

November 22, 2016

Mr. Guy Ouellette  
Chair, Committee on Institutions  
Hôtel du Parlement  
RC, Bureau RC.93  
1045, rue des Parlementaires  
Québec (Québec) G1A 1A4

**Subject: Bill 113 – Act to amend the Civil Code and other legislative provisions as regards adoption and the disclosure of information**

Mr. Chair:

Within the framework of its mandate, the Québec Ombudsman reviews all bills and draft regulations introduced in the National Assembly or published in the *Gazette officielle du Québec*. When it deems necessary, it intervenes under section 27.3 of its constituting act, which empowers it to call the attention of the government or a chief executive officer of a public body to legislative, regulatory or administrative reforms it considers to be in the public interest.

I therefore examined Bill 113, *Act to amend the Civil Code and other legislative provisions as regards adoption and the disclosure of information*, introduced by the Minister of Justice on October 6, 2016.

From the time the draft bill was introduced in October 2009, until the respective introduction of Bills 81 and 47 in 2012 and 2013, the Québec Ombudsman has attentively followed the various proposed legislative reforms in the area of adoption. It welcomes Bill 113, which is part of the continuum of reflection and debate surrounding reform of the rules governing adoption in Québec.

Bill 113 proposes changes in the legal framework for adoption, primarily by amending the *Civil Code* and the *Youth Protection Act*. Significant amendments will, for example, enable adoption to be coupled with pre-existing bonds of filiation if the child's interest so requires. Other provisions concern the confidentiality of adoption files and the possibility for adoptees and their parents of origin to establish contact. The Québec Ombudsman applauds these measures which are more consistent with today's realities, while respecting the right to confidentiality of the parents of origin by allowing the registration of identity disclosure or contact vetoes.

However, the Bill raises several questions. There is no provision for delegation of parental authority to the parent's spouse. However, the Québec Ombudsman was informed that this aspect is beyond the purview of adoption legislation and will be examined later by the family law reform committee. Also, the Bill includes the possibility for adoptees and families of origin to enter into an agreement to facilitate the disclosure of information concerning the children or interpersonal relationships. Unlike Bill 47, Bill 113 does not structure this agreement and does not stipulate that the agreement must be approved by the Tribunal. The Ministère de la Justice confirmed that the intention was to foster access to justice and, consequently, to limit recourse to the courts only to situations where such recourse seems necessary. The Québec Ombudsman also considers that these agreements could easily be made out of court.

In conclusion, this Bill is highly important in that it changes several existing rules and introduces new ones. The Québec Ombudsman feels that the Bill strikes a balance between respect of the rights of the members of the "triangle of adoption." Its building block is the notion of the child's best interest and safeguarding of his or her rights, but it respects parents as well. In talking with the Ministère de la Justice, the Québec Ombudsman learned of an intended communication plan with youth centres to ensure that parents of origin are informed about the upcoming changes and the impact on their rights. In this respect, it is a valuable initiative.

Yours respectfully,

(Original signed)

Claude Dussault  
Acting Ombudsman

c.c.: Ms. Stéphanie Vallée, Minister of Justice  
Mr. Jean-Marc Fournier, Government House Leader  
Mr. Pascal Bérubé, Official Opposition House Leader  
Mr. François Bonnardel, House Leader for the Second Opposition Group  
Ms. Françoise David, MNA for Gouin  
Ms. France Lynch, Deputy Minister of Justice  
Mr. Maxime Perreault, Secretary, Committee on Institutions