



PARLIAMENTARY WATCH REPORT

Under its constituting act, the Québec Ombudsman is empowered to reviews 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 2011-2012, the Québec Ombudsman intervened 13 times with regard to eight 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, 2009-2010 and 2010-2011. The interventions covered are those whose outcomes were not known at the time of publication of the last annual report.

The Ombudsperson's public interventions are posted on the Québec Ombudsman's website www.protecteurducitoyen.qc.ca, under the "Cases and Documentation" tab.

BILL	INTERVENTION AND FOLLOW-UP
<p>► Draft Bill to enact the new Code of Civil Procedure</p>	<p>Intervention (November 30, 2011)</p> <p>The Ombudsperson applauded the announcement and first steps in implementing the Justice Access Plan, of which the Draft Bill to enact the new Code of Civil Procedure is an integral part. She also underscored the clarity and simplicity sought in drafting the bill.</p> <p>While endorsing the efforts to ensure the accessibility, promptness and effectiveness of the judicial system, the Ombudsperson issued a reminder of the importance of strictly respecting the fundamental rights of citizens, especially those who are most vulnerable, and of providing certain guarantees in applying procedural rules in their case.</p> <p>The Ombudsperson noted that the draft bill provides that persons of full age and minors 14 years of age or older are considered to have an interest in a demand if the demand concerns their status or capacity, but not in demands concerning their personal integrity. Yet, the draft bill stipulates that a person of full age or a minor person 14 years of age or older who is the subject of a demand relating to personal integrity, status or capacity must be heard in person, and that an originating demand must be served on the addressee personally. With a view to clarity and standardization of the draft bill's provisions and because she believed it is in the interest of vulnerable individuals to be explicitly included in section 86 as interested persons, the Ombudsperson recommended:</p> <ul style="list-style-type: none"> • THAT section 86 be amended so that persons of full age and minors 14 years of age or older be considered to have an interest in a demand if the demand pertains to their personal integrity, like those who are the subject of a demand relating to status or capacity. <p>Given the provisions of the draft bill, the Ombudsperson expressed her misgivings about the fact that the Curateur public will no longer be notified automatically of demands concerning personal integrity, for example, those pertaining to consent to care for vulnerable persons who are incapable of giving their consent and do not have a tutor, curator or mandatary.</p> <p>Also, since the article of the existing Code of Civil Procedure which stipulates that an application for a psychiatric assessment or confinement must be served on a reasonable person of the family of the person concerned or the holder of parental authority, tutor, curator, mandatary, the person having custody of the person concerned or a person who shows a special interest in the person concerned has not found its way into the draft bill, the Ombudsperson wonders who will be informed of the rulings made with respect to vulnerable persons.</p> <p>Furthermore, since the draft bill provides for notification of a judgment to every person notified of the demand, if the Curateur public or the person having custody of or the person who shows a special interest in the minor or incapable person of full age is not notified, and if, in addition, the person concerned by the demand does not have to be notified, the Ombudsperson had serious questions about who would be notified of the judgment. Judging that respect of the rights of the person concerned by the demand might be jeopardized if no one is informed of the rulings pertaining to the individual's personal integrity, the Ombudsperson recommended:</p>

BILL	INTERVENTION AND FOLLOW-UP
<p>► (CONT'D) Draft Bill to enact the new Code of Civil Procedure</p>	<ul style="list-style-type: none"> • THAT demands to obtain court authorization for care required by the state of health of a minor person or a person of full age incapable of giving consent and who is not represented by a curator, tutor or mandatary, be notified to the Curateur public, and that the same apply to a demand concerning alienation of a body part of such a person; • THAT, as in the second paragraph of article 779 of the existing Code of Civil Procedure, applications concerning confinement in an institution or a psychiatric assessment be served on a reasonable person of the family of the person concerned or, where applicable, on the holder of parental authority, tutor, curator, mandatary, on the person having custody of the person concerned or on a person who shows a special interest in the person concerned; otherwise, that they be served on the Curateur public. <p>Seeing a further opportunity to increase the accessibility of justice, the Ombudsperson reiterated a recommendation made in October 2010 when Bill 107, which establishes the Agence du revenu du Québec, was being considered. Noting that the maximum amount for summary appeal for fiscal cases brought before the Small Claims Division was less than that for civil cases, at the time she recommended that the former amounts be increased so that they are the same as those provided for in the Code of Civil Procedure. Since the draft bill proposed a gradual increase in the maximum civil claim brought before the Small Claims Division, the Ombudsperson felt it was also time to increase the threshold for claims under a fiscal law where assessments issued by Revenu Québec are contested. With a view to preventing the exacerbation of an existing injustice, the Ombudsperson recommended:</p> <ul style="list-style-type: none"> • THAT the amounts specified in section 93.2 of the Tax Administration Act be changed to put them at par with the amounts fixed in the Code of Civil Procedure for matters involving small claims, namely, \$10,000 and later, \$15,000, for notices of assessment issued by Revenu Québec, and \$25,000 for a reduction in computing income or taxable income. <p>Follow-up</p> <p>The Québec Ombudsman will see to what extent its recommendations have been taken into account when and if the bill is tabled. As at March 31, 2012, the bill had not been introduced.</p>

BILL	INTERVENTION AND FOLLOW-UP
<p>► An Act respecting the construction of a section of Highway 73 from Beauceville to Saint-Georges (Bill 2, 2011)</p>	<p>Intervention (May 2, 2011)</p> <p>Bill 2 validates a 2009 order in council whose specific purpose was to authorize the use of lots situated in an agricultural zone to extend Autoroute Robert-Cliche (Highway 73). This order in council was quashed by the Superior Court of Québec on the grounds that, in adopting it, the government had not complied with the Act respecting the Preservation of agricultural land and agricultural activities (R.S.Q., c. P-41.1). This ruling was appealed by the government.</p> <p>Given the specific circumstances that gave rise to the introduction of Bill 2, the Québec Ombudsman wanted to share its thoughts on the legislative process and the considerations that it believes must be core concerns for parliamentarians. These include the exceptional nature of provisions retroactive in scope, the need for such provisions to be demonstrated, especially when they nullify a decision made in a judicial proceeding, and the need to provide clear information as to the underlying reasons for such action and likely to favour its approval. The Québec Ombudsman is of the opinion that the exercise of the National Assembly's sovereignty must be carried out in such a way as to uphold the principles and values of our rule of law, and the rules of natural justice in particular. Noting that the Expropriation Act sets out clear procedural rules and rules for the payment of indemnities in the event of expropriation, as well as for the review of decisions in such cases, the Québec Ombudsman recalled the importance for authorities to apply to the letter the rules of natural justice, including the duty to act fairly enshrined in the Act respecting administrative justice (R.S.Q., c. J-3).</p> <p>Follow-up</p> <p>The bill was passed into law on June 8, 2011, without amendment.</p>
<p>► Act to amend various legislative provisions concerning health and social services in order, in particular, to tighten up the certification process for private seniors' residences (Bill 16, 2011)</p>	<p>Intervention (September 6, 2011) and follow-up</p> <p>At the invitation of the Committee on Health and Social Services, the Ombudsperson made comments and recommendations on the bill, which, as its title indicates, is aimed at tightening up the certification process for private seniors' residences.</p> <p>While welcoming the bill's intention to increase protection for the elderly lodged in certified private residences, the Ombudsperson pointed out that the tightening of certification criteria goes hand-in-hand with inspection practices being carried out with vigilance, consistency and rigour. One of the purposes of her intervention was to prevent certain negative impacts of some of the changes proposed, which she saw in some cases to be more a matter of easing for the benefit of operators than of tightening for the benefit of residents. She expressed concern that some of the advances in terms of quality could be hampered by the conditions governing implementation of these changes, which would limit the attendant benefits. She was, however, particularly worried that because of the change to the definition of "residence for the elderly" ("private seniors' residences" in the act passed into law), many residences currently subject to certification would no longer be required to be certified. Hence, the following recommendations by the Ombudsperson:</p>

► (CONT'D)
(Bill 16, 2011)

Recommendation 1

THAT the proposed second paragraph of section 346.0.1 be amended to not exclude residences that offer services in a single service category from the definition of a residence for the elderly.

→ This recommendation was disregarded.

THAT residents be entitled to recourse under the complaints examination procedure provided for in the *Act respecting health services and social services*.

→ This recommendation was disregarded.

Recommendation 2

THAT all the services contemplated by section 7 of the bill and that are advertized and promised as being available at the residence—whether delivered directly or indirectly by the operator, or by a third party—be considered in determining what constitutes a residence for the elderly.

→ The bill was not amended in this respect. However, it emerged from discussions at the committee stage that the intention was to include situations where services are delivered by a third party. Furthermore, under an addition to the provision, services delivered indirectly by an operator's parent company were included, a possibility that the Ombudsperson suggested during the hearing.

Recommendation 3

THAT the bill specify that the fact of living in a residence for the elderly that offers à la carte services does not disqualify the applicant from receiving the public home support services delivered by local community service centres.

→ This recommendation was disregarded.

Recommendation 4

THAT in order to ensure adequate supervision of residents, the regulation specify not only the number of staff required, but also their job category.

→ This recommendation was disregarded.

Recommendation 5

THAT in order to ensure the safety of residents, systematic checking of judicial records with police services be carried out for all owners, administrators, or anyone who works directly with the residents, in relation to the job being sought.

→ This recommendation was disregarded.

Recommendation 6

THAT issuance of a temporary certificate of compliance be conditional on fulfillment of specific requirements with regard to fire safety and the evacuation of residents. The requirements would vary according to the risks the residences present.

→ The bill was not amended in this respect. However, when it reached the committee stage, the Department representatives gave the assurance that even if a temporary certificate could be issued, the rules prescribed in the regulation—including requirements with regard to fire safety and the evacuation of residences—would apply from the time the temporary attestation takes effect and therefore should be in place as soon as the first resident is admitted.

BILL	INTERVENTION AND FOLLOW-UP
<p>► (CONT'D) (Bill 16, 2011)</p>	<p>THAT the temporary certificate be renewable only once, unless there are exceptional circumstances stemming from inaction on the part of a public service.</p> <p>→ This recommendation was disregarded.</p> <p>THAT, in the latter case, the public service concerned be required to explain its failure to act to the agency and that special measures, under the responsibility of the public service, be taken to ensure fulfillment of the compliance criteria in question and to support the owner or operator of the private residence in this respect.</p> <p>→ This recommendation was disregarded.</p> <p>Recommendation 7</p> <p>THAT the regulation govern the training and expertise of staff members who will be required to assess the autonomy of the elderly persons who reside or wish to reside in a residence for the elderly.</p> <p>→ This recommendation was disregarded.</p> <p>Recommendation 8</p> <p>THAT in the event of closure of a residence or a change in its service offering, the operator be required to offer services for assisting the residents concerned to relocate.</p> <p>→ This recommendation was disregarded.</p> <p>THAT the agency ensure that the operator complies with this obligation.</p> <p>→ This recommendation was disregarded.</p> <p>Recommendation 9</p> <p>THAT section 346.0.5.2 be clarified:</p> <ul style="list-style-type: none"> • by replacing "directing an elderly person to a residence for the elderly" by "proposing a residence for the elderly to an elderly person;" • by stipulating that when an institution refers a user to a residence for the elderly with which it has entered into a contract to purchase places, the institution must ensure that the operator has a temporary certificate of compliance or a certificate of compliance. <p>→ This recommendation was accepted in part, with the word "proposing" being added to rather than replacing the existing wording.</p> <p>Follow-up</p> <p>The bill became law on November 29, 2011. The Québec Ombudsman will keep a close eye on the attendant regulation and its implementation.</p>

BILL	INTERVENTION AND FOLLOW-UP
<p>► Act to amend the Civil Code as regards the resiliation of a dwelling lease in certain situations (Bill 22, 2011)</p>	<p>Intervention (July 12, 2011) The Ombudsperson endorsed this bill to amend certain provisions of the Civil Code to allow, in certain cases, cancellation of a lease before the cancellation notice expires when the dwelling has been vacated by the lessee and is re-leased by the lessor during that period. In her opinion, this clarification of the rules will provide better protection of tenants, especially the most vulnerable ones such as seniors, while still allowing contractual freedom between the parties.</p> <p>Follow-up The enacted bill contains various amendments, including the notion of "services of a personal nature provided by the lessor to the lessee" henceforth governed by the rules of the Civil Code pertaining to dwelling leases, the cost of which can be claimed by the lessor only for services provided before the tenant vacated the premises or died. The Québec Ombudsman welcomes this amendment.</p>
<p>► Act mainly to combat consumer debt overload and modernize consumer credit rules (Bill 24, 2011)</p>	<p>Intervention (July 15, 2011) The Ombudsperson expressed her support for this bill. In her opinion, it was appropriate and would have positive effects on Quebecers, whose debts are rising to worrisome levels as these consumers are being increasingly lured by aggressive or shifty business practices.</p> <p>Follow-up As at March 31, 2012, the bill had not been passed into law.</p>
<p>► Act giving effect to the Budget Speech delivered on 17 March 2011 and amending various legislative provisions (Bill 32, 2011)</p>	<p>Intervention (November 29, 2011) The Ombudsperson was pleased to note that the bill acted on a recommendation made to the Minister of Finance further to the passage of Bill 117 in February 2011 to allow direct deposits in accounts in financial institutions authorized to operate in Québec.</p> <p>The Ombudsperson also expressed her satisfaction with the amendments in response to a former recommendation concerning recovery of income tax when a succession must reimburse benefit amounts received by the deceased, but felt that the deadline was too tight for citizens to exercise their rights. Considering the fiscal impact this amendment can have on taxpayers and announcement of the measure in the information bulletin of December 21, 2010, she recommended that the relevant provisions be amended so that a request to the Minister can be submitted no later than December 31, 2013, and not 2011, for reimbursements made before January 1, 2010.</p> <p>Follow-up This recommendation was taken into account in the law passed on December 8, 2011.</p>

BILL	INTERVENTION AND FOLLOW-UP
<p>► Act respecting independent police investigations (Bill 46, 2011)</p>	<p>Intervention (February 27, 2012)</p> <p>In 2010, in a special report entitled <i>For a Credible, Transparent and Impartial Process That Inspires Confidence and Respect</i>, the Québec Ombudsman examined in depth serious incidents involving police officers and concluded that police investigations lack credibility.</p> <p>In the brief presented to the Committee on Institutions, the Ombudsperson argued that the solution proposed in the bill does not meet the essential requirements of independence, impartiality, consistent application of the formal rules, transparency of the process and results, oversight and accountability. She reiterated that the only lasting and effective solution would be to involve qualified civilian investigators in police investigations. She therefore made nine recommendations.</p> <p>Recommendation 1</p> <p>THAT paragraphs 2, 3, and 4 of section 289.1 of Bill 46 be amended to entrust responsibility for conducting criminal investigations into these incidents to an independent agency that is led by a civilian director who has never been a police officer and that integrates qualified civilian investigators into its investigative teams. These paragraphs should also require police forces to immediately notify the director of this independent agency of any incident subject to investigation.</p> <p>Recommendation 2</p> <p>THAT section 289.5 of Bill 46 be amended to provide that the appointment and reappointment of the civilian director of the agency be approved by at least two-thirds of the members of the National Assembly.</p> <p>Recommendation 3</p> <p>THAT Bill 46 be amended to include a provision stipulating that the independent agency report to the Minister of Justice for its administrative aspects, and to specify that the minister is responsible for implementing all new sections of the Police Act related to the execution of the agency's mandate.</p> <p>Recommendation 4</p> <p>THAT Bill 46 be amended so that the independent agency's mandate is to conduct investigations into incidents in which a civilian dies, is seriously injured, or is injured by a firearm or conducted energy device used by a police officer during a police intervention or while the civilian is in police custody, and so that the role of civilian observer be replaced by that of civilian investigator with the status of peace officer and full participant in these investigations.</p>

BILL	INTERVENTION AND FOLLOW-UP
<p>► (CONT'D) (Bill 46, 2011)</p>	<p>Recommendation 5</p> <p>THAT the first paragraph of section 289.1 of Bill 46 be amended to include the mention of "or a conducted energy device" after "by a firearm," and that a new paragraph be added to section 289.1 of Bill 46 to provide a definition of the notion of "serious injury" that includes allegations of sexual assault in the course of duties.</p> <p>Recommendation 6</p> <p>THAT the Minister of Public Security mandate École nationale de police to ensure appropriate training for the qualified civilian investigators involved in the investigations conducted by the independent agency.</p> <p>Recommendation 7</p> <p>THAT section 289.2 of the bill be amended to grant the government the authority to regulate the rights, responsibilities, and obligations of the various parties involved in investigations into incidents in which a civilian dies, is seriously injured, or is injured by a firearm or conducted energy device used by a police officer during a police intervention or while the civilian is in police custody. In particular, this regulation should provide for:</p> <ul style="list-style-type: none"> • A definition of the notions of "involved officer" and "witness officer"; • The obligations of the officers involved in and witness to the incidents, in particular the obligations not to communicate with each other about these incidents before being interviewed by the investigators, to provide their complete notes on the incidents before the end of their shift, except under special circumstances, and to meet with the investigators designated to conduct the investigation within a maximum of 24 hours from the time a request to meet is made; • The obligations of the director of the police force involved in the incidents, notably to inform the appropriate person without delay of the incident, to secure and preserve the scene pending the arrival of the investigators designated to conduct the investigation, and to segregate the involved officers and witness officers until they are interviewed by the designated investigators. <p>Recommendation 8</p> <p>That Bill 46 provide for penal sanctions in the event of noncompliance with the obligations in the regulation adopted pursuant to section 289.2, and that the power to file penal charges in accordance with these sections be the responsibility of the director of the independent agency. This power should also be the responsibility of the director of the independent agency for offences introduced by sections 2, 3, and 4 of the bill.</p> <p>Recommendation 9</p> <p>THAT Bill 46 be amended to include a provision allowing the director of the independent agency to comment publicly on the investigations it conducts and to formulate any recommendation deemed relevant in carrying out its mandate;</p> <p>THAT an investigation summary be made public at the end of the investigation; and that the decision on whether to file charges be explained.</p> <p>Follow-up</p> <p>As at March 31, 2012, the bill had not been passed into law.</p>

BILL	INTERVENTION AND FOLLOW-UP
<p>► Act respecting the governance and management of information resources of public bodies and government enterprises (Bill 133, 2010)</p>	<p>Intervention (April 2011)</p> <p>This bill established a framework for the governance and management of information resources applicable to government departments and to most public bodies, including those in the education network and the health and social services network. However, it stipulated that the Québec Ombudsman, as well as the other bodies designated by the National Assembly, would not be held to these new obligations. The Québec Ombudsman pointed out an omission to the drafters of the bill at the Ministère des Services gouvernementaux that created an inconsistency by making the Québec Ombudsman, along with the Auditor General and the Directeur général des élections (pursuant to the <i>Public Administration Act</i>), subject to the obligation to include in their accountability reporting an annual review of achievements and benefits with regard to information resources, whereas they should not have been subject to that requirement.</p> <p>Follow-up</p> <p>The bill that became law on June 10, 2011, was amended by amending the Public Protector Act, the Auditor General Act and the Election Act to correct this omission.</p>

DRAFT REGULATION	INTERVENTION AND FOLLOW-UP
<p>► Regulation respecting the filing of information on certain drilling and fracturing work on gas or petroleum wells (2011, Gazette officielle, Part 2, 1679A)</p>	<p>Intervention (June 3, 2011)</p> <p>The main purpose of the draft regulation is to require the holder of a certificate of authorization to periodically file with the Minister of Sustainable Development, Environment and Parks information on authorized drilling work to explore for or produce petroleum or natural gas in shale or fracturing operations intended to explore for or produce petroleum or natural gas in shale.</p> <p>The Ombudsperson endorsed the goals of this draft regulation, but expressed her concern about the consequences of lack of compliance with its provisions, which are limited to a few sanctions. Fearing that because the fines vary widely and are unstructured, it might be more profitable for a company to pay a fine than to hire the experts needed to produce the required analyses, she suggested a series of criteria for setting amounts, for example, modelled after the set of aggravating factors proposed in Bill 89 (Act to amend the Environment Quality Act in order to reinforce compliance), passed into law on October 4, 2011, which, at the time, was being considered by the National Assembly.</p> <p>Noting that the only sanctions prescribed in the regulation were fines, and wondering whether these provisions alone would enable the goal of the draft regulation to be achieved, the Ombudsperson suggested that the fines be paired with other measures, such as withdrawal of repeat offenders' authorizations.</p>

DRAFT REGULATION	INTERVENTION AND FOLLOW-UP
<p>► (CONT'D) (2011, Gazette officielle, Part 2, 1679 A)</p>	<p>In general, the Ombudsperson was astounded that the draft regulation did not reflect the spirit of Bill 89. She suggested the immediate introduction of provisions that resemble what they should be after Bill 89 is passed, insofar as allowed by the current enabling provisions.</p> <p>She also suggested that in harmonizing the standards prescribed in the draft regulation, special attention should be paid to the "administrative monetary penalties system."</p> <p>Follow-up</p> <p>The regulation published on June 10, 2011, was not amended in this respect, but the Ombudsperson was assured in writing that the regulation's penal provisions were, "insofar as allowed by the enabling provisions, consistent with the bill (Bill 89)" and that "as soon as Bill 89 [was] passed," those responsible would see to it that "the different measures and sanctions provided for in the bill would be implemented and extended to apply to the regulation in force, insofar as allowed by existing enabling provisions." [Translation]</p>
<p>► Regulation respecting the professional activities that may be engaged in within the framework of pre-hospital emergency services and care (2011, Gazette officielle, Part 2, 2089)</p>	<p>Intervention (July 13, 2011)</p> <p>The main objective of the draft regulation is to confer new medical duties on ambulance technicians trained in advanced care, thereby increasing their training requirements.</p> <p>While welcoming these measures that would allow for quality advanced pre-hospital care to be provided by ambulance technicians across Québec, the Ombudsperson expressed her concerns regarding continuity of these services. Since the necessary training programs were not yet in place, the Ombudsman felt it appeared that the new requirements could not be met in the short term. Consequently, she argued, if the draft regulation were to come into force soon, no ambulance technician would be able to be qualified as an ambulance technician trained in advanced care.</p> <p>In the event that the training required henceforth is not operational when the regulation comes into force, the Ombudsperson recommended the inclusion of a transitional provision to ensure the continuity of the services provided by the ambulance technicians already trained in advanced care.</p> <p>Follow-up</p> <p>Even though no transitional measure was expressly provided for in the regulation published on February 1, 2012, the Québec Ombudsman considers that its recommendation was partly reflected by the addition of a provision for the granting of "an equivalence by the national medical director, pursuant to subparagraph 8 of the first paragraph of section 6 of the Act respecting pre-hospital emergency services" which could, depending on how it is used, enable a certain degree of continuity of services to users.</p>

DRAFT REGULATION	INTERVENTION AND FOLLOW-UP
<p>► Règlement modifiant le Règlement sur la garantie de responsabilité financière des acheteurs de veaux d'embouche (2011, Gazette officielle, Part 2, 3851)</p>	<p>Intervention (September 2011)</p> <p>This regulation makes it mandatory for slaughter calf buyers to submit to the Régie des marchés agricoles et alimentaires du Québec a guarantee of financial responsibility in the form of a bond. It also provides for exceptions to this obligation when buyers purchase slaughter calves directly without a middleman or agent.</p> <p>The Québec Ombudsman drew the attention of the authority at the Régie to a reference error in the draft regulation. It also questioned why the wording had been changed (the term "<i>ni mandataire</i>" had been removed) and expressed concerns that this could be confusing.</p> <p>Follow-up</p> <p>Even though the Régie authority confirmed that the terms "<i>ni mandataire</i>" in the initial regulation would be re-inserted in order to prevent any confusion created by their removal for no apparent reason, the regulation was published on November 9, 2011, without amendment, nor was the reference error corrected.</p>
<p>► Regulation to amend the Regulation respecting the Gazette officielle du Québec (2011, Gazette officielle, Part 2, 5539)</p>	<p>Intervention (January 20, 2012)</p> <p>The purpose of the draft regulation was to make the electronic versions of the Gazette officielle du Québec published on the Publications du Québec website available free of charge.</p> <p>The Québec Ombudsman, long concerned about the issue of the accessibility of laws and regulations, believed that the Gazette officielle du Québec, where draft regulations are published for all citizens to comment on, should be as widely available as possible free of charge. The Ombudsperson expressed her satisfaction with this much-awaited and opportune future regulation which, when it comes into force, would have positive effects for citizens who want to contribute to the government's decisional process by expressing themselves on the draft regulations that affect them.</p> <p>Insofar as Internet access is increasingly prevalent throughout Québec, whether at home or via public agency, paragonovernmental or municipal networks, or even through commercial establishments (cafés, restaurants and other places), the proposed regulation seems to satisfy this requirement of accessibility.</p> <p>Considering that with a view to sustainable development, the use of electronic versions should be encouraged, the increase in the subscription price for paper versions did not seem unreasonable to the Ombudsperson.</p> <p>Follow-up</p> <p>As at March 31, 2012, the bill had not been assented to.</p>

DRAFT REGULATION	INTERVENTION AND FOLLOW-UP
<p>► Regulation respecting the standards for diploma equivalence or training equivalence for the issue of a permit by the Ordre des ergothérapeutes du Québec (2011, Gazette officielle, Part 2, 5540)</p>	<p>Intervention (December 2011)</p> <p>The draft regulation recognized the equivalence of a Master's degree in occupational therapy issued by a Canadian university outside Québec when the diploma is recognized by the board of directors of the Ordre. When the Ordre explained that it recognized university programs accredited by the Canadian Association of Occupational Therapists, the Québec Ombudsman asked about the aptness of simply recognizing the equivalence of programs accredited by the Association, a proposal that the Ordre appeared open to.</p> <p>Follow-up</p> <p>The regulation approved by the Office des professions du Québec on March 19, 2012, and published on April 25, 2012, incorporates the amendment suggested by the Québec Ombudsman.</p>

FOLLOW-UP TO INTERVENTIONS CARRIED OUT IN 2010-2011, 2009-2010 AND 2008-2009

<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>Intervention</p> <p>In a letter transmitted to the Minister of Revenue on February 23, 2011, the 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 Ombudsperson feared that people without an account in a financial institution would suffer.</p> <p>Follow-up</p> <p>Of the three recommendations made by the Ombudsperson to the minister, the one to allow direct deposit of the credit to any account in a recognized financial institution, even if it is not an establishment located in Québec, was incorporated in a provision introduced in Bill 32, Act giving effect to the Budget Speech delivered on 17 March 2011 and amending various legislative provisions (see the Bill section).</p>
<p>► Act to tighten the regulation of educational childcare (Bill 126, 2010)</p>	<p>Intervention</p> <p>On November 17, 2010, at the invitation of the Committee on Citizen Relations, the 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>

FOLLOW-UP TO INTERVENTIONS CARRIED OUT IN 2010-2011,
2009-2010 AND 2008-2009

► **(CONT'D)**
(Bill 126, 2010)

While she subscribed to the basic principles of this bill, the Ombudsperson had some comments on particular aspects of it. Apart from the recommendations having to do with the bill itself (the 2010-2011 Annual Report), the Ombudsperson made the following recommendations to the Ministère de la Famille et des Aînés (Department) concerning application:

1. Ensure that government priorities governing the attribution of subsidized places are not subject to change while the process is in progress, and that these priorities are made public;
2. Plan the distribution of subsidized places in an integrated manner, taking into consideration the existence of unsubsidized daycares, in order to avoid having the government intervention result in a shift of clients from private unsubsidized care to subsidized care;
3. Minimize the impact for parents of any actions taken to curtail illegal childcare services and provide transitional measures where possible;
4. Take whatever steps are necessary to reduce permit attribution time, to allow illegal childcare services to comply with the law;
5. Come to an agreement with the coordinating bureaus on timelines and the means to implement to accelerate the recognition of people in charge of home daycares that do not have subsidized places.

Follow-up

The Department followed the first recommendation in its new process for attributing subsidized places. However, in the Québec Ombudsman's view, the second recommendation was not followed because the Québec Ombudsman continues to receive complaints. The Department appears to have addressed the concerns raised in recommendations 3 and 4. However, care must be taken so that applicants who follow the rules are not penalized because applications for permits from illegal childcare operations are given priority. The Québec Ombudsman is keeping abreast of developments with respect to recommendation 5. Only time will tell whether it has been acted on.

► **Act to improve the management of the health and social services network**
(Bill 127, 2010)

Intervention

At the invitation of the Committee on Health and Social Services, the 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:

FOLLOW-UP TO INTERVENTIONS CARRIED OUT IN 2010-2011,
2009-2010 AND 2008-2009

► (CONT'D)
(Bill 127, 2010)

1. To allow for more representative participation and avoid isolating user and public representatives on institutional boards of directors:
 - 1.1 provide for the participation of two user representatives;
 - 1.2 provide for the designation of a substitute member, in the event that one of these representatives is unable to perform his duties.
2. To adjust governance methods to the reality of the health and social services network, particularly with regard to accountability:
 - 2.1 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;
 - 2.2 by extension, abolish the boards of directors of the health and social services agencies;
 - 2.3 clarify the obligations and accountability of the institutional directors and their immediate and hierarchical chain of administrative command;
 - 2.4 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.
3. To ensure the most efficient management, insofar as the institutional directors play a critical role in upholding government orientations and are therefore accountable:
 - 3.1 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.
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:
 - 4.1 establish clear guidelines for all questions related to administrative and incidental fees or other cost components that may affect access to services;
 - 4.2 require all institutions to plan for the technical component when they choose to outsource a service;
 - 4.3 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.

FOLLOW-UP TO INTERVENTIONS CARRIED OUT IN 2010-2011,
2009-2010 AND 2008-2009

► (CONT'D)

(Bill 127, 2010)

Follow-up

The act became law on June 8, 2011. The Québec Ombudsman notes that recommendation 1.1 was followed, but not recommendation 1.2.

Recommendations 2.1, 2.3 and 2.4 were aimed at clarifying the roles, obligations and accountability of the various players and structures and better defining them. While there have been certain improvements in these respects in the act as passed, the Québec Ombudsman is not convinced they will be sufficient to achieve the goal of better adjusting governance methods to the reality of the health and social services network. Recommendation 2.2 was not followed.

The bill was not amended according to recommendation 3. Since the bill did to some extent improve on what existed before, the Québec Ombudsman will remain watchful for any implementation problems brought to light through complaints.

Since recommendation 4 and its sub-recommendations dealt with issues not directly addressed by the bill, the act as passed does not reflect them. However, these matters have not been resolved and continue to be core concerns for the Québec Ombudsman.

► **Act to amend the Act respecting the Régie du logement and various acts concerning municipal affairs**

(Bill 131, 2010)

Intervention

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 was a response to the Québec Ombudsman's recommendations concerning debarment in its 2009-2010 Annual Report.

In addressing the Committee on Planning and the Public Domain on November 30, 2010, the Ombudsperson pointed out that the bill would have to be improved to solve the ongoing problem of excessive delays at the Régie.

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 Ombudsperson recommended that special clerks be given a greater role, notably, powers to hear all cases involving failure to pay rent.

Follow-up

When the act was passed into law without this amendment in December 2010, the Minister announced that he intended to completely overhaul the Act respecting the Régie du logement and that this reform would cover the role of special clerks. However, no such bill was introduced in 2011-2012.

FOLLOW-UP TO INTERVENTIONS CARRIED OUT IN 2010-2011,
2009-2010 AND 2008-2009

► **Draft regulation amending the activities framework of the Réserve de biodiversité projetée Samuel-De Champlain**

(2010, Gazette officielle, Part 2, 5701)

Intervention

The draft regulation amends the activities permitted or prohibited within the proposed Samuel-De Champlain biodiversity reserve.

The Ombudsperson noted that a section of the draft regulation authorized oil and gas 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.

Follow-up

On February 15, 2011, the 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 licences issued to oil and gas companies would be modified to exclude the territory of the reserve in question. The regulation published on July 6, 2011, was indeed amended to preclude gas or oil exploration in protected areas.

► **Act to provide a framework for mandatory state financing of certain legal services**

(Bill 83, 2010)

Intervention

The services targeted by this bill related to criminal trials. The 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 are 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.

Follow-up

Even though the bill passed into law in June 2010 did not include any amendments to this effect, the subject was discussed at the committee stage and the Minister of Justice made it known that she would examine the question.

Since May 2011, legal fees are automatically charged to the file of individuals represented by the Curateur public who are financially eligible for legal aid, but the Curateur public pays the costs associated with this permanent measure out of a new budget allocated by the Conseil du trésor for that purpose. The Québec Ombudsman is satisfied with this measure.

FOLLOW-UP TO INTERVENTIONS CARRIED OUT IN 2010-2011,
2009-2010 AND 2008-2009

► **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)

Intervention

The 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.

Follow-up

The bill was re-entered in the order paper for the second session. As at March 31, 2012, the bill had not been passed.

► **Act to amend the General and Vocational Colleges Act with respect to governance**
(Bill 44, 2009)

Intervention

The 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 Education Act.

The 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.

Follow-up

The bill was re-entered in the order paper for the second session. As at March 31, 2012, the bill had not been passed.