



# PARLIAMENTARY WATCH REPORT

Under its constituting act, the Québec Ombudsman is empowered to review all bills and draft regulations, and, when it deems necessary, call the attention of the National Assembly and the government to legislative, regulatory, or administrative reforms it considers to be in the public interest. Parliamentary watch is also carried out under the *Act respecting the Health and Social Services Ombudsman*, which makes the Québec Ombudsman responsible for ensuring that health and social service users are respected and that the rights recognized in this act are enforced.

In 2010-2011, the Québec Ombudsman intervened 15 times with regard to ten bills and five draft regulations. The following is a summary of these interventions. The last section of the table reports on the follow-up to the parliamentary watch conducted in 2008-2009 and 2009-2010 and the outcomes of these interventions observed in 2010-2011.

The Québec Ombudsperson's public interventions are posted on the Québec Ombudsman's website ([www.protecteurducitoyen.qc.ca](http://www.protecteurducitoyen.qc.ca)), under the "Cases and Documentation" tab.

BILL	INTERVENTION AND FOLLOW-UP
<p>An Act to amend the Taxation Act, the Act respecting the Québec sales tax and other legislative provisions (Bill 96, 2010)</p>	<p><b>Intervention</b></p> <p>One of the effects of this tax bill is to authorize the Régie des rentes du Québec to suspend the payment of the refundable tax credit for child assistance pending an investigation into the citizen's eligibility.</p> <p>While it is clear that the Québec Ombudsperson feels that sound management of public funds is essential and that fraud must be detected and countered, she was concerned about the very broad scope of the provision in question. She recommended that the Committee on Public Finance amend the bill so that the use of such a measure is subject to rules or guidelines that guarantee restricted use and to specific accountability in the Régie's annual report.</p> <p><b>Follow-up</b></p> <p>Even though the bill was passed on October 26, 2010, without amendment, the Québec Ombudsperson received written confirmation from the Minister of Revenue that the Régie intends to exercise this power only as an exception. The Québec Ombudsman will therefore monitor its use.</p>
<p>An Act to amend the Charter of the French language and other legislative provisions (Bill 103, 2010)</p> <p>An Act following upon the court decisions on the language of instruction (Bill 115, 2010)</p> <p>(CONT'D ON NEXT PAGE)</p>	<p><b>Intervention</b></p> <p>The Québec Ombudsperson welcomed the additional requirements introduced in Bill 103 for college- and university-level institutions, municipal bodies, and public agencies concerning adoption and publicizing of their linguistic policies and their accountability. She also approved of the measures aimed at giving the Office québécois de la langue française greater means for enforcing the act.</p> <p>The Québec Ombudsperson's recommendations to the Committee on Culture and Education on September 8, 2010, concerned the provisions of the bill in response to the Supreme Court ruling on access to English-language schools in the public system. This decision overturned the provisions of the Charter of the French language aimed at preventing citizens from placing their children in unsubsidized private English-language schools in order to make them subsequently eligible to attend English-language public schools.</p> <p>Considering the importance of the issue of language of instruction in Québec, and judging that lawmakers are responsible for deciding on the assessment criteria and conditions under which a child is presumed or deemed to have satisfied the requirement of having received the major part of his education in English within the meaning of the Charter, the Québec Ombudsperson recommended that the principles and basic components of the framework for analyzing eligibility applications regarding instruction in English be integrated into the Charter rather than adopted by regulation, and that the government's regulatory power be limited to the technical elements outlining how to assess the criteria set out in the act.</p>

BILL	INTERVENTION AND FOLLOW-UP
(CONT'D) (Bill 103, 2010) (Bill 115, 2010)	<p>With a view to the transparency and rigour of regulatory procedure, the Québec Ombudsperson also recommended that the regulation adopted pursuant to this power not be exempt from the pre-publication requirement set out in the <i>Regulations Act</i>.</p> <p><b>Follow-up</b></p> <p>Bill 103 died on the order paper at the end of the first parliamentary session after a complete overhaul of the provisions regarding access to English-language schools in Bill 115. The bill, introduced and passed in October 2010, disregarded the Québec Ombudsperson's recommendations.</p>
<p><b>Act respecting the Agence du revenu du Québec</b>            (Bill 107, 2010)</p>	<p><b>Intervention</b></p> <p>The Québec Ombudsperson reminded the Public Finance Committee that in exercising her jurisdiction over the Ministère du Revenu, the Québec Ombudsman already acts as an independent and impartial ombudsman for taxpayers, and will continue to do so with the Agence du revenu du Québec.</p> <p>The Québec Ombudsperson recommended improved accountability in the processing of complaints and amendment of the bill to oblige the agency to produce an activity report for its complaints management section in order to have a clear picture of citizens' complaints, of this section's activities, and of the potential solutions the section proposes. The Québec Ombudsperson also suggested that the section report directly to the agency's board of directors.</p> <p>In another vein, in order to make justice more accessible to citizens, the Québec Ombudsperson recommended that the claim amounts prescribed for a summary appeal before the Small Claims Division of the Court of Québec be increased to \$7000 for notices of assessment produced by Revenu Québec and \$25,000 for a reduction in the calculation of taxable income, modeled on the amounts prescribed in the Code of Civil Procedure for small claims.</p> <p><b>Follow-up</b></p> <p>The act passed on December 8, 2010, disregarded these recommendations.</p>
<p><b>Municipal Ethics and Good Conduct Act</b>            (Bill 109, 2010)</p> <p>(CONT'D ON NEXT PAGE)</p>	<p><b>Intervention</b></p> <p>The bill provides that further to an inquiry into the alleged violation of the municipal code of ethics and conduct, the Commission municipale make a recommendation to the municipal council, which decides whether or not to apply it.</p>

BILL	INTERVENTION AND FOLLOW-UP
<p>(CONT'D) (Bill 109, 2010)</p>	<p>The Québec Ombudsman approached those in charge of the bill at the Ministère des Affaires municipales, des Régions et de l'Occupation du territoire to suggest that it include a mechanism for homologating municipal council decisions when it chooses to act on the Commission's recommendation, but the elected official concerned refused to comply.</p> <p><b>Follow-up</b></p> <p>Even though under the act passed on November 30, 2010, the Commission municipale became empowered to render a decision, the question of decision homologation remained unsettled.</p> <p>Section 32 of the act as assented to includes the amendment suggested by the Québec Ombudsman, namely, that the municipality may have the Commission's decision homologated by the Court, thereby making it enforceable.</p>
<p>Act to amend the Act respecting labour standards in order to facilitate reciprocal enforcement of decisions ordering the payment of a sum of money (Bill 111, 2010)</p>	<p><b>Intervention</b></p> <p>The Québec Ombudsperson supported this bill aimed at facilitating reciprocal enforcement between Québec and other governments (including the other Canadian provinces) of labour standard decisions ordering the payment of a sum of money. Considering that this would benefit Québec workers whose employers are headquartered outside Québec, she stated her expectations regarding implementing of the bill, particularly, that reciprocity agreements soon be signed with other provinces, paving the way for enforcement of decisions in favour of these workers. To this end, she also expressed the hope that the Commission des normes du travail reopen unresolved cases and requests made to the appropriate provincial authorities, with a view to diligent enforcement of the decisions in question.</p> <p><b>Follow-up</b></p> <p>On August 20, 2001, the chairman and director general of the Commission wrote to the Québec Ombudsperson to confirm that steps were already underway to reopen unresolved cases. The bill was passed into law on September 29, 2010.</p>
<p>An Act giving effect to the Budget Speech delivered on 30 March 2010 and to certain other budget statements (Bill 117, 2010)</p> <p>(CONT'D ON NEXT PAGE)</p>	<p><b>Intervention</b></p> <p>In a letter to the Minister of Revenue, the Québec Ombudsperson expressed her concerns regarding the obligation to register for direct deposit in order to qualify for the new solidarity tax credit. While she subscribed to the principle of direct deposit, which enables the reduction of the government's administrative costs, the Québec Ombudsperson feared that people without an account in a financial institution would suffer. She therefore made three recommendations to the minister:</p> <ol style="list-style-type: none"> <li>1. Establish a mechanism that will ensure that the least privileged citizens, who do not have an account in a financial institution, can nonetheless claim the credit on a monthly basis:</li> </ol>

BILL	INTERVENTION AND FOLLOW-UP
<p>(CONT'D) (Bill 117, 2010)</p>	<ol style="list-style-type: none"> <li>2. Allow citizens to retroactively claim this credit when they file their income tax return;</li> <li>3. Allow direct deposit of the credit to any account in a recognized financial institution, even if it is not an establishment located in Québec.</li> </ol> <p><b>Follow-up</b></p> <p>The minister indicated that exceptional measures would be taken so that citizens who do not have access to a bank account can qualify for the credit. On March 31, 2011, a month before the deadline for submitting tax returns and applying for the credit, there was not yet any word on these measures.</p>
<p>Act to improve relations between people living along off-vehicle club trails and the users of those trails and to improve user safety (Bill 121, 2010)</p>	<p><b>Intervention</b></p> <p>This bill, while maintaining the moratorium which protects users and managers of interregional trails from legal proceedings on the grounds of neighbourhood disturbances or any other damage relating to noise, odours, or other contaminants, made it mandatory for the minister to institute a complaint-resolution process for such disturbances or damage, and introduced the possibility for the complainant to ask that a mediator be appointed to attempt to settle the dispute if nothing comes of the complaint-resolution process. As in the past, the Québec Ombudsperson approached the Committee on Transportation and the Environment to ask for lifting of the moratorium.</p> <p>Citing the general principles of legitimacy and credibility, the Québec Ombudsperson said she was satisfied to see that a complaint-resolution process had been introduced, but while she welcomed the creation of a mediation mechanism, she questioned the potential consequences of failure for the parties, especially for inconvenienced citizens, and proposed an arbitration mechanism as an interesting alternative.</p> <p><b>Follow-up</b></p> <p>The bill was amended to provide for arbitration should mediation fail, a favourable response to the Québec Ombudsperson's concerns. However, the moratorium was not lifted and was instead extended until December 1, 2017.</p> <p><b>Intervention</b></p> <p>Noting that a report to the government on whether to maintain, amend, or repeal the provisions dealing with complaint resolution and mediation must be tabled no later than five years after the bill is passed, the Québec Ombudsperson recommended that this evaluation should only review the terms and conditions of the mechanism, to improve it as needed, and not to question the need for it.</p> <p><b>Follow-up</b></p> <p>This recommendation was not taken into account in amending the bill.</p>

BILL	INTERVENTION AND FOLLOW-UP
<p>Act to tighten the regulation of educational childcare (Bill 126, 2010)</p> <p>(CONT'D ON NEXT PAGE)</p>	<p><b>Intervention and follow up</b></p> <p>On November 17, 2010, at the invitation of the Committee on Citizen Relations, the Québec Ombudsperson commented and made recommendations on this bill which, as the name suggests, is aimed at tightening the regulation of educational childcare. The measures presented for achieving this consist of creating a new attribution process for subsidized places, curtailing the development of daycare chains, making shareholders responsible, introducing a new penalty regime, and creating new powers to put an end to illegal childcare services, including the use of an order when the health and safety of the children may be compromised.</p> <p>While she subscribed to the basic principles of this bill, the Québec Ombudsperson had some comments on particular aspects of it and made the following recommendations on the bill itself:</p> <ol style="list-style-type: none"> <li>1. Change the composition of the advisory committees in favour of representatives designated by childcare centres and daycares in the territories in question; → the bill was thus amended;</li> <li>2. Consider the possibility of having the advisory committees add regional criteria to the needs and priorities determined by the minister; → the bill was amended so that the minister consults the regional advisory committees when determining these needs and priorities;</li> <li>3. Link the extension of acquired rights for daycare chains to the legality and compliance of their original conferral, attested by a Department audit; → the bill was thus amended;</li> <li>4. Establish balance between the fine for overcapacity for a licensed childcare service and the fine for illegal care provided by a person with no permit; → this recommendation was disregarded;</li> <li>5. Introduce inspection for the educational program and service quality and subject shortfalls in this regard to the new penalty regime; → this recommendation was disregarded;</li> <li>6. a) Allow recourse to the Tribunal administratif du Québec for closure under section 120; → this recommendation was disregarded;</li> </ol>

BILL	INTERVENTION AND FOLLOW-UP
<p>(CONT'D) (Bill 126, 2010)</p>	<p>b) Subject the order to a review mechanism such as the one provided for administrative fines;</p> <p>→ no order-review mechanism was introduced in the bill. However, the bill was amended so that recourse before the Tribunal administratif du Québec can occur and be deemed urgent, which mitigates the effect denounced, namely, lengthy delays before being heard by the Tribunal.</p> <p><b>Intervention</b></p> <p>The Québec Ombudsperson recommended the following amendments in the application of the act to the Ministère de la Famille et des Aînés:</p> <ol style="list-style-type: none"> <li>1. a) Ensure that Department priorities governing the attribution of subsidized places are not subject to change while the process is underway, and that these priorities are made public;</li> <li>    b) Ensure that advisory committee recommendations are made public;</li> <li>2. Plan the distribution of subsidized places in an integrated manner, taking into consideration the existence of unsubsidized daycares, in order to avoid having government intervention result in a shift of clients from private unsubsidized daycare to subsidized care;</li> <li>3. Minimize the impact for parents of any actions taken to curtail illegal childcare services and provide transitional measures where possible;</li> <li>4. Take whatever steps are necessary to reduce permit attribution time, to allow illegal childcare services to comply with the law;</li> <li>5. Come to an agreement with the coordinating offices on timelines and the means to implement in order to accelerate the recognition of people in charge of home daycares that do not have subsidized places.</li> </ol> <p><b>Follow-up</b></p> <p>Apart from the recommendation to make advisory committee recommendations public, which led to amendment of the bill, only time will tell whether they are being followed. The Québec Ombudsman will keep a close eye on developments in this respect.</p>

BILL	INTERVENTION AND FOLLOW-UP
<p>Act to improve the management of the health and social services network (Bill 127, 2010)</p> <p>(CONT'D ON NEXT PAGE)</p>	<p><b>Intervention</b></p> <p>At the invitation of the Committee on Health and Social Services, the Québec Ombudsperson presented her observations on March 15, 2011. She explained that, in her opinion, the changes proposed by the bill would have very little practical and immediate impact on the improvement of services to the public, and that access to clearly defined, well-integrated, and well-dispensed quality services at reasonable cost requires a simplification of structures, strengthened accountability, and clarification of the basket of services, which were not addressed in this bill. The following recommendations were made to the Committee:</p> <ol style="list-style-type: none"> <li>1. To allow for more representative participation and avoid isolating user and public representatives on institutional boards of directors: <ul style="list-style-type: none"> <li>• provide for the participation of two user representatives;</li> <li>• provide for the designation of a substitute member, in the event that one of these representatives is unable to perform his duties.</li> </ul> </li> <li>2. To adjust governance methods to the reality of the health and social services network, particularly with regard to accountability: <ul style="list-style-type: none"> <li>• clarify the role of the health and social services agencies, units reporting to the Ministère de la Santé et des Services sociaux, and their chain of command with regard to the institutions; in particular, specify the extent of their coordinating role;</li> <li>• by extension, abolish the boards of directors of the health and social services agencies;</li> <li>• clarify the obligations and accountability of the institutional directors and their immediate and hierarchical chain of administrative command;</li> <li>• define the responsibilities of the boards of directors more clearly, including their relationship with the executive director of the institution and their accountability, where necessary.</li> </ul> </li> <li>3. To ensure the most efficient management, insofar as the institutional directors play a critical role in upholding government orientations and are therefore accountable: <ul style="list-style-type: none"> <li>• grant more leeway to institutional directors at the local level to facilitate the implementation of these orientations in keeping with the populational approach, which entails respecting the realities and specific needs of the people in the territory they serve.</li> </ul> </li> <li>4. To ensure equitable access to services, including financially, for all people wherever they live, and to clarify what has become an area of confusion for both institutions and the professionals involved: <ul style="list-style-type: none"> <li>• establish clear guidelines for all questions related to administrative and incidental fees or other cost components that may affect access to services;</li> </ul> </li> </ol>

BILL	INTERVENTION AND FOLLOW-UP
<p>(CONT'D) (Bill 127, 2010)</p>	<ul style="list-style-type: none"> <li>• require all institutions to plan for the technical component when they choose to outsource a service;</li> <li>• require the Minister of Health and Social Services to report annually on any changes made to the basket of services and the factors behind these decisions.</li> </ul> <p><b>Follow-up</b></p> <p>The bill, introduced during the first parliamentary session, was reentered in the order paper for the second session. As at March 31, 2011, the bill had not been passed.</p>
<p>Act to amend the Act respecting the Régie du logement and various acts concerning municipal affairs (Bill 131, 2010)</p>	<p><b>Intervention</b></p> <p>The purpose of this bill was to give the board complete jurisdiction over any matter relating to setting rent, changing other conditions of a lease or revising rent, and powers to curb abuse of procedure (debarment). In this sense, the bill is a response to the Québec Ombudsman's recommendations concerning debarment in its 2009-2010 annual report.</p> <p>In addressing the Committee on Planning and the Public Domain on November 30, 2010, the Québec Ombudsperson pointed out that the bill would have to be improved to solve the ongoing problem of excessive delays at the Régie.</p> <p>Arguing that she felt it was important that the legislator give the Régie a legislative framework that would allow it to be as effective as possible, while fully respecting its mission, the Québec Ombudsperson recommended that special clerks be given a greater role, notably, powers to hear all cases involving failure to pay rent.</p> <p><b>Follow-up</b></p> <p>Even though no amendments were made to the provisions concerning the Régie in the act passed on December 10, 2010, the minister announced he intended to completely overhaul the <i>Act respecting the Régie du logement</i>. In so doing, the role of special clerks would be covered. Recognizing the expertise the Québec Ombudsman had developed, he said he would solicit its collaboration and was open to its proposals.</p>
DRAFT REGULATION	INTERVENTION AND FOLLOW-UP
<p>Regulation respecting immigration consultants (2010, Gazette officielle, Part 2, 882)</p>	<p><b>Intervention</b></p> <p>The Québec Ombudsperson wrote to the minister to indicate her approval of the much-awaited regulation which defines the conditions for recognition of consultants and the attendant obligations which, if defaulted on, could lead to suspension or revocation, as well as a fine. She considered that this regulation satisfies the commonly expressed need for supervision of the practice of consultants and should have a major and beneficial impact on the lives of immigration applicants, who are often vulnerable to fraudulent or ill-intentioned behaviour.</p>

DRAFT REGULATION	INTERVENTION AND FOLLOW-UP
<p>Regulation to amend the Regulation respecting teaching licenses (2010, Gazette officielle, Part 2, 968)</p>	<p><b>Intervention</b></p> <p>The bill was supposed to amend the regulation so that it would comply with the Agreement on Internal Trade, which, as generally regards labour mobility, provides that citizens from every Canadian province or territory who are certified to practice a given trade or profession be certified to do so across Canada.</p> <p>The Québec Ombudsman felt that the provision preventing holders of provisional teaching authorizations from enjoying the benefits of labour mobility agreements needlessly limited the advantages of the Agreement on Internal Trade for these individuals.</p> <p><b>Follow-up</b></p> <p>Further to the Québec Ombudsman's comments to the drafters of the proposed regulation, this provision was removed and was not in the regulation published on July 28, 2010.</p>
<p>Regulation to amend the Tariff of duties respecting the acts of civil status and change of name or of designation of sex (2010, Gazette officielle, Part 2, 3294)</p> <p>(CONT'D ON NEXT PAGE)</p>	<p><b>Intervention</b></p> <p>The draft regulation provided for an increase in the duties charged to issue copies of acts, certificates and attestations, based on the service channel. For example, on the regulation's entry into force, the cost to obtain a birth certificate would increase from the current \$15 (flat fee) to \$28 by electronic means, \$38 by mail and \$43 at the counter.</p> <p>First, discussions took place between the Québec Ombudsman and Directeur de l'état civil authorities in order to amend the regulation to specify that the tariff would be based on the method used by the applicant rather than on the method of delivery, over which citizens have no control.</p> <p><b>Follow-up</b></p> <p>This suggestion was accepted and the amendment was included in the regulation passed into law on November 17, 2010.</p> <p><b>Intervention</b></p> <p>Secondly, the Québec Ombudsperson, judging that this fee structure would be regressive for individuals who have limited access to the Internet, such as low-income earners, the elderly, and people living in remote regions, approached the chair of the Conseil du trésor and the Minister of Government Services to ensure that the new standards be such as to prevent these people from being penalized.</p>

DRAFT REGULATION	INTERVENTION AND FOLLOW-UP
<p>(CONT'D) (2010, Gazette officielle, Part 2, 3294)</p>	<p>The Québec Ombudsperson therefore recommended that the government:</p> <ul style="list-style-type: none"> <li>• provide for adjustment mechanisms so as not to penalize certain clientele, in particular low-income households, in compliance with its policy for the funding of public services;</li> <li>• provide information on the basis for and details of calculations leading to the proposed fee structure, with regard to the different delivery channels and clientele;</li> <li>• request that in 2013 the Directeur de état civil produce a report on past and foreseeable future impacts of the new fee schedule with regard to its financial integrity and the fairness of fees charged to citizens.</li> </ul> <p><b>Follow-up</b></p> <p>The regulation as passed into law was not amended to reflect the Québec Ombudsperson's recommendations, and the requested information on the setting of new tariffs was not provided.</p>
<p>Regulation to amend the Regulation respecting the selection of foreign nationals (2010, Gazette officielle, Part 2, 5634)</p>	<p><b>Intervention</b></p> <p>The purpose of the draft regulation was to better protect temporary foreign workers and to make the employers who hire them accountable. One of the means proposed was to oblige employees who hire foreign nationals applying for a temporary stay in Québec for work purposes to establish a direct employment link between the employer and the applicant, making the contracting employer clearly identifiable.</p> <p>However, the draft regulation as introduced did not provide for this obligation for employers wishing to hire foreign nationals for domestic help.</p> <p>The Québec Ombudsman intervened with Ministère de l'Immigration et des Communautés culturelles authorities to suggest that this provision be extended to temporary foreign worker categories.</p> <p><b>Follow-up</b></p> <p>This recommendation was approved and included in the regulation published on March 30, 2011.</p>
<p>Regulation amending the activities framework of the Réserve de biodiversité projetée Samuel-De Champlain (2010, Gazette officielle, Part 2, 5701)</p> <p>(CONT'D ON NEXT PAGE)</p>	<p><b>Intervention</b></p> <p>The draft regulation amends the activities permitted or prohibited within the proposed Samuel-De Champlain biodiversity reserve. The Québec Ombudsperson noted that a section of the draft regulation authorized gas and oil exploration. She pointed out that this decision seemed inconsistent with the protection of certain identified areas because of the environmental interests they represent. Consequently, she recommended withdrawal of the passage authorizing such activities from the draft regulation.</p>

DRAFT REGULATION	INTERVENTION AND FOLLOW-UP
<p>(CONT'D) (2010, Gazette officielle, Part 2, 5701)</p>	<p><b>Follow-up</b> On February 15, 2011, the Québec Ombudsperson received written confirmation from the Deputy Minister of Sustainable Development, Environment and Parks that her recommendation to the minister would be followed and that the exploration licenses issued to oil and gas companies would be modified to exclude the territory of the reserve in question. As at March 31, 2011, the regulation had not been published.</p>
INTERVENTION MONITORING IN 2009-2010 AND 2008-2009	
<p>Act to amend the Act respecting educational institutions at the university level and the Act respecting the Université du Québec with respect to governance (Bill 38, 2009)</p>	<p><b>Intervention</b> The Québec Ombudsperson noted the absence of an obligation for university institutions to establish an impartial and independent complaints mechanism. Although the majority of university community members have access to an ombudsman, she deemed that such a mechanism should be built into the bill so that all can benefit.</p> <p><b>Follow-up</b> The bill was reentered in the order paper for the second session. As at March 31, 2011, the bill had not been passed.</p>
<p>Act to amend the General and Vocational Colleges Act with respect to governance (Bill 44, 2009)</p>	<p><b>Intervention</b> The Québec Ombudsperson noted the need for the measure aimed at requiring colleges to establish a dispute-settlement mechanism, but raised concerns regarding the measure's failure to address the broad principles essential to a legitimate and credible complaints processing mechanism in which individuals can have complete confidence. She therefore recommended that the minister be empowered to regulate complaints processing standards and conditions in order to ensure that they are harmonized with what is provided for the Student Ombudsman under the <i>Education Act</i>.</p> <p>The Québec Ombudsperson also recommended that the mechanism selected be modelled on the one developed for the health and social services network. She also recommended that this mechanism not be restricted to registered students, but that it also cover administrative decisions made at the time of admission.</p> <p><b>Follow-up</b> The bill was reentered in the order paper for the second session. As at March 31, 2011, the bill had not been passed.</p>

## INTERVENTION MONITORING IN 2009-2010 AND 2008-2009

Code of Ethics and  
Conduct of the Members  
of the National Assembly  
(Bill 48, 2009)

### Intervention

The Québec Ombudsperson unreservedly supported subjecting the Ombudsman and Deputy Ombudsmen to the jurisdiction of the Ethics Commissioner following the example of other persons appointed by the National Assembly.

### Follow-up

The bill was nevertheless amended to not subject the Québec Ombudsman or the other persons appointed by the National Assembly to this code.

### Intervention

The Québec Ombudsperson recommended that it be possible for the Commissioner, under the conditions he has determined, to shorten the two-year restriction imposed under the post-term rules for Cabinet members.

### Follow-up

This provision was withdrawn.

### Intervention

The Québec Ombudsperson commented on the deadline given to the President of the National Assembly to table an inquiry report of the Commissioner in the National Assembly. She recommended a maximum of three days instead of 15, which would minimize the risk for leaks and various forms of pressure, in addition to reinforcing the independence of the Commissioner and the impartiality of the President of the National Assembly.

### Follow-up

This recommendation was accepted.

### Intervention

For the sake of public confidence in the Commissioner, the Québec Ombudsperson expressed reservations about the intention stated in the bill to fully exempt the *Code of Ethics and Conduct of the Members of the National Assembly* from the application of the *Act respecting Access to documents held by public bodies and the Protection of personal information*.

### Follow-up

This comment was not approved by the parliamentarians, on the grounds of their constitutional parliamentary privileges and the fact that the provision is an extension of section 34 of the latter act, which, among other stipulations, states that no person may have access to a document from the office of a Member of the National Assembly or a document produced for that member by the services of the National Assembly.

### Intervention

The Québec Ombudsperson recommended that a provision be added to make it possible to replace the Ethics Commissioner when the Commissioner ceases to perform his duties or is unable to act.

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## INTERVENTION MONITORING IN 2009-2010 AND 2008-2009

<p>(CONT'D) (Bill 48, 2009)</p>	<p><b>Follow-up</b></p> <p>This recommendation was accepted. The bill was passed into law on December 3, 2010.</p>
<p><b>Act to amend the Highway Safety Code and other legislative provisions</b> (Bill 71, 2009)</p>	<p><b>Intervention</b></p> <p>The Québec Ombudsperson drew the attention of parliament to the applicability of the measure aimed at making helmets mandatory for cyclists age 12 and under. Although she noted the advantage of this safety measure, she nonetheless questioned the reasons behind the age limit imposed.</p> <p>The Québec Ombudsperson recommended that any by-laws be made subject to the Minister of Transport's right of disallowance should municipalities attempt to adopt measures to override the requirement that snowblowers weighing over 900 kg be preceded by a supervisor on foot during snow removal operations in residential zones or where the speed limit is 50 km/h or less.</p> <p><b>Follow-up</b></p> <p>This recommendation was welcomed by the minister, who informed the Québec Ombudsperson of her intention to submit an amendment to this effect. The amended bill was passed into law on December 10, 2010.</p>
<p><b>Act to provide a framework for mandatory state financing of certain legal services</b> (Bill 83, 2010)</p>	<p><b>Intervention</b></p> <p>The services targeted by this bill related to criminal trials. The Québec Ombudsperson felt that other amendments could be made to the legal aid system, notably to correct inequities toward incapacitated individuals represented by the Curateur public when a curatorship is initiated. She recommended amendments so that incapacitated individuals financially eligible for legal aid be exempted from certain legal fees, as other incapacitated individuals in the same financial circumstances but for whom proceedings were not initiated by the Curateur public. She also recommended that proceedings to replace the legal representative be included among those to which such an exemption is applied.</p> <p><b>Follow-up</b></p> <p>The bill passed into law on June 2, 2010, did not include any amendments to this effect. However, when the bill was considered in detail, the subject was discussed and the Minister of Justice made it known that she would examine the question. The Québec Ombudsman is keeping a close eye on this issue.</p>

## INTERVENTION MONITORING IN 2009-2010 AND 2008-2009

**Regulation to amend the Regulation respecting benefits**  
(2009, Gazette officielle, Part 2, 1718)

### **Intervention**

This draft regulation gave individuals the option to apply for Régie des rentes du Québec benefits by telephone. In the interests of maintaining records of applications and to give applicants proof of having applied, the Québec Ombudsman suggested that a confirmation number be provided to these individuals. The suggestion was noted, and the Québec Ombudsman requested that the Régie keep it informed of the follow-up to this suggestion.

### **Follow-up**

According to the information received from the Régie this year, the board will not introduce confirmation numbers because too many costly changes would have to be made to the system. It has decided instead to record applications made by telephone and to attach a note to the file. This solution satisfies the Québec Ombudsman.

**Code of Ethics of Midwives**  
(2009, Gazette officielle, Part 2, 5613)

### **Intervention**

The Québec Ombudsperson observed that the draft regulation contained no provision regarding the declaration and disclosure of incidents or accidents to the user or user's representative, unlike for other orders of health professionals and as provided for in the *Act respecting health services and social services* for events taking place in network institutions. She recommended to the chair of the Office des professions du Québec that such provisions be added to the *Code of Ethics of Midwives*.

### **Follow-up**

The chair advised the Québec Ombudsperson that he would take this recommendation into account in his own recommendations to the government. The regulation passed into law on April 14, 2010, included a provision corresponding to the Québec Ombudsperson's recommendation.

**Regulation to amend the Regulation respecting the reimbursement of certain expenses (medical reports)**  
(2009, Gazette officielle, Part 2, 5961)

### **Intervention**

The draft regulation provided for an increase in the maximum expenses reimbursed by the Société de l'assurance automobile du Québec (SAAQ) for the medical reports of road accident victims. This increase reduces the gap between the amount these individuals have to pay for medical reports and the amount reimbursed by SAAQ, which should help road accident victims, particularly as the rates had not been increased since 1993. However, given that the rates suggested by the Fédération des médecins omnipraticiens du Québec in 2009 are already much higher than what was proposed in this regulation, the Québec Ombudsperson considered that the concerns of road accident victims had not been fully accounted for and such individuals would possibly still have to pay additional amounts to obtain the medical reports required by SAAQ.

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## INTERVENTION MONITORING IN 2009-2010 AND 2008-2009

(CONT'D)  
(2009, Gazette officielle,  
Part 2, 5961)

The Québec Ombudsperson also recommended removing the provision to reduce the amount of reimbursement to the road accident victim if the physician's report is provided other than on the form furnished by SAAQ, as this provision penalizes road accident victims, whereas it is intended as an incentive for physicians to use SAAQ forms.

In order to avoid large gaps between costs reimbursed by SAAQ and the amounts road accident victims pay for medical reports, the Québec Ombudsperson recommended that provisions be added to require that reimbursement rates be reviewed periodically, at intervals not exceeding three years.

### Follow-up

The regulation passed into law on April 21, 2010, did not contain any amendments.

Regulation to  
amend the Code  
of Ethics of Physicians  
(2010, Gazette officielle,  
Part 2, 54)

### Intervention

By virtue of changes proposed in this draft regulation, any physician who opts out or does not participate in the health insurance plan, or who demands payment for services not covered by the plan, must post, in public view in the waiting area, the price of services and supplies and additional fees to be billed. Although in agreement with this change, which is in the users' interest, the Québec Ombudsperson considered that other information should also be posted in order to provide sufficient information and avoid any confusion.

Thus, the effect on users resulting from the physician's health insurance plan status (opted out or non-participating professional)—little understood by the general public—for the reimbursement of expenses by the Régie de l'assurance maladie du Québec (RAMQ), should also be put up.

The Québec Ombudsperson also recommended that information regarding the conciliation and arbitration mechanism for physician accounts, through which users may submit any disputed overpayment accounts to the Collège des médecins, also be posted, as this option is little known to users and could be better publicized.

The Québec Ombudsperson also recommended that this information, as well as being prominently posted in the medical clinic waiting areas, be posted on the clinic website as applicable.

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## INTERVENTION MONITORING IN 2009-2010 AND 2008-2009

(CONT'D)

(2010, Gazette officielle, Part 2, 54)

### Follow-up

The Office des professions du Québec consulted the Collège des médecins, RAMQ, and the Ministère de la Santé et des Services sociaux. The Collège feels that the amendment is unnecessary because the regulation already includes an obligation worded broadly enough to cover the information in question. However, it indicated that a reminder to this effect would be added to its guidelines to the practice of medicine, *Le médecin, la publicité et les déclarations publiques* (published in August 2010).

The Collège and RAMQ are of the opinion that the obligation for a physician to provide information about his health insurance plan status (opted out or non-participating professional) and the effect on users for the reimbursement of expenses by RAMQ is already covered in sections 25 and 26 of the *Regulation respecting the application of the Health Insurance Act*, which stipulate that a notice of withdrawal must be "delivered by hand in advance by the professional to any beneficiary who avails himself of the professional's services."

Consequently, the regulation passed into law on June 23, 2010, was not amended in this respect, but the spirit of the recommendations should be maintained in applying the regulation. The Québec Ombudsman is keeping a close eye on this issue.

Regulation to amend the Regulation respecting telematic games  
(2010, Gazette officielle, Part 2, 708)

### Intervention

The Québec Ombudsperson recognized that online gaming constitutes a reality that currently lies outside the scope of government control, that the difficulty in regulating this sector is a worldwide problem, and that this underground industry is conducive to the exploitation of persons vulnerable to compulsive gambling as well as the illicit use of revenues generated. She took the position that should the government operate its own online gaming sites, in order to ensure public safety and minimize the adverse effects of this activity, it should not do so without conditions.

The Québec Ombudsperson felt that the selection of online game products should be thoroughly analyzed in advance, that the products be introduced according to a plan and increased gradually up to a certain limit, and that results be closely monitored, particularly in the case of products linked to compulsive gambling.

The Québec Ombudsperson recommended that an advisory committee of experts independent of the government, including government enterprises and networks, be mandated to advise the government on regulation, guidelines, and the rate at which telematic gambling would be established. She also recommended that the results of these independent experts' work be made public and examined by a parliamentary committee.

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## INTERVENTION MONITORING IN 2009-2010 AND 2008-2009

(CONT'D)  
(2010, Gazette officielle,  
Part 2, 708)

### Follow-up

The regulation was passed into law on July 7, 2010.

Further to the Québec Ombudsperson's recommendation, the government decided to fast-track the formation of a committee of independent experts and the beginning of its work (which was originally supposed to start when Loto-Québec's online gaming service offering was launched). A report is expected no later than three months after the start date for online gaming.