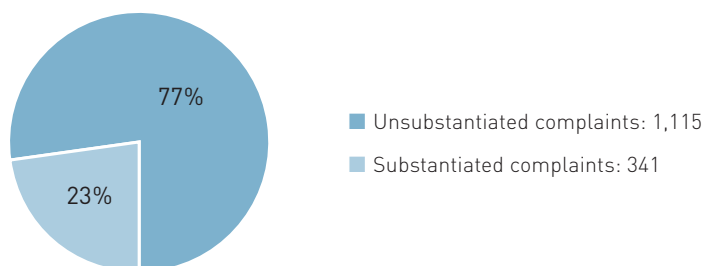


# BENEFITS AND COMPENSATION



Government departments and agencies	Complaints received	Uncompleted investigations		Completed investigations		Total
		Complaints referred	Complaints interrupted	Unsubstantiated complaints	Substantiated complaints	
Commission administrative des régimes de retraite et d'assurances	40	-	20	19	9	48
Commission de la santé et de la sécurité du travail						
Worker compensation and rehabilitation	675	11	356	216	51	634
Compensation for victims of criminal acts	109	2	59	42	13	116
General	56	1	15	6	5	27
Régie des rentes du Québec	265	2	91	147	30	270
Société de l'assurance automobile du Québec						
Compensation for road accident victims	804	3	153	449	175	780
Highway Safety Code	375	5	71	236	58	370
General	47	-	-	-	-	-
<b>Total</b>	<b>2,371</b>	<b>24</b>	<b>765</b>	<b>1,115</b>	<b>341</b>	<b>2,245</b>

The time taken to process files, rule on claims or pay amounts owing were the reasons given for a significant percentage of substantiated complaints concerning the Commission administrative des régimes de retraite et d'assurances (33%), the Commission de la santé et de la sécurité du travail (worker compensation and rehabilitation, 53%, compensation for victims of criminal acts, 61%) and the Société de l'assurance automobile du Québec (compensation for road accident victims, 39%).

Problems relating to the information given to citizens were also the source of several interventions by the Québec Ombudsman with the Commission administrative des régimes de retraite et d'assurances (56% of substantiated complaints), the Régie des rentes du Québec (17% of substantiated complaints) and the Société de l'assurance automobile du Québec (Highway Safety Code, 17% of substantiated complaints).

Lastly, a significant percentage of substantiated complaints related to refusals or interruption of income replacement benefit or compensation payments, as well as disputes concerning the calculation of amounts paid: 17% in the case of the Régie des rentes du Québec, 10% in the case of the Commission de la santé et de la sécurité du travail (worker compensation and rehabilitation) and 33% in the case of the Société de l'assurance automobile du Québec (compensation for road accident victims).

# One complaint in every five concerns benefits and compensation

The agencies responsible for paying benefits and compensation (e.g. the Société de l'assurance automobile du Québec, the Commission de la santé et de la sécurité du travail, the Régie des rentes du Québec and the Commission administrative des régimes de retraite et d'assurances) account for only a small percentage of all the government departments and agencies (4 out of 86) over which the Québec Ombudsman has jurisdiction in the area of public administration but were involved in nearly 20% of the complaints received in 2008-2009.

This is not difficult to understand, given that the agencies in question serve a large percentage of the population, manage complex plans and make decisions that impact upon the very delicate matter of personal income. Nevertheless, the complaints received by the Québec Ombudsman reveal a number of deficiencies in the management of the plans in question, including unreasonable file processing times and information that is incomplete or difficult for the general public to understand.

## COLLECTIVE GAIN

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In its 2006-2007 annual report, the Québec Ombudsman recommended that the Société de l'assurance automobile du Québec and the Commission de la santé et de la sécurité du travail should coordinate their actions when examining the files of citizens who are involved in a second incident after being compensated by either authority for the first incident. The Ombudsman is satisfied with the follow-up action taken as a result of this recommendation, and in particular with the special file process introduced for such cases, which will help avoid situations where individuals suffer due to a lack of coordination and harmonization between the two agencies.

## Société de l'assurance automobile du Québec

The Société de l'assurance automobile du Québec (SAAQ) is one of the authorities that generates the largest number of complaints for the Québec Ombudsman. These complaints relate to the two main components of the SAAQ's mission, namely compensation for victims of road accidents and application of the Highway Safety Code.

In 2008-2009, the Québec Ombudsman observed that many of the major problems identified in its previous reports, and in respect of which recommendations had been made, were settled satisfactorily, including the following: delays in submitting files to the Tribunal administratif du Québec, illegal interruptions of compensation payments, processing of pardons for drivers, incorrect interpretation of the Highway Safety Code in respect of the holders of learner's licences and reimbursement of overpayments made by the owners of motorcycles wrongly classified as being high risk.

However, the Québec Ombudsman is still working with the SAAQ on certain other problems that are prejudicial to the general public. For example, the Ombudsman is concerned about the application of the law in multiple accident cases, and is still dissatisfied with the time taken to issue medical reports.

The Québec Ombudsman continues to work on an acceptable outcome for these and other issues involving the SAAQ.

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## COMPENSATION FOR ROAD ACCIDENT VICTIMS

### ISSUING OF MEDICAL REPORTS: UNACCEPTABLY LONG DELAYS

In its last four annual reports, the Québec Ombudsman has denounced the time it takes the SAAQ to issue medical reports. This aspect has some important consequences for road accident victims because it delays compensation payments.

The situation described in the box on the following page clearly shows the hardship this can cause for road accident victims who must wait several months before receiving the money to which they are entitled.

In 2006, the SAAQ drew up a three-year action plan aimed at changing its compensation application processing methods. Ultimately, these changes are expected to shorten the time required to issue medical reports. The Québec Ombudsman has monitored the situation carefully, emphasizing in successive annual reports how important it is for the plan, once implemented, to have a real impact on processing times.

In 2007, an improvement was observed in this respect. In 2008, however, the Québec Ombudsman observed that times had remained virtually unchanged, at an average of 82 days compared with 85 in 2007, for all categories of medical reports. It also observed an increase in average times for most categories of medical reports with financial impacts for the people concerned (e.g. delays in paying income replacement benefits or lump sum compensation for after-effects).

Although the SAAQ believes the introduction of its action plan in 2009 will help reduce the time taken to issue medical reports, the Québec Ombudsman is nevertheless concerned because no specific improvement target has been set. The steps taken in the coming year will be of key importance, and must produce a substantial improvement in medical report processing times.

The Québec Ombudsman will continue to monitor the situation, and will intervene during the year if the new measures do not improve the situation.

#### RECOMMENDATION

Whereas the time taken by the Société de l'assurance automobile du Québec to issue medical reports continues to be unacceptably long;

Whereas this results in prejudice for the victims of road accidents;

Whereas, despite the SAAQ's action plan, no specific target for improvement has been set;

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**The Québec Ombudsman recommends that the SAAQ should set targets for improvement so as to be able to assess the impacts of its reorganization on the time taken to issue medical reports, and that it inform the Québec Ombudsman of those impacts by June 30, 2009.**

#### COMMENTS FROM THE SOCIÉTÉ DE L'ASSURANCE AUTOMOBILE DU QUÉBEC

The Société de l'assurance automobile du Québec made the following comments, through its President and Chief Executive Officer:

"The SAAQ welcomes the Québec Ombudsman's recommendation and undertakes to provide goals and targets for improving the time taken to issue medical opinions, by June 30, 2009. Work is currently underway on this issue, and it has already been agreed that a meeting will be arranged with the Québec Ombudsman's representatives before that date, to present the results."

## One year and five months to obtain a medical report

*A woman contacted the Québec Ombudsman because she was dissatisfied with the time taken by the Société de l'assurance automobile du Québec to decide whether or not she was entitled to receive lump sum compensation for after-effects. In June 2007, the compensation officer requested a medical report from one of the SAAQ's consultant physicians in order to assess the additional after-effects suffered by the citizen due to an amputation resulting from her accident.*

*Although the SAAQ asked for this matter to be given priority, the report was not obtained until November 2008. The applicant therefore had to wait a year and five months to receive the sum of \$30,366.95 to which she was entitled as compensation for her sequelae.*

## DELAYS IN FORWARDING ADMINISTRATIVE RECORDS OF ROAD ACCIDENT VICTIMS TO THE TRIBUNAL ADMINISTRATIF DU QUÉBEC

### *A domino effect for the Tribunal administratif du Québec*

In its 2007-2008 annual report, the Québec Ombudsman noted that the SAAQ had failed to comply with the mandatory thirty-day period stipulated in the Act respecting administrative justice for sending files to the Tribunal administratif du Québec. In 2007-2008, the SAAQ took an average of 155 days to forward files. This long timeframe, by delaying the resolution of disputes, causes prejudice to citizens. The SAAQ promised that it would solve this problem in 2008, and it has done so.

### COLLECTIVE GAIN

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In September 2008, the SAAQ informed the Québec Ombudsman that it was now able to comply with the thirty-day period prescribed by law. The Ombudsman checked with the Tribunal, which confirmed that this was in fact the case.

The Québec Ombudsman is satisfied with the steps taken by the SAAQ to eliminate processing delays. They have resulted in a significant improvement for road accident victims who take their cases before the Tribunal.

However, the Québec Ombudsman notes that this improvement, combined with the efforts made to overcome the delay in processing applications for administrative reviews, has led to a considerable increase in the number of automobile insurance cases before the Tribunal administratif du Québec. As a result, the Tribunal has had to take steps to avoid its own processing delays and maintain its ability to achieve the goals of accessibility, diligence and quality set by the Act respecting administrative justice. The Québec Ombudsman will continue to monitor the situation in the coming year.

## **ILLEGAL INTERRUPTION OF COMPENSATION ON AN ADMINISTRATIVE BASIS**

### *An illegal practice, now corrected*

In its last annual report, the Québec Ombudsman described a worrying practice by the SAAQ, which sometimes interrupted compensation payments without rendering a formal decision, on grounds not provided for in the Automobile Insurance Act. This practice resulted in immediate, unannounced interruptions of compensation payments that were often the main source of subsistence income for the victims concerned. In the wake of the Québec Ombudsman's recommendations, the SAAQ introduced an action plan to terminate this practice.

In 2008-2009, the Québec Ombudsman received a number of new complaints about this practice, and notified the SAAQ, which quickly amended its action plan. The Québec Ombudsman believes these latest measures are sufficient to ensure that compensation payments are not interrupted in the future, thereby terminating an illegal and extremely unfair practice. It will nevertheless continue to monitor the situation for any recurrence of the problem.

## **APPLICATION OF THE ACT TO MULTIPLE ACCIDENTS**

### *Can a person be fit and unfit at the same time?*

According to the Automobile Insurance Act, the SAAQ, three years after the date of an accident, may determine the type of employment that a road accident victim capable of returning to work is fit to hold. The individual then receives income replacement benefits for one additional year, to give him or her the time to find a job.

However, some victims may still be unfit for work. This would be the case, for example, of someone who has been involved in a second road accident, when the SAAQ identifies a type of employment based on the information contained in the original file. In such a case, the victim would still be unfit at the time the additional year of benefits begins, and this would cause considerable prejudice because the person would be unable to take full advantage of a measure designed to facilitate the return to work.

The Québec Ombudsman has recommended that, in the case of multiple accidents, employment should be determined only after an exhaustive analysis of the victim's state of health, and only when the evidence clearly shows that he or she is fit for work.

Discussions between the Québec Ombudsman and the SAAQ are ongoing, and the two authorities are working together to find an acceptable solution to this problem.

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## Absence of information

*In June 2006, a citizen sent a claim to the Société de l'assurance automobile du Québec for treatment required as a result of a road accident. In April 2008, the SAAQ, although it felt the treatment was appropriate, refused to reimburse the cost because the specialized nurse who provided the treatment was no longer a member of her professional order, contrary to the regulation. The compensation agent responsible for the file had apparently been aware of this fact since October 2006.*

*The Québec Ombudsman felt the compensation agent's decision was unreasonable because it could have been made in October 2006, seventeen months earlier. Because of the delay, the citizen in question had been deprived of vital information that would have allowed her to hire another nurse who was a member of the order, and qualify for reimbursement of the cost.*

*The Québec Ombudsman felt this was unfair, and asked the SAAQ to reimburse the cost of all the treatments received by the citizen. The SAAQ acknowledged its mistake and agreed to pay her an amount of \$1,035.*

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## Cancellation of a demand for more than \$17,000

*Following a road accident, a citizen informed the Société de l'assurance automobile du Québec that, had it not been for the accident, he would have obtained a job. He was granted income replacement benefit in accordance with the Automobile Insurance Act. After an investigation, however, the SAAQ found that the individual did not have a guaranteed job at the time of the accident, and demanded that the citizen reimburse \$17,130.45.*

*After examining the file, the Québec Ombudsman concluded that the SAAQ could not in fact recover this*

*amount. The citizen had made the declaration in good faith, convinced that an employer had guaranteed him a job prior to the accident, and had presented credible evidence to support this claim. Because there had been no fraud, the law did not allow the SAAQ to recover the benefits paid. Given the credibility of the evidence presented by the citizen, the Québec Ombudsman approached the SAAQ's administrative review department, which agreed to change the compensation agent's decision and stipulate that it was not entitled to recover the amount of \$17,130.45 paid to the citizen.*

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## A refusal that caused significant prejudice

*In February 2008, the Société de l'assurance automobile du Québec rendered a decision refusing to acknowledge the connection between a road accident and an injury suffered by a citizen. The citizen did not agree with this decision, and approached the Québec Ombudsman. Several months later, the SAAQ terminated the citizen's income replacement benefit, judging that he was fit for work.*

*Following an investigation, the Québec Ombudsman noted that new medical evidence had been presented, but had not been taken into account by the SAAQ. It asked the SAAQ to have the file reviewed by a consulting physician.*

*After a lengthy discussion, the SAAQ agreed to the Québec Ombudsman's request. The file was reviewed by a consulting physician, who felt the injury had in fact been caused by the road accident. The SAAQ therefore rendered a new decision authorizing the payment of income replacement benefit. In addition, the citizen received a backdated payment of \$9,024.43.*

### THE SAAQ REIMBURSES AMOUNTS OVERPAID BY THE OWNERS OF MOTORCYCLES WRONGLY CLASSIFIED AS HIGH RISK

*A citizen objected to the fact that his motorcycle had been classified as high risk, when it had the same characteristics as an ordinary motorcycle. The Québec Ombudsman was informed about this complaint, and asked the SAAQ to examine the citizen's arguments. Several months later, it learned that the SAAQ had*

*revised the list of high-risk motorcycles and had removed the model driven by the citizen in question. The Québec Ombudsman therefore asked it to reimburse the additional premiums paid by all the owners of that particular model.*

In 2008, public automobile insurance premiums were adjusted to reflect the level of risk presented by certain categories of motorcycles. As a result, the cost of registering a motorcycle rose from \$416 for an ordinary motorcycle of 401 cubic centimetres or over to \$667 for a high-risk motorcycle (i.e. an increase of nearly 40%).

The SAAQ refused, and the Québec Ombudsman reiterated its request to the Complaints Office, which was already aware of the problem since it, too, had received complaints on the same grounds. Less than a month later, the SAAQ's chief executive officer informed the Québec Ombudsman that the amounts in question would be reimbursed, so as to be fair to those concerned. The Québec Ombudsman is satisfied with this decision.

### A MUCH-NEEDED OVERHAUL OF THE COMPUTER SYSTEM

In 2008-2009, following interventions by the Québec Ombudsman, the Société de l'assurance automobile du Québec undertook to make certain changes to its computer systems. However, given its other priorities and the scope of the changes, it was forced to delay the introduction of remedial measures, as the following examples show.

*The Société de l'assurance automobile du Québec agrees to review the method for disclosing driver's records following a conditional pardon, pardon or absolution*

In Canada's judicial system, citizens found guilty of criminal acts can obtain a conditional pardon, pardon or absolution from the National Parole Board between three and five years after serving their sentence or paying their fine. Generally speaking, this means that the person's prior criminal record is no longer accessible to the general public, thereby mitigating the impacts of a criminal conviction over time.

The Québec Ombudsman was able to note the SAAQ's new position regarding pardons in a complaint made by a citizen whose request to remove information from her driver's record concerning a criminal conviction for impaired driving in 2004 was refused by the SAAQ. Shortly before the citizen made her request, the SAAQ had decided that pardons would no longer be

recognized in its records. Although this position was entirely legal, because the law applies only to files kept by the federal government, the Québec Ombudsman nevertheless questioned its pertinence, especially since provincial and municipal agencies normally cooperate by limiting access to information concerning criminal convictions where the offenders have obtained rehabilitation.

## COLLECTIVE GAIN

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The Québec Ombudsman learned that, as a result of its questions, the SAAQ decided that when citizens were able to provide evidence of pardon, it would no longer display the criminal conviction in its files. Not only did it agree to rectify the complainant's file, but it also undertook to do the same thing for roughly 50 other drivers.

### *Implementation challenge*

However, the Québec Ombudsman notes that the SAAQ has delayed the application of these remedial measures. The SAAQ says it has encountered some problems in removing all references to pardoned convictions when producing record reports, but still retaining access to the information, which it needs in the case of a second offence within a ten-year period, at which point it is entitled to consider new convictions. This situation is covered by section 76 of the Highway Code, among.

The Québec Ombudsman has been informed that the SAAQ has introduced a temporary administrative solution. The Ombudsman does not consider this temporary measure to be satisfactory, however, since it does not guarantee that conditional pardons, pardons and absolution will always be given full effect in all circumstances. The SAAQ should certainly be able to find a more effective administrative solution until such time as it is able to make the required changes to its computer systems.

### *Suspending a licence ... but not the fee*

Last year, the SAAQ agreed to display information on its website concerning the possibility of requesting reimbursement of fees paid in advance for periods during which a driver's licence is suspended. This year, following a complaint received from a citizen whose licence was suspended for a 34-month period for medical reasons, the Québec Ombudsman observed yet another potential prejudice. In the case in question, when the licence suspension was lifted the SAAQ invoiced the citizen for the fees not paid for part of the suspension period, plus a penalty for late payment. Thanks to an intervention by the Québec Ombudsman, the invoice was cancelled and steps were taken to find out why it was issued in the first place, so that other drivers are not subjected to this type of claim in the future.

The investigation revealed that an invoice is automatically generated by the SAAQ's computer system whenever a licence is suspended, but not when the SAAQ revokes the right to drive following a criminal conviction.

The SAAQ is currently seeking a temporary solution to this problem, until its computer system can be reviewed.

The Québec Ombudsman does not consider this response to be satisfactory, because citizens are still being invoiced for amounts that they do not owe.



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*Learner's licence holders: Repeating the theoretical portion of a proficiency examination passed more than three years ago*

Before taking the practical session of the proficiency examination and obtaining a probationary or regular driver's licence, a person must have passed the theoretical session and held a learner's licence for at least eight months if he or she took a driving course, or twelve months without a driving course. Under the Highway Safety Code, the SAAQ may require a person who has not obtained a valid driver's licence three years after taking the theoretical and practical proficiency examinations for the first time, to repeat them in order to obtain a new licence.

The SAAQ used this provision as its basis for stipulating that learner's licence holders who had taken the theoretical examination more than three years previously must repeat that examination before taking the practical session, even if their learner's licence was still valid. This was an illegal application of the Highway Safety Code. The Québec Ombudsman asked the SAAQ to terminate this practice for all learner's licence holders. As a result, the SAAQ undertook to change its administrative directives and to adjust its computer systems by June 2009. The SAAQ has had to delay the implementation of corrective measures because of the scope of the task and the fact that it also has other priorities at this time. The necessary changes will be made in the fall of 2009.

Although satisfied with the SAAQ's undertakings, the Québec Ombudsman is once again concerned by the amount of time taken by the agency to implement the proposed changes. In the meantime, according to the SAAQ's own figures, approximately 4,000 drivers are asked to repeat their theoretical examination every year, contrary to the law.

This is not the first time the Québec Ombudsman's interventions have required changes to the SAAQ's computer systems. For example, the Ombudsman asked the SAAQ to ensure that when it is notified of a change of address, the change is implemented in all its files, including vehicle co-ownership files where applicable. The computer system has not yet been adjusted to do this, however, and an administrative measure is still in force. Similarly, the Québec Ombudsman has also approached the SAAQ on several occasions to ensure that citizens who make transactions at service centres can obtain information on their entire file, including the validity of their driver's licence and the status of their vehicle registration. Improvements such as these often require a complete overhaul of the computer systems.

The SAAQ has long expressed concern about this matter, which affects its ability to provide quality service and reliable information to users in accordance with its Declaration of Services to Citizens. Despite its concern, it is still unable to proceed because of other priorities and the scope of the task. It does not expect further computer development work to begin before 2011.

## RECOMMENDATIONS

Whereas, every year, citizens are adversely affected by the limitations of the SAAQ's computer system;

Whereas it is important for citizens to obtain full and accurate information on their files when they contact the SAAQ for a transaction;

Whereas the limitations of the computer systems should never cause omissions that mislead citizens as to the validity of their driver's licence or vehicle registration;

Whereas the limitations of the computer systems should never, in any circumstance, justify requirements or billings that are contrary to law;

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### **The Québec Ombudsman recommends:**

**That the SAAQ should overhaul its computer systems so as to allow for a quick review of the licence and registration files of every citizen who effects a licence or registration transaction at a service centre, and also to avoid requirements that are contrary to the Act;**

**That the SAAQ should treat the overhaul as a priority, and inform the Québec Ombudsman of the outcome of its timeframe review by September 30, 2009;**

**That, in the meantime, the SAAQ should introduce the necessary administrative measures, regardless of the constraints involved;**

**That the SAAQ should submit an action plan to the Québec Ombudsman by June 30, 2009, detailing these measures.**

## COMMENTS FROM THE SOCIÉTÉ DE L'ASSURANCE AUTOMOBILE DU QUÉBEC

The Société d'assurance automobile du Québec made the following comments through its President and Chief Executive Officer:

"The SAAQ accepts the first recommendation. As for the second, concerning a timeframe review, given the scope and complexity of the task, the SAAQ will inform the Québec Ombudsman of the progress made as it occurs, rather than committing to a specific date.

The SAAQ accepts the third and fourth recommendations, and undertakes to produce the requested action plan by June 30, 2009."

# Commission de la santé et de la sécurité du travail

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## WORKER COMPENSATION AND REHABILITATION

### UNACCEPTABLE DELAYS

Of the 86 government departments and agencies over which the Québec Ombudsman has jurisdiction in the area of public administration, the Commission de la santé et de la sécurité du travail (CSST) ranked fifth in terms of the number of complaints received in 2008-2009, with a total of 840. Of these, 675 were concerned with the application of the Act respecting industrial accidents and occupational diseases, and 109 with the application of the Crime Victims Compensation Act. Most of the substantiated complaints concerned processing times.

Although the number of substantiated complaints relating to workers' compensation has declined in the last few years, the percentage of complaints relating to delays has increased this year to 64.7%, from 37.7% last year. The most frequent causes of long processing times are changes to the agent in charge of the file and delays in processing essential documentation. Eight of the nine complaints relating to compensation for victims of crime also concerned processing times.

Unreasonable processing times can cause financial hardship for injured workers and crime victims. For example, an injured worker who is forced to wait several weeks for a decision on his or her entitlement to income replacement benefits must still pay rent and electricity bills, buy food and fulfill other obligations.

The Québec Ombudsman is extremely concerned by the impacts of long processing times, and has launched an investigation to determine the causes of the problem and identify potential remedial measures. It hopes to reduce these unacceptably long times, which can have serious impacts for the vulnerable people who suffer the consequences.

COLLECTIVE  
GAIN

### Missing information causes prejudice

*A worker expressed verbal disagreement to an agent of the Commission de la santé et de la sécurité du travail who responded negatively to his claim. However, it was only when the period for objections had expired that he learned of the need to submit applications for review in writing. As a result, he was deprived of his recourse. To avoid ambiguity, the Québec Ombudsman asked the CSST to include a statement in the wording*

*of its decisions to the effect that applications for review must be made in writing to be admissible.*

*The CSST agreed to change the wording of its decisions, and did so very quickly. The new wording was introduced on November 27, 2008, and since then all letters concerning decisions about workers' compensation now mention the need to apply in writing for a review.*

## GRADUAL COLLECTION IS PERMITTED BY LAW

If a worker receives compensation to which he or she is not entitled, or if the amount paid is more than the amount to which he or she is entitled, the CSST may recover the amount

in question within three years of payment. However, if the person is still entitled to income replacement benefits, it may instead deduct a percentage of the benefit payment, ranging from 25% if the recipient has no dependents to 20% in the case of one dependent or 15% in the case of more than one dependent. This percentage continues to be deducted until the debt is extinguished.

*A worker received benefits during a period when he was attempting a gradual return to work. The CSST, informed of this fact, decided to recover the equivalent of the salary paid by the employer during the period in question. However, to ensure that the debt was repaid quickly, it deducted 100% of the worker's income replacement benefit, thereby depriving the worker of all his compensation, when according to law the deduction could not exceed 20% because he had a dependent. Thanks to the Québec Ombudsman's intervention, the worker was able to receive immediate payment of the portion of the income replacement benefit that had been deducted erroneously by the CSST. He then repaid the debt gradually, by means of 20% deductions from his benefit payments until the debt was extinguished.*

## PROTECTION OUTSIDE QUÉBEC

*The employer pays the premium but the employee is not insured*

In the last year the Québec Ombudsman approached the CSST regarding the insurance coverage available to workers domiciled outside Québec but working for a Québec company. It had received complaints to the effect that these people were not "insured" when they sustained employment injuries outside Québec, since the Act respecting industrial accidents and occupational diseases did not allow for them to be compensated. They therefore found themselves with no insurance coverage, no income and no recourse during their period of disability. Conversely, the law requires Québec employers to pay their contributions to the CSST based on their total payroll, regardless of where the work is actually performed. As a result, both the employers and the workers concerned wrongly thought they were "covered". The Québec Ombudsman feels it is unreasonable to charge a premium without providing the related coverage.

It therefore asked the CSST to examine this situation and find a fair solution. The CSST chairman and chief executive officer replied that the Act did not allow for this. However, he promised to raise awareness among the people concerned.

Although this is clearly an improvement over the current situation, the simple fact of informing the people concerned will not remedy the contradiction. The Québec Ombudsman has therefore brought this situation to the attention of the Minister responsible, in the hope that a legislative solution can be found that is fair to the workers concerned.

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## CRIME VICTIMS COMPENSATION DIRECTORATE

### TELEPHONE ACCESS

#### *An average wait of seven minutes*

Several citizens contacted the Québec Ombudsman concerning the long wait to speak to a representative of the CSST's Crime Victims Compensation Directorate. The Québec Ombudsman verified the complaints by measuring the waiting time for 50 calls to the Directorate over a ten-day period in December 2008. The average wait was seven minutes from pick-up by the automatic answering machine to transfer of the call to an agent. On several occasions, however, the wait exceeded 15 minutes.

These unacceptably long waiting times are made worse by the eminently fragile nature of the people concerned, who often find themselves in dramatic or desperate circumstances and already feel overwhelmed by the Directorate's procedures.

The Directorate's authorities were informed of the situation and acknowledged the problem, which they said was due to a steady growth in the number of calls received but no corresponding increase in the number of agents available to deal with them. It had encouraged its agents to provide as complete a service as possible, and this, too, had caused waiting times to increase.

The Directorate has informed the Québec Ombudsman that it will pay special attention to this problem in the coming year. However, the Ombudsman would have preferred a firm commitment and specific measures to help improve the situation.

### RECOMMENDATION

Whereas the wait before speaking to an agent at the Crime Victims Compensation Directorate is very long;

Whereas this long wait can have serious consequences for a particularly vulnerable client group;

Whereas the Centre d'expertise des grands organismes, of which the Commission de la santé et de la sécurité du travail is a member, recommends an average wait of 20 seconds for 80% of the calls received;

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**The Québec Ombudsman recommends that the Crime Victims Compensation Directorate should provide it with a plan of action by June 30, 2009, which should then be implemented without delay to bring the average waiting time as close as possible to the standard recommended by the Centre d'expertise des grands organismes.**

## COMMENTS FROM THE COMMISSION

The Commission de la santé et de la sécurité du travail made the following comments via its Board Chair and Chief Executive Officer:

“We have noted the observations and recommendations concerning the telephone services of the Crime Victims Compensation Directorate. First of all, I agree that delays such as this are unsatisfactory. Please be assured that we share your concern with providing the best possible service to our clients.

The Crime Victims Compensation Directorate was informed of your comments on December 9 last, and since then has explored a number of different solutions. However, although there has been some improvement, the measures have not yet had the desired effect because they have only just been, or have yet to be, implemented.

Service access is an essential value and a major factor in achieving ongoing improvements in the quality of our relationship with our clients. We will therefore continue our efforts in this regard in 2009, and will monitor the situation closely.”

## Commission administrative des régimes de retraite et d'assurances (CARRA)

### INSUFFICIENT AND UNSUITABLE INFORMATION

In fulfilling its mission, the CARRA communicates in several different ways with citizens in their capacity as contributors to and beneficiaries of the public and para-public sector pension plans that it administers. Among other things, it calculates contributor participation levels, proposes buy-back plans and estimates pension levels. One of the most common types of complaint relating to the CARRA concerns the poor quality of the written information it provides. The information provided often contains mistakes, even though citizens use it to make important decisions about their retirement, among other things. In other cases the information was insufficient, or no information at all was forthcoming, meaning that citizens were unable to understand their rights and obligations. And even when the explanations were complete, it was often virtually impossible to decipher them because the subject was so complex. The following examples clearly illustrate the impacts of these deficiencies.

An undisclosed number of citizens took an early Québec retirement pension and early Old Age Pension based on information that was not sufficient for them to make an informed decision. The information provided by the CARRA suggested that the early pension benefits were a form of “loan” that participants would reimburse from age 65 onwards, until the debt was extinguished. In reality, however, after early payment of a certain amount, the program reduces the pension for life, as a means of “recovering” the early payments. In some cases, and to their surprise, people found they had repaid more than the amount received as early payment, and would continue to “reimburse” until they died. The problem was not so much the nature of the program, which is no longer in force, but a complete lack of understanding about the consequences of joining it. The CARRA, after consulting the bodies concerned, will inform the Québec Ombudsman of the steps it intends to take, and the Québec Ombudsman will assess whether the proposed solution is fair to these people, who clearly were not adequately informed.

The Québec Ombudsman also took action in cases where the CARRA had sent incorrect estimates of pension payments. At the Ombudsman's request, the CARRA sent explanations and apologies to a woman whose annual pension had been overestimated by more than \$5,000. In this particular case, the woman was able to minimize the damage by postponing her retirement before it was too late.

Generally speaking, there was plenty of room for improvement in the quality, accuracy and transparency of the information sent by the CARRA to members of the general public.

## RECOMMENDATION

Whereas the information processed and provided by the CARRA is highly complex;  
Whereas the impacts of the decisions made by citizens based on this information, and the potential prejudice arising from those decisions, are considerable;  
Whereas, in its Declaration of Service to Citizens, the CARRA undertakes to provide full and accurate information and to accurately calculate the value of the pension or reimbursement to which a person is entitled;

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**The Québec Ombudsman recommends that the CARRA should inform it of the results of the steps taken to improve the quality of the information provided when it implements its 2009-2010 action plan.**

## COMMENTS FROM THE CARRA

The Commission made the following comments, through its Chief Executive Officer:

"The CARRA agrees with the Québec Ombudsman that the information processed and provided on the subject of its pension plans is highly complex. The information in question is determined by an impressive legislative framework governing the various plans. However, the CARRA regards the quality of the information given to its clients as being an important issue, and has made this aspect into an organizational priority, even though a recent survey confirmed that the CARRA's clients, generally speaking, are satisfied with its services. The CARRA reports on the results obtained in this respect to its board of directors, as follow-up to its annual action plan. In addition, the modernization project currently underway will include a review of the CARRA's communications.

Lastly, with regard to the early pension program, the CARRA will be submitting the file to the RREGOP Retirement Committee, and will inform the Québec Ombudsman of the results of this consultation."

# Régie des rentes du Québec

## BETTER, MORE ACCESSIBLE INFORMATION

The Régie des rentes du Québec (RRQ) manages the Québec Pension Plan and is responsible for overseeing private pensions plans, a task that involves rendering decisions and issuing orders that can have important consequences for private pension plan contributors and recipients. In a recent intervention on behalf of a contributor, the Québec Ombudsman observed that the RRQ did not always mention the available recourses in its decisions and orders, and in addition, decisions and orders were not always distributed to all the people concerned. For example, pension recipients who no longer had legal representation with their employers or plan administrators had no way of knowing about the decisions. The Québec Ombudsman felt this approach was inconsistent with the principles of the Act respecting administrative justice.

### COLLECTIVE GAIN

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The Québec Ombudsman asked the RRQ to ensure that information on available recourses was included in all its decisions and orders, and to devise a distribution method for decisions and orders so that everyone concerned was properly informed and able to react as necessary. The RRQ was open to improvements and agreed to the Québec Ombudsman's suggestions. It has undertaken to ensure, in the coming months, that every decision or order is posted in a public place to which those concerned have access, and also mentions potential recourses, as required by law. Indeed, its website has already been changed as a result of the Québec Ombudsman's intervention, and now displays information on recourses.

## COMBINATION OF BENEFITS WITH NO NEGATIVE EFFECTS

### An addition ... or a subtraction ...

*A citizen's only source of income was the income replacement benefit, which had been reduced by the SAAQ, and his surviving spouse's benefit from the RRQ, totalling approximately \$1,100 per month. When he turned 60 years old he hoped to improve his standard of living by requesting his retirement pension from the RRQ. Instead, the RRQ agent encouraged him to apply for a disability benefit, which is normally more advantageous. However, in this particular case, because the disability was due to a road accident, the RRQ was required by law to pay the pension to the SAAQ, which in turn paid the beneficiary the higher of the income replacement benefit or the disability benefit. The law also provides for the surviving spouse's benefit to be combined with the disability benefit, thereby reducing the amount. As a result, the citizen, who was expecting*

*to receive more, in fact received approximately \$200 per month less than before, because the supplement received through the SAAQ did not compensate for the reduction in his surviving spouse's benefit. Moreover, the RRQ claimed \$2,070 in overpayments, since the benefit combination was retroactive to the date on which the disability benefit began to be paid.*

*The Québec Ombudsman asked the RRQ to find a solution that would be fairer to the citizen. Although the law had been applied correctly, the result was clearly not fair or reasonable. The RRQ acknowledged the validity of this position and the citizen's debt was cancelled after a review. Unfortunately, however, based on the law as it currently stands, it was not possible to restore the citizen's benefits to their previous level.*



## RECOMMENDATION

Whereas situations involving a combination of benefits from the Régie des rentes du Québec and the Société de l'assurance automobile du Québec can produce unfair outcomes;

Whereas, in practice, citizens who find themselves in these circumstances have no recourse since the authorities are simply applying the law as it currently stands;

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**The Québec Ombudsman recommends that, as part of the pension plan review that will take place in the fall of 2009, steps should be taken to ensure that the rules applicable to benefit combinations paid to citizens receiving compensation from the Société de l'assurance automobile du Québec do have the effect of reducing their income from its original level.**

## COMMENTS FROM THE RÉGIE DES RENTES DU QUÉBEC

The Régie des rentes du Québec made the following comments, through its Chief Executive Officer:

“The consultation document entitled *Toward a Stronger and Fairer Québec Pension Plan*, tabled in the National Assembly in June 2008, provides for a number of measures aimed directly at the combination of disability and surviving spouse’s benefits under the Québec Pension Plan, and by extension these changes will also require harmonization with benefits paid by the Société de l'assurance automobile du Québec. The proposed measures include one that will correct the benefit reduction that can occur under the present rules.”

## CLARIFICATION BY THE QUÉBEC OMBUDSMAN

The consultation document to which the RRQ refers does in fact cover the question of benefit combinations. However, the measures it proposes are not precise enough to conclude that the problem will be solved. The Québec Ombudsman awaits further clarification of the proposed changes, and will react accordingly in the forthcoming consultations.