

May 18, 2017

Mr. Richard Merlini  
Chair  
Committee on Health and Social Services  
Hôtel du Parlement  
1045, rue des Parlementaires, bureau RC.24  
Québec (Québec) G1A 1A4

**Subject: Bill 130 – Act to amend certain provisions regarding the clinical organization and management of health and social services institutions**

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.

The Acting Ombudsman therefore intervened before the Committee on Health and Social Services in the context of Bill 130, *Act to amend certain provisions regarding the clinical organization and management of health and social services institutions*. The comments and recommendations made at the time concerned two aspects of the Bill — the complaint examination system, and the role of institutions in cases of confinement.

The power to propose reforms in keeping with the public interest also applies to the functions assigned to the Québec Ombudsman since May 1, 2017, under the *Act to facilitate the disclosure of wrongdoings relating to public bodies* (2016, c. 34, hereinafter the Act).

Hence, as soon as its branch entrusted with this new mandate to investigate public integrity disclosures became operational, the Québec Ombudsman was prompted to take a fresh look at Bill 130 from the perspective of the Act's scope. Considering the specific provisions concerning joint procurement groups in Bill 130, the Québec Ombudsman examined the situation of these groups as it relates to the Act.

Further to analyzing the Bill and aware that intervention will be possible when the Bill is considered in detail, I would like to convey my comments concerning joint procurement groups being subject to the Act.

Currently, joint procurement groups are not considered public institutions subject to this Act because they are non-profit legal persons. On the other hand, public institutions and public institutions under agreement within the meaning of the *Act respecting health services and social services* which are members of joint procurement groups are subject to the Act.

These joint procurement groups account for 47% of the goods and services contracts of public institutions and private institutions under agreement, for a total amount of roughly \$1.9 billion every year.<sup>1</sup> They are key factors in the management of health and social services institutions and for sound management of public funds in these areas.

Considering the importance of procurement groups in the management of health and social services institutions, as well as the hefty public funds thus involved, I consider it crucial that joint procurement groups be subject to the *Act to facilitate the disclosure of wrongdoings relating to public bodies*.

Several provisions of Bill 130 are aimed at an improved framework for governance of these groups by the Minister of Health and Social Services. Making joint procurement groups subject to the Act would enable strengthening of a culture of integrity and ethics as well as bolstering public trust in these groups.

Public integrity will be strengthened because of the assurance that disclosures concerning wrongdoings committed **within or relating to** joint procurement groups will be investigated independently, notably in cases of serious breaches of standards of ethics and professional conduct, misuse of a public body's property, including funds it manages or holds for a third party, as well as in cases of gross mismanagement within the public body.

Considering that Bill 130 redefines the governance of joint procurement groups, I feel it is fitting to recommend that these groups be subject to the *Act to facilitate the disclosure of wrongdoings relating to public bodies* in order to continue strengthening sound governance of public funds in connection with health and social services.

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<sup>1</sup> GACEQ, GAC de l'Ouest and SigmaSanté. *Les groupes d'approvisionnement en commun, partenaires de qualité de l'État québécois – Brief presented to the Committee on Health and Social Services within the context of the consultations on Bill 130, Act to amend certain provisions regarding the clinical organization and management of health and social services institutions*, p. 3.

**Consequently, the Québec Ombudsman recommends:**

**R-1 That** Bill 130 be amended by adding the following provision:

"Subparagraph 7 of section 2 of the *Act to facilitate the disclosure of wrongdoings relating to public bodies* is amended by inserting, after "(c. S-4.2)", "the joint procurement groups contemplated in section 435.1 of this Act."

Yours respectfully,

*Original signed*

Marie Rinfret  
Ombudsperson

c.c.: Mr. Gaétan Barrette, Minister of Health and Social Services  
Mr. Jean-Marc Fournier, Government House Leader  
Mr. Pascal Bérubé, Official Opposition House Leader  
Mr. François Bonnardel, Leader of the Second Opposition Group  
Mr. Michel Fontaine, Deputy Minister of Health and Social Services  
Ms. Carolyne Paquette, Secretary, Committee on Health and Social Services  
Mr. Maxime Perreault, Secretary, Committee on Institutions