

# ACTIVITY REPORT

Pathways to Excellence  
(Sur les pistes de  
l'excellence)





12

13

## Table of contents

---

# 4

## A Word from the Chair and the Secretary

# 9

## About the Conseil de la magistrature

- 10 – Functions
- 11 – Conseil Membership

# 21

## Documentation, Training, and the Professional Development of Judges

- 22 – Legal documentation
- 22 – Training and Professional Development  
Activities for Judges Organized by the Courts  
and Tribunals
- 23 – Other Training and Professional  
Development Activities

# 13

## Secretariat of the Conseil de la magistrature

- 16 – Budget
- 18 – Influence of the Conseil
- 18 – The 2012 Annual Conference
- 19 – External Relations
- 20 – Orientation for New Judges
- 20 – Professional Development Programs

# 25

## Judicial Ethics

- 26 – Codes of Judicial Ethics
- 27 – Complaints Handling Process
- 30 – Decisions by the Conseil
- 47 – Processing of Complaints in 2012–2013

# A WORD FROM THE CHAIR AND THE SECRETARY



André Ouimet  
Secretary of the Conseil

Élizabeth Corte  
Chair of the Conseil

## 35 Years and a New Strategic Plan

---

The development of modern Québec during the post-war boom years was marked by the emergence of major institutions that are still the pride of Quebecers today. We won't attempt to list them, lest we omit any and slight the memory of the architects of the Quiet Revolution.

In the judicial arena, the National Assembly, acting in response to growing pressure from the public and from judges themselves, took a pioneering step in 1978 when it entrusted full responsibility for judicial professional development and ethics to a single organization, the Conseil de la magistrature.

Now in its 35th year, the Conseil is looking firmly to the future. The development of information technology within the judiciary, often at the instigation of the Conseil itself (at least since the turn of the millennium) attests to the vision of its leaders. Today, Conseil members are following in their predecessors' footsteps in this regard.

But that's not all. The Conseil has taken a leadership role in several areas, as borne out by initiatives described in past activity reports and, more recently, by this year's strategic plan. The plan enumerates numerous priorities for the Conseil through 2018, and we will focus on some of them a bit further on.

But first, on the eve of this 35th anniversary, let us look back at the Conseil's beginnings.

---

### A Bit of History

As 2014 gets underway, the new initiatives announced in the strategic plan must not overshadow the achievements of the past 35 years. The creation of the Conseil, like that of many other government bodies, was not particularly unusual. It was preceded by a government report and widespread demand, and was initially greeted with reservations and skepticism.<sup>1</sup> At its inception, the Conseil set itself apart from its federal counterpart, the Canadian Judicial Council, by welcoming non-judicial members, both lawyers and members of the public. Québec legislation also required the Conseil to adopt a code of ethics. The code appeared imprecise to some observers, drawing questions in some quarters.<sup>2</sup> It wasn't until the 1990s, when developments accelerated on the ethics front, that the Supreme Court led the way to clarify the contours of the *Judicial Code of Ethics*, the cornerstone of judicial conduct in Québec.

---

The ethical obligations of judges are summed up in Justice Gonthier's oft-repeated statement: "Ethical rules are meant to aim for perfection."<sup>3</sup> These words, which were spoken well before the adoption of the Canadian Judicial Council's *Ethical Principles for Judges* or the Bangalore principles, resonated with Québec judges, who were quick to realize the importance of showing exemplary behaviour, both in the courtroom and in public.<sup>4</sup>

### A strategic plan for the future

From a professional development perspective, the Conseil's strategic plan has two main goals: improve judges' training with more effective tools for onsite and online training; and use the latest technology solutions to provide judges with real-time access to legal documentation. As for leadership and transparency, the Conseil plans to facilitate access to all decisions it renders upon completion of an inquiry or examination.

But that's not all. The Conseil has taken a leadership role in several areas, as borne out by initiatives described in past activity reports and, more recently, by this year's strategic plan. The plan enumerates numerous priorities for the Conseil through 2018, and we will focus on some of them a bit further on.

1. See J. Choquette, *La justice contemporaine* (Livre blanc sur l'administration de la justice au Québec) (1975) ; See also Prévost, *Arrachons au 19<sup>e</sup> siècle l'appareil judiciaire* (1966) 26 R. du B. 277, p.292 and Ouellette, *L'éthique judiciaire au Canada et au Québec* (1969) 23 R.jur.pol. Ind.Coop. 1107, pp. 1113 and 1114.

2. See Patrick H Glenn, *La responsabilité des juges*, (1983) 28 *McGill Law Journal*, p.248.

3. *Ruffo v. Conseil de la magistrature*, [1995] 4 S.C.R. 267.

4. Canadian Judiciary Council, *Ethical Principles for Judges*, Ottawa, 1998; *The Bangalore Principles of Judicial Conduct*, Bangalore draft code of judicial conduct 2001, adopted by the Judicial Group on Strengthening Judicial Integrity and revised at the round table meeting of chief justices held at the Peace Palace in The Hague on November 25 and 26, 2002

---

In keeping with these values, the Conseil has been working for some time to coordinate the publication of the third edition of professor Pierre Noreau's work, *La déontologie judiciaire appliquée*. This project, which should be completed in the course of the coming year, will facilitate the efforts of researchers, jurists, and experts, among others, in conducting legal research involving both the Courts of Justice Act and codes of ethics.

It should also be noted that some years ago the Conseil initiated—and still participates in—the development of the website *Judicial Ethics on line*, a comprehensive repository of information on legal ethics and its primary components of independence, impartiality, and integrity compiled from countries all around the world.

During the coming year, the Conseil intends to step up its efforts to create a network of judicial councils throughout the French-speaking world and to collaborate with organizations outside Quebec that have similar functions.

In so doing, the Conseil is acting on the mandate conferred by lawmakers when amendments to the Courts of Justice Act were adopted.

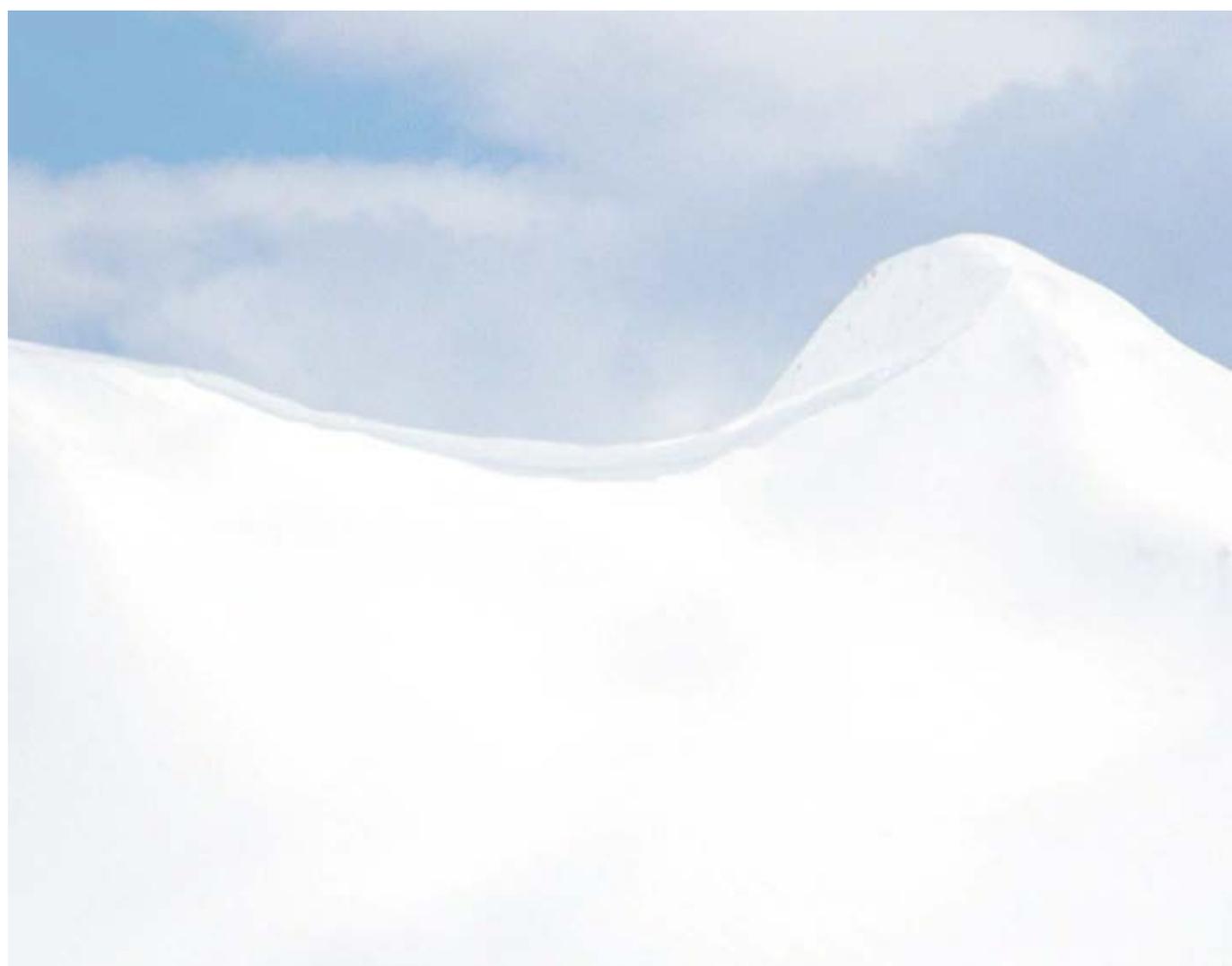
---

As a judiciary institution independent of the courts and executive authority, the Conseil also intends to use its expertise for the benefit of civil society by enhancing procedural efficacy and consistency in the courts. Through its efforts, the Conseil wishes to add its voice to those who are proposing various changes in order to improve access to justice.

We invite you to familiarize yourself with the Conseil's 2013–2018 strategic plan, available on our website, so as to better understand the vision of the Conseil and its projects for the coming five years. While the plan is ambitious, its objectives are realistic.

In closing, we wish to commend our collaborators and colleagues for their hard work. Each member of the council or Secretariat staff helps, in their own way, to make Conseil de la magistrature what it is today. We extend our sincere thanks to each of them.

Enjoy the report.





# ABOUT THE CONSEIL DE LA MAGISTRATURE

## Functions

The Conseil de la magistrature is an independent organization that is firmly established in Québec's judiciary. It is made up of Court of Québec and municipal court judges, as well as lawyers appointed at the recommendation of the Québec Bar and government-appointed members from the general public who are neither judges nor lawyers.

---

Its two core responsibilities are to organize professional development programs for judges and to ensure judges act in a manner appropriate to their position.

Section 256 of the *Courts of Justice Act* sets out the seven functions of the Conseil de la magistrature:

- ~ Organize professional development programs for judges
- ~ Adopt a judicial code of ethics
- ~ Receive and examine any complaint lodged against a judge under its jurisdiction
- ~ Promote the efficiency and uniformization of procedure before the courts
- ~ Receive suggestions, recommendations, and requests made to it regarding the administration of justice, to study them and to make the appropriate recommendations to the Minister of Justice
- ~ Cooperate with any body pursuing similar purposes outside Québec
- ~ Hear and decide appeals lodged by judges following decisions or recommendations by the chief judge with regard to their place of residence or their permanent assignment to another division.

---

Two of these functions are especially important and constitute the majority of the Conseil's activities:

- ~ Receive and examine any complaint lodged against a judge under its jurisdiction
- ~ Organize professional development programs for judges. Parallel to this function is the responsibility to provide judges with the legal documentation they need.

The Conseil acts with regard to judges appointed by the government of Québec. There are over 400 of these judges who sit on the Court of Québec, the Professions Tribunal, the Human Rights Tribunal, and municipal courts. They also include presiding justices of the peace.

## Conseil Membership

---

Section 248 of the *Courts of Justice Act* establishes membership of the Conseil as follows:

- ~ The chief judge of the Court of Québec, who also serves as chair of the Conseil
- ~ The senior associate chief judge of the Court of Québec
- ~ The four associate chief judges of the Court of Québec
- ~ A presiding judge of a Municipal Court
- ~ The president of the Human Rights Tribunal or the chair of the Professions Tribunal
- ~ Two judges of the Court of Québec appointed at the recommendation of the Conférence des juges du Québec
- ~ One municipal court judge appointed at the recommendation of the Conférence des juges du Québec
- ~ Two lawyers appointed on the recommendation of the Québec Bar
- ~ Two citizens who are neither judges nor lawyers

Non ex-officio members are appointed by the government and must swear an oath before the chief justice or the senior associate justice of the Court of Québec prior to serving.

The vice-chair is elected by Conseil members. Government-appointed members serve a maximum of three years. Once their terms are up, members remain in their position until they are replaced or their appointments are renewed.

The terms of several Conseil members expired in 2012–2013, but as of March 31, 2013, the government had made no move to replace them or renew their appointments.

Conseil members generally meet every five weeks to examine complaints presented to them and direct the Conseil's main priorities. At the start of the year, members review and approve

the professional development programs submitted to them by the courts and tribunals under Conseil jurisdiction. At the end of the year, they go over the evaluations of these programs.

---

Conseil membership as of March 31, 2013



**Mrs. Elizabeth Corte,**  
Chair of the Conseil de la magistrature and Chief Judge of the Court of Québec ;



**Mrs. Danielle Côté,**  
Associate Chief Judge of the Criminal and Penal Division of the Court of Québec ;



**Mr. Mario Tremblay,**  
Vice Chair of the Conseil (elected from among members) and Senior Associate Chief Judge of the Court of Québec ;



**Mr. André Perreault,**  
Associate Chief Judge in Charge of Municipal Courts ;



**Mr. Pierre E. Audet,**  
Associate Chief Judge of the Civil Division of the Court of Québec ;



**Mrs. Louise Provost,**  
Chair of the Professions Tribunal ;



**Mr. Claude C. Boulanger**  
Chief Judge of the Youth Division of the Court of Québec ;



**Mr. Morton Minc,**  
President-Judge of the Municipal Court of Montréal ;



**Mr. Hubert Couture,**  
Judge of the Court of Québec ;



**Mr. Claude Rochon,**  
Lawyer ;



**Mr. Daniel Lavoie,**  
Judge of the Court of Québec ;



**Mr. Cyriaque Sumu,**  
Citizen ;



**Mr. Jean Herbert,**  
Judge of the Municipal Court of Longueuil ;



**Mr. Robert L. Véronneau,**  
Citizen.



**Mrs. Odette Jobin-Laberge,**  
Lawyer ;

# SECRETARIAT OF THE CONSEIL DE LA MAGISTRATURE



---

Because Conseil members do not serve full time, the Conseil has a permanent Secretariat. Four permanent employees and one casual employee ensure that operations run smoothly.

---

The Secretary of the Conseil, appointed by the Conseil chair for a five-year term, is selected from among lawyers who have been registered on the Québec Bar Roll of Order for at least 10 years and must be a member of the Québec public service. The government determines the secretary's salary, employment benefits, and conditions of employment. The appointee is no longer considered a civil servant and is on leave from the public service without pay for the duration of the term as Secretary of the Conseil de la magistrature. The secretary performs the duties of the position on an exclusive basis, reporting to the Conseil chair. At the end of the term, the secretary remains in office until replaced or reappointed.

The Secretary is assisted by four employees—three permanent and one casual. These people are public employees appointed and remunerated under the *Public Service Act*.

One of the three permanent employees is a professional who holds the position of Administrative Assistant . In December 2011 she announced she would retire in August 2012. This led to a call for applications being launched to fill the position.

---

The two other permanent positions at the Secretariat of the Conseil are held by a secretary and an office assistant. The casual position of office assistant was filled in January 2012 after a call for applications was issued at the end of 2011.

The Secretariat is the repository for the Conseil's official documents. In addition, to help fulfill the Conseil's mission, it has been entrusted with a number of responsibilities. It follows up on various administrative issues and coordinates all Conseil activities and day-to-day operations.

In matters of judicial ethics, Secretariat staff handle calls, emails, and letters from citizens, and provide information on how to file a complaint and what information the Conseil members will need. They also guide citizens through the process as needed or direct them to services that may be better positioned to assist them.

The Secretariat also meets certain needs of the judges under its jurisdiction. For example, it oversees professional development, administers budgets, and makes available the legal documentation judges need to perform their duties.

---

Lastly, the Secretariat supports the activities of the Conseil, whose members must be able to rely on a dynamic, professional, and competent team.

The Secretariat's team also handles major initiatives. The following sections provide a summary of the matters dealt with in 2011–2012.

## Budget

---

The Conseil's budget is divided into three major categories:

- ~ Judicial ethics
- ~ Operations (day-to-day)
- ~ Professional development and legal documentation for judges

---

Let's take a closer look at how this budget is used.

### **Budget for Judicial Ethics**

The *Courts of Justice Act* states that the funds required to carry out the Conseil's mission will come from the government's financial reserve (consolidated revenue fund), which means that its operating budget is not established based on government-allocated sums. This singular characteristic, which guarantees that the Conseil has the full financial independence necessary to properly perform its duties, is due to the fact that the Conseil cannot anticipate how many of the complaints it receives will warrant the creation of an inquiry committee. Decisions concerning activities that involve judicial ethics must not be influenced in any way by budget considerations.

---

### Budget for Conseil Operations

Like the budget for judicial ethics, the Conseil's operating budget comes from Quebec's consolidated revenue fund. In 2011–2012, as in previous years, the Secretariat of the Conseil paid special attention to operating expenses.

Not including the salaries of the employees of the Secretariat of the Conseil, expenses totaled \$433,141.05, broken down as follows:

- ~ \$96 163.64 for judicial ethics
- ~ \$336 977.41 for operations

### Budget for Professional Development of Judges

The professional development budget serves to meet the needs of judges in matters of legal documentation and professional development. Part of this budget goes toward the purchase of legal documentation, while the rest is earmarked for the preparation and organization of refresher courses for the approximately 400 judges under the Conseil's jurisdiction.

The budget is determined by government decree. In 2012–2013, the amount was set at \$1,206,700, including \$ 567,905.70 allocated exclusively for the purchase of legal documentation in paper or electronic form. To learn more, please go to Section 3 of this report.

The following table provides a breakdown of the amounts allocated to each of the courts and tribunals under the Conseil's jurisdiction for professional development in fiscal 2012–2013:

Court of Québec	<b>\$333,549.90</b>
Justices of the peace	<b>\$40,767.21</b>
Human Rights Tribunal	<b>\$4,500.00</b>
Professions Tribunal	<b>\$5,500.00</b>
Municipal courts	<b>\$106,241.82</b>

The professional development funds allocated to each court or tribunal are calculated according to the number of judges. In addition, an amount is set aside for the preparation and holding of the Annual Conference of the judiciary.

## Influence of the Conseil

---

The *Courts of Justice Act* entrusts the Conseil with a mandate to cooperate with bodies outside Québec that pursue similar goals. To fulfill this mandate, the Conseil has developed closer relations with institutions responsible for professional development and judicial ethics in Canada and in France. One result of these closer ties is visible in the presenters and content available to attendees at the Conseil's annual conference, a core component of the professional development program that brings together all provincially appointed judges under the Conseil's jurisdiction once a year.

### The 2012 Annual Conference

Every year, the Conseil de la magistrature organizes a conference for Québec's judiciary. Organizing and hosting this event is a huge undertaking for secretariat personnel. From accommodation and meal planning to audiovisual, registration and reception logistics, the challenges are many, and Conseil staff went out of their way again this year to ensure the event's success. The 2012 annual conference was held in November at Mont-Tremblant with "Pathways to Excellence" (*Sur les pistes de l'excellence*) as its theme.

The 2012 theme spurred discussion and debate, fueled by presentations from a number of renowned guest speakers. The highly topical issues covered revolved around the values the judiciary must uphold in order to achieve excellence in the services it provides to Quebecers. Through its theme, the 2012 Conference gave participants an opportunity to reflect on ways to excel and also drew inspiration from initiatives in other arenas, including politics, economics, finance, humanitarian crises and international assistance, technology and the arts.

The image chosen to represent the conference was thoughtfully selected to reflect the theme. It was drawn from a work entitled *L'Univers sur le dos de la tortue*, which was borrowed from *Les Impatients*, a non-profit organization dedicated to helping people with mental health problems through art therapy.



---

1. *L'Univers sur le dos de la tortue* / *Les Impatients* collection. This work is the product of a dozen *Les Impatients* participants. One day the organization's founder, Pierre Henry, asked them how they imagined or pictured God. He then asked them to render the image on a 9' x 12' canvas. The size of the canvas was a challenge itself—the theme even more so! But after a bit of research, several lively discussions, and some careful planning, everyone rose to the challenge with brio! They chose the turtle to represent God because the turtle is a central figure in creation stories of religions in China

and India, as well as the First Nations. With its four legs firmly planted on the ground, the turtle carries the world on its back. It is associated with immortality and wisdom because of its long life. In our tradition, we associate turtles with slowness, but also with reason, as in the famous fable *The Tortoise and the Hare*, where the tortoise wins the race with tenacity and patience. Slowly but steadily advancing with its house on its back, the tortoise is first across the finish line!

---

## External Relations

The Conseil has established close ties with the French judiciary through a series of meetings between **André Ouimet**, secretary of the Conseil de la magistrature, and **Karine Gonnet**, liaison magistrate at the French Embassy in Ottawa. These meetings are an opportunity to discuss projects common to both entities.

The Conseil secretary also held a working lunch with the deputy presiding judge of plenary sessions at France's Conseil supérieur de la magistrature, **Jean-Claude Marin**.

In the course of information sessions held with new French magistrates, the secretary also had the opportunity to meet with the French consul general in Québec City, **Nicolas Chibaëff**, as well as with the French consul general in Montréal, **Bruno Clerc**.

In June 2012, the Conseil secretary drafted an article entitled "L'indépendance du juge comme devoir déontologique au Québec" for publication in *Les Cahiers de la justice*, the quarterly journal of France's École nationale de la magistrature. The school describes the journal as a judicial forum for dialogue, reflection, and the exchange of information.

---

In another international collaboration, **Harold Épineuse** was invited to appear as a guest speaker at the 2012 annual conference. Based at the World Bank in Washington, Mr. Épineuse is the assistant secretary general of the Institut des Hautes Études sur la Justice in France, where he founded an international observatory of judicial ethics. He is a regular contributor to judicial training activities in a number of countries.

In related news, the Conseil secretary is also a member of the Association of Judicial Disciplinary Counsel, a forum for judicial ethics.

The Conseil chair and secretary regularly take advantage of opportunities to promote public awareness of the Conseil's role and activities. Among other things, they make a point of attending presentation ceremonies for newly appointed judges and they regularly lecture at judges' professional development seminars.

The secretary was also invited to speak as part of an administrative law course given at École nationale d'administration publique (ÉNAP) in November 2012 and March 2013.

---

### **Orientation for New Judges**

Every year the Court of Québec and the municipal courts induct new judges and justices of the peace into their ranks. Between April 1, 2012, and March 31, 2013, the provincial Cabinet appointed 20 new judges to the Court of Québec. In addition, eight new municipal judges were inducted—four at the Municipal Court of Montréal, one at the Municipal Court of Québec, one at Drummondville, one at Sherbrooke and one at Alma.

Shortly after being appointed, new judges meet with the Conseil secretary and the secretary's assistant. They spend the better part of a day learning about the Conseil's role and functions as well as the new rules of ethics that now govern their behavior.

Induction training also allows them to learn about the administrative rules they are subject to, the training opportunities and support provided by the Conseil, and the work tools available to them.

---

### **Professional Development Programs**

Under the *Courts of Justice Act*, the Conseil de la magistrature is responsible for the professional development of judges under its jurisdiction. In reality, this responsibility has been delegated to the courts and tribunals, with the Conseil playing a monitoring and oversight role, both for budget allocation and spending. The Conseil also has a say in the programming and content of refresher courses.

To provide oversight, the Conseil requires the courts and tribunals to submit an annual professional development plan and file a fiscal year-end report on the activities conducted during the year.



# **DOCUMENTATION, TRAINING, AND THE PROFESSIONAL DEVELOPMENT OF JUDGES**

## Legal documentation

---

The Conseil de la magistrature is responsible for providing judges with the documentation necessary to perform their duties. At the start of the year, each judge is given a budget to be used for the purchase of legal documentation. The policy established by the Conseil recognizes that specific needs may exist in certain regions or with respect to a judge's practice areas. Under this policy, judges receive an annual amount set by the Conseil that takes into account the subject areas judges may need to address.

In its ongoing effort to reduce spending, the Conseil has made an intranet available to judges giving them online access to a multitude of legal documents, and databanks of jurisprudence and statutes.

In addition, a partnership agreement signed with Centre d'accès à l'information juridique has increased the quantity of available documentation by providing access to well-organized libraries in most regions throughout Québec.

Over the course of the 2012–2013 year, the Conseil spent \$505,008.75 on purchasing legal documentation in paper and electronic format.

## Training and Professional Development Activities for Judges Organized by the Courts and Tribunals

---

As previously mentioned, the Conseil entrusts the organization of training and professional development activities to the courts and tribunals. After reviewing the programs offered, the Conseil allocates a budget to each court and tribunal on a prorata basis to reflect the number of judges. An additional amount is awarded to judges who concurrently serve at the Court of Québec and specialized tribunals. Thus, each court or specialized tribunal manages the amounts allocated for professional development activities for judges, with the exception of sums earmarked for the Conseil's annual conference, English language courses for judges, and a training session on criminal matters for newly appointed judges.

Training budgets must be used primarily for courses, seminars, and study days that are organized by the courts and tribunals. The Conseil does allow judges—with some restrictions—to attend seminars or conferences that have not been organized by the courts and tribunals themselves. However, it has ruled that courts and tribunals cannot devote more than 20% of their total allocated budgets to outside training.

## Other Training and Professional Development Activities

---

In addition, a reserve has been created to respond to certain requests or special situations during the fiscal year. The reserve makes it possible to take into account the circumstances of certain courts and tribunals that have fewer judges.

At the end of every year, the Conseil asks the courts and tribunals to compile a report on the professional development activities they have held. It is important to note that the programs implemented by the courts and tribunals are made possible not only through the budget allocated by the Conseil, but also through the considerable and incalculable contribution of the many judges who generously devote time and energy to developing and delivering educational training programs. While they are too numerous to name here, the Conseil thanks them for their commendable dedication and availability.

### Specialized Training on Criminal Issues

Every year, the Canadian Association of Provincial Court Judges partners with provincial courts to organize a specialized training session on criminal issues for newly appointed judges.

For 20112-2013, the training session took place from April 22 to 27, 2011. Fourteen judges from the Court of Québec and three judges from the Municipal Court of Montréal attended.

### English Language Courses

Since 2004, the Conseil has been responsible for organizing English language courses provided to judges under its jurisdiction, with the exception of a program organized by the Office of the Commissioner for Federal Judicial Affairs. To this effect, it established a policy, which was updated in November 2011.

---

### Application of the Policy

In November 2011, the federal government awarded the Conseil de la magistrature a \$90,000 grant to deliver an English language training program for judges. In order to be accepted into this program, judges must meet certain criteria:

- ~ First of all, they undergo an assessment test to demonstrate that they have intermediate-level English language skills; the goal of the program is to increase mastery of English, and judges ranked as “beginners” are not eligible;
- ~ Once they have begun the program, participants must progress in order to reach a higher level within a two-year period. They are regularly tested to assess their level of learning.

It should be pointed out that, since 2011, part-time municipal judges have also been accepted into the English language training programs.

---

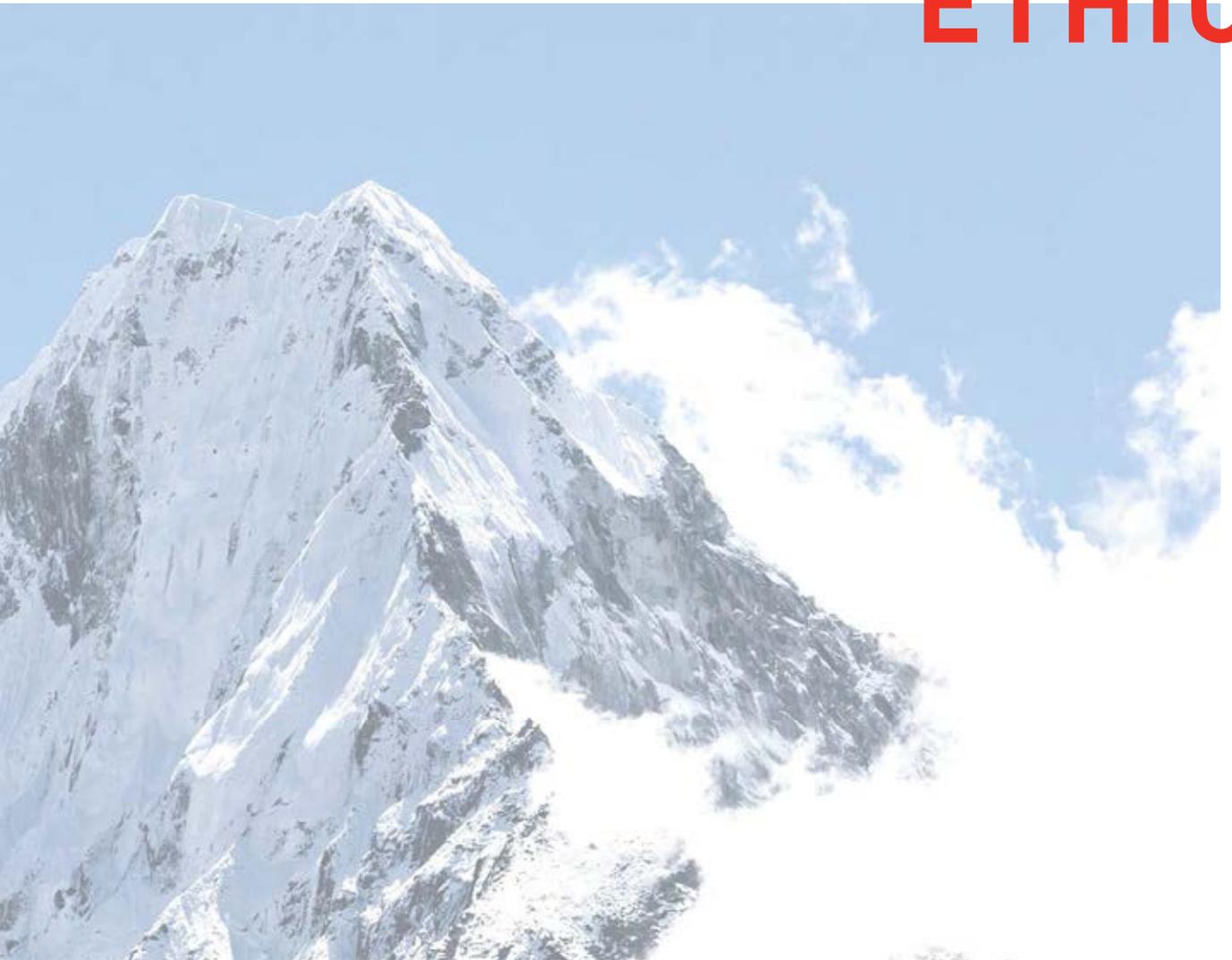
As part of this program, two five-day immersion sessions were organized and presented at Bishop’s University, in July and August 2012, and were attended by 15 judges.

At the same time, judges can also take advantage of semi-private lessons. When they register for the program, they agree to receive three hours of instruction per week over a nine-month period.

### Program of the Office of the Commissioner for Federal Judicial Affairs

The Office of the Commissioner for Federal Judicial Affairs organizes English language immersion sessions. These training sessions are provided to federally and provincially appointed judges and are held outside of Québec. It is the Office of the Commissioner for Federal Judicial Affairs that determines the number of Québec judges admitted for each of the sessions. One language immersion session were organized and presented at Halifax, in August 2012, and were attended eight judges from Québec Court.

# JUDICIAL ETHICS



## Codes of Judicial Ethics

---

Two codes of judicial ethics adopted by the Conseil de la magistrature outline the conduct expected of judges. They are the *Judicial Code of Ethics* and the *Code of Ethics for Part-Time Municipal Judges*.

The first applies to judges at the Court of Québec, the Human Rights Tribunal, and the Professions Tribunal, as well as to presiding justices of the peace and judges at the municipal courts of Laval, Montréal, and Québec City. The second specifically addresses part-time municipal judges, who serve in the courts of other municipalities.

The *Judicial Code of Ethics* applies to the greatest number of judges, and contains the following 10 articles:

- ~ Judges should render justice within the framework of the law.
- ~ Judges should perform the duties of their office with integrity, dignity, and honour.
- ~ Judges have a duty to foster their professional competence.
- ~ Judges should avoid any conflict of interest and refrain from placing themselves in a position where they cannot faithfully carry out their functions.
- ~ Judges should be, and be seen to be, impartial and objective.
- ~ Judges should perform the duties of their office diligently and devote themselves entirely to the exercise of their judicial functions.
- ~ Judges should refrain from any activity which is not compatible with their judicial office.
- ~ In public, judges should act in a reserved, serene and courteous manner.
- ~ Judges should submit to the administrative directives of their chief judge, within the performance of their duties.
- ~ Judges should uphold the integrity and defend the independence of the judiciary, in the best interest of justice and society.

Article 9 is absent from the *Code of Ethics for Part-Time Municipal Judges* because it does not apply to judges who perform their duties on a part-time basis.

The codes of ethics were drafted with judicial independence in mind. Their goal is not to dictate standards for judges, but rather to establish general principles of conduct. In this sense, they are meant as a reference tool for judges. They neither enumerate prohibited behaviours, nor list permissible ones.



## Complaints Handling Process

---

As the courts have indicated, the codes of ethics are intended to express values rather than set precise rules of conduct. Besides expressing values, the codes of ethics aim to preserve the public's trust in its judicial institutions. These considerations ensure that the Conseil de la magistrature and, where applicable, an inquiry committee, evaluate judges' conduct based on these general principles, which they are occasionally called upon to spell out in the course of the process for examining a complaint.

Judicial ethics has a remedial function with respect to the judiciary as a whole, and not solely the judge affected by a sanction. By recommending that a judge be sanctioned, the inquiry committee plays an educational and preventive role to avert, as much as possible, any further undermining of the judiciary's integrity.

For these various reasons, judicial ethics are unique, in that they are not comparable to any other system of professional oversight.

Anyone may file a complaint with the Conseil de la magistrature against a judge under its jurisdiction. The complaint must be made in writing to the Conseil's secretary and state the facts relating to the judge's alleged misconduct and any other relevant circumstances.

Upon receipt of the complaint, the secretary then forwards an acknowledgement of receipt to the complainant and a copy of the complaint to the judge, for comment as desired.

The complaint is reviewed by the Conseil's members at the meeting following its receipt. At this stage, the Conseil may appoint one of its members to collect more information. For example, if the incident subject to complaint took place during a hearing, the appointed person will be able to request a complete copy of the court record as well as a copy of the audio recording of the court proceedings. The complainant and the judge are systematically informed of these steps. Once they are completed, the assigned person reports to the Conseil.

If, following the examination, the Conseil finds that the complaint is unfounded or that the nature or scope of the complaint does not warrant an inquiry, the secretary will notify the complainant and the judge and inform them of the reasons for the decision.

---

If, on the other hand, the Conseil decides that the complaint warrants investigation, it will form a five-member inquiry committee from among its members. An inquiry committee may be made up of past and present Conseil members. However, it must include at least three current Conseil members, one of whom is appointed chair. For the purpose of the inquiry, the members of this committee are invested with the powers and immunities of commissioners appointed under the *Act respecting public inquiry commissions*, except for the power of imprisonment.

Thirty days before beginning the inquiry, the inquiry committee issues a written summons to the judge and the complainant in question. It also notifies the Minister of Justice. The Minister or the latter's representative may intervene during the inquiry. At this stage, the Conseil de la magistrature may retain the services of a lawyer or an expert to assist the committee in conducting the inquiry. The judge against whom the complaint was filed may also retain the services of a lawyer.

The inquiry committee hears the parties, their lawyers, and their respective witnesses. It may summon any person qualified to testify about the facts. Witnesses may be examined and cross-examined by the parties. The function of an inquiry committee is purely investigative and guided by the search for truth. Its primary goal is to ensure compliance with judicial ethics in order to preserve the integrity of the judiciary and, by the same token, help maintain law and order. Depending on the nature of the complaint, the Conseil de la magistrature may suspend the judge for the duration of the inquiry. A suspension, which is not a sanction, is intended solely to protect the credibility of the justice system.

---

Once the inquiry is completed, the inquiry committee submits its report to the Conseil de la magistrature. The Conseil may not alter any of the report's content, in part or in full. It reviews the report and adopts its recommendations as its own. If the inquiry report concludes that the complaint is unfounded, the Conseil de la magistrature sends a reasoned opinion to the Minister of Justice, the judge concerned, and the complainant.

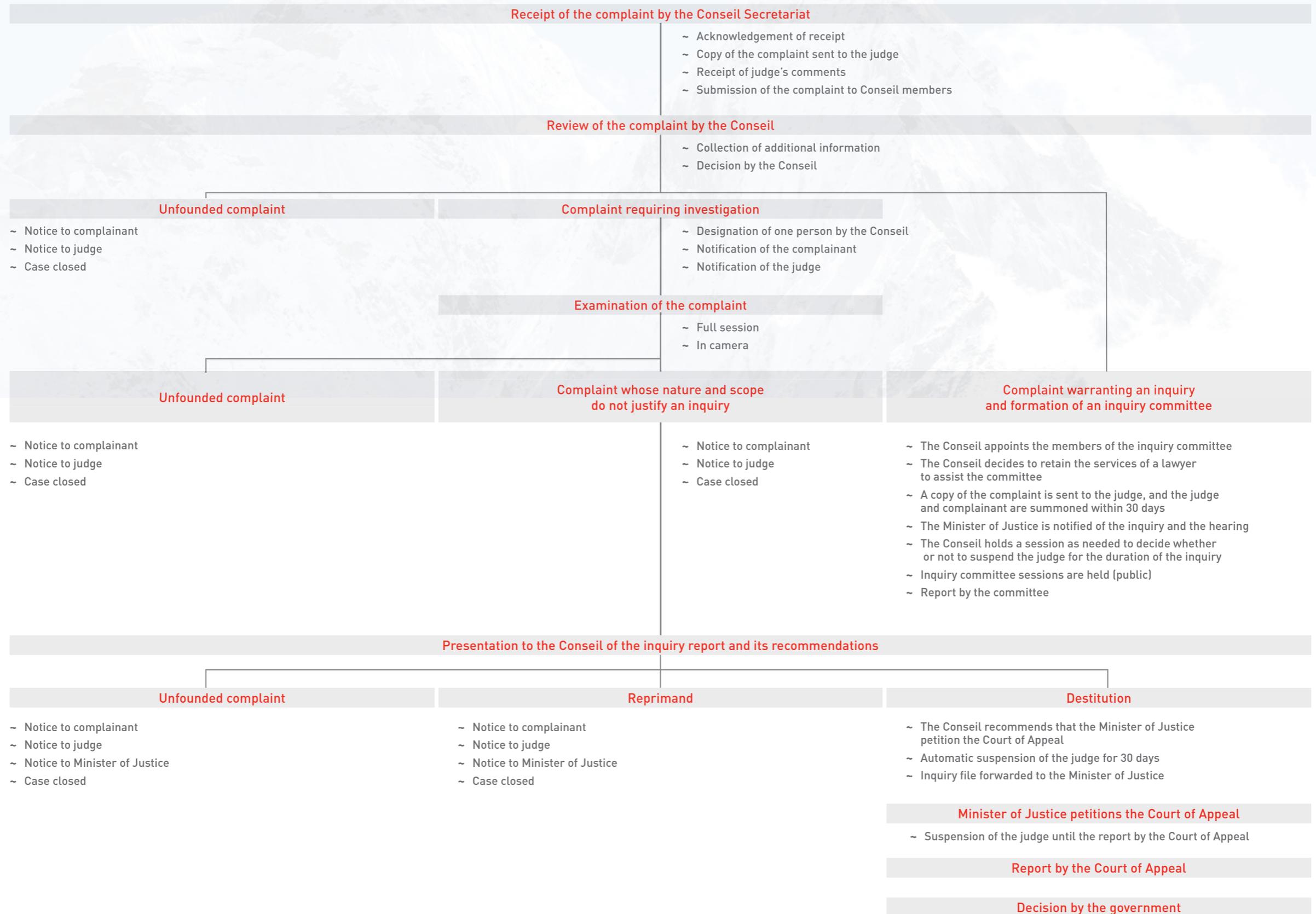
If, on the other hand, the inquiry report determines that the complaint is founded, the Conseil de la magistrature, following the recommendations of the report, reprimands the judge or recommends that the Minister of Justice and Attorney General petition the Court of Appeal to conduct an inquiry. If the inquiry committee makes the latter recommendation, the Conseil de la magistrature suspends the judge for a period of 30 days.

As for the removal of judges, the Conseil de la magistrature only has the power of recommendation. If the Conseil were to conclude as a result of its inquiry that removal was necessary, it would advise the Minister of Justice and Attorney General, who would petition the Court of Appeal. At this point, the judge would be automatically suspended from his or her position until the Court of Appeal ruled on the matter. After its inquiry had come to an end, the Court of Appeal would send a report to the government, which has the power to remove a judge from the bench.

It is important to remember that the Conseil cannot review judicial decisions. It is not a court of appeal. Nor can it award damages.

For a better understanding, readers are invited to look at the diagram entitled "Complaints Handling Process," for a step-by-step illustration of how complaints are dealt with.

# Complaints Handling Process



The Conseil receives and examines complaints filed by individuals against judges they believe to have committed breaches of the Judicial Code of Ethics.

Complaints are submitted in writing to the secretary of the Conseil and state the alleged facts with regard to the judge and other pertinent circumstances.

## Decisions by the Conseil

---

This section summarizes all decisions by the Conseil either upon completion of an examination (collection of additional information) or an inquiry. Complaints that were deemed unfounded—i.e., not requiring the collection of additional information—were not summarized. In such cases, complainants were generally dissatisfied with the ruling handed down by the judge, and the criticisms made were not associated with the judge’s behaviour.

### **Examination Stage (Collection of Additional Information)**

The Conseil may request any information it deems necessary from any individual and examine relevant records. Proceedings are conducted in camera during this stage. In most cases, playback of the audio recording of court proceedings usually provides sufficient insight for the Conseil to reach a conclusion. In our summary, names of judges and complainants have been omitted and the masculine form has been used to designate both women and men in order to protect privacy.

### **COMPLAINTS AGAINST JUDGES ASSIGNED TO THE SMALL CLAIMS DIVISION OF THE COURT OF QUÉBEC**

Most complaints received by the Conseil de la magistrature concern judges who are assigned to the Small Claims Division. This is due to some of the special rules that govern the division. For example, under the Code of Civil Procedure, judges must provide the parties with summary explanations of the rules of evidence that must be followed and the procedures that they deem appropriate. Because the parties cannot be represented by counsel, judges are also responsible for conducting oral examinations themselves and for providing all parties with fair and impartial assistance so as to render effective the substantive law and ensure that it is carried out. As a result, judges must intervene extensively in the proceedings, which no doubt explains the higher number of complaints.

---

**2012 CMQC 9** – The complainant criticized a Small Claims Division judge for his conduct during a trial hearing. According to the complaint, the judge showed bias, impatience, and a marked lack of interest. — Playback of the audio recording of the proceedings revealed that the judge instead showed exemplary patience and tolerance. He clarified legal notions to assist the complainant in presenting evidence and explained the limits of his powers. During the four-hour hearing, the judge allowed the parties to express themselves without showing irritation, and listened carefully. The complainant’s allegations were completely unfounded.

The Conseil concluded that the complaint was unfounded.

**2012 CMQC 13** – The complainant criticized a Small Claims Division judge for his lack of impartiality and objectivity during a trial he presided over. The complainant specifically claimed that the judge had personal conversations with the opposing party. He also contested the conclusions of the judgment rendered at the end of the trial.

— The allegation that the conversation between the judge and defendant indicated they had perhaps already met cannot be retained, since judges must ensure they do not hear cases involving a potential appearance of conflict of interest. Moreover, the judge intervened to ask the complainant not to interrupt the testimony of the defendant. Playback of the audio recording of the proceedings revealed no indication of bias on the judge’s part. The complainant’s reaction during the hearing was disproportionate, and the judge simply played his role, ensuring that both parties were able to present their versions of the facts. Lastly, inconsistencies in the judgment cited by the complainant are outside the Conseil’s jurisdiction.

The Conseil concluded that the complaint was unfounded.

---

**2012 CMQC 23** – The complainant criticized a Small Claims Division judge for his inappropriate attitude in conducting a trial, claiming he had been impatient, aggressive, and had allowed the opposing party to testify in English, allegedly hindering his understanding of the proceedings. — Playback of the audio recording of the proceedings did not allow us to conclude that the judge was in ill humour, as the complainant claimed, or aggressive or impolite. The judge’s comments on his state of health give no indication he was not in a condition to preside at the trial. As for the language question, the judge provided an interpretation of the rights of the complainant and the witness, and explained the grounds for his interpretation. If this was regarded as an error, it could only be an error of law or a jurisdictional error, which in no way constitutes a breach of ethics.

The Conseil concluded that the complaint was unfounded.

**2012 CMQC 29** – The complainant criticized a Small Claims Division judge for his lack of knowledge of real estate transfer law and for his attitude in conducting a trial. Moreover, the judge allegedly took over four months to render his decision. — Playback of the audio recording of the proceedings showed that the judge always addressed the complainant with respect and courtesy, and never made certain comments that were attributed to him. His questions to the witnesses are proof of his understanding of the law, including the provisions governing payment exemptions under the *Act respecting duties on transfers of immovables*. The judge could have managed the case more expeditiously, which would have prevented delays in the deliberations, but the explanations he provided with regard to his schedule were sufficient.

The Conseil concluded that the complaint was unfounded.

---

**2012 CMQC 34 – The complainant criticized a Small Claims Division judge for bias during a trial in which the judge rejected his claim against financial institutions.** — The first part of the complaint dealt with comments the judge made about the complainant’s understanding and comprehension of the value of mutual fund units, which was at the basis of his claim; the second part dealt with the way the trial was conducted. The remarks referred to in the first part of the complaint do not constitute a breach of ethics. Playback of the audio recording of the proceedings indicates that the atmosphere was harmonious and calm. As for the way the trial was conducted, certain unusual aspects were noted, particularly the order in which evidence was presented, the time taken to listen to a long telephone conversation in the presence of the parties, the judge’s numerous comments, and his frequent—but vain— attempts to explain to the complainant the legal framework governing the sale of mutual fund units. The courtroom playback of the 45 minute telephone conversation, which was interrupted several times due to technical difficulties, may have led the complainant to believe the judge was trying to favour the other party, in part by ensuring that the conditions set forth in the investment prospectus had all been met by the bank. In doing so, the judge may have given the complainant the impression that he had not had an impartial and objective hearing. The duty of impartiality requires the judge to remain open and willing to consider evidence presented throughout the entire hearing. However, partiality cannot be determined solely on the basis of an impression, and in this case, the impression was insufficient to conclude that a breach of ethics had been committed.

**The Conseil concluded that the complaint was unfounded.**

---

**2012 CMQC 47 – The complainant criticized a Small Claims Division judge for showing bias during a trial hearing. He also claimed that the trial had been conducted in French, a language in which he had limited fluency.** — Playback of the audio recording of the proceedings indicates that the complainant had an interpreter. In fact, it was the judge who took steps to ensure an interpreter was present. Moreover, he always spoke to the complainant in a calm manner. Lastly, the judge conducted the proceedings in accordance with article 977 of the *Code of Civil Procedure* and did not violate any of the provisions of the *Judicial Code of Ethics*.

**The Conseil concluded that the complaint was unfounded.**

**2012 CMQC 52 – The complainant criticized a Small Claims Division judge for his lack of impartiality during a trial hearing.** — Playback of the audio recording of the proceedings did not allow us to conclude that the judge lacked discernment or impartiality, or generally showed signs of exasperation. Throughout the hearing, the judge allowed the complainant to express himself and listened carefully. The complaint also indicates that the complainant was unsatisfied with the judgment. But the Conseil de la magistrature cannot intervene in the assessment of the evidence or act as an appeal body to review judicial decisions.

**The Conseil concluded that the complaint was unfounded.**

---

**2012 CMQC 62** – The complainant alleged that the trial judge did not allow him to present his version of the facts regarding a claim against the members of a condominium association and its board. At the trial, the judge gave a 13 minute soliloquy in which he asked and answered his own questions and commented on the case, the evidence, and short-handed staffing in the courts. At one point, he strongly urged the parties to seek mediation, noting the possibility of long delays if they were unable to resolve the dispute on their own. The parties finally agreed to a settlement. — The examination of the complaint did not allow us to rapidly reach a conclusion. An inquiry will enable us to determine whether the judge’s behaviour and comments may have constituted a breach of his duty to act within the framework of the law, with integrity, dignity and honour; to discharge his judicial duties in a helpful and diligent manner; and to conduct himself with reserve, courtesy, and composure. The inquiry report will indicate whether the complaint is founded.

The Conseil concluded that this complaint justifies an inquiry. An inquiry committee has been formed.

---

**2012 CMQC 63** – The complainant criticized the judge for lacking objectivity and impartiality at the trial, alleging he conducted proceedings in manner that favoured the opposing party. The complainant further alleged that the judge had curtly told him he had four months to hand down the judgment. Furthermore, the judgment allegedly contained errors, which would not have been a first for this judge. — During a Court of Québec Small Claims Division hearing, judges may themselves conduct oral examinations and also provide the parties with fair and impartial assistance. In this case, the judge’s requests for clarification and his effort to help the complainant organize his presentation of the facts may have given the complainant the impression of being rushed, but such actions were reasonable. The judge maintained a calm, posed demeanour throughout the hearing. Both parties were able to make their claims and were given the right to reply. In the end, the judge, in his decision, sided with the opposing party’s version. Playback of the audio recording of the proceedings did not indicate any breach of ethics. The complainant also made injurious comments about the judge’s ability, based on hearsay. By relying solely on hearsay evidence to support his allegations of incompetence, the complainant provided no evidence to the Conseil justifying further investigation of this aspect of the complaint.

The Conseil concluded that the complaint was unfounded.

---

### COMPLAINTS AGAINST JUDGES ASSIGNED TO THE CRIMINAL AND PENAL DIVISION OF THE COURT OF QUÉBEC

**2012 CMQC 76** – The complainant criticized the conduct of the judge during the trial hearing and the content of his decision. He claimed that the judge had shown animosity toward him and favouritism toward the opposing party. And he alleged that the judgment failed to take into account all the evidence and gave insufficient consideration to the version of the complainant, who cited the rude and slanderous comments the defendant allegedly made about him.

— Contrary to the complainant’s allegations, the judge did not misrepresent his version of the facts or cite him out of context.

The complainant felt that the judge’s attitude had been quite aggressive, but the judge assessed the evidence and interpreted it within his discretion. Furthermore, several of the accusations made about the judge were inaccurate. The judge explained in one page his reasons for ordering the complainant to pay \$2,500 to the defendant. It is not the Conseil’s job to assess the soundness of his reasons. The judge issued a 15-page written decision 22 days after the trial ended. A comparative analysis of the audio playback of the proceedings and the actual judgment found no support for the complainant’s allegation that the judge had lied about him and been partial to the defendant.

The Conseil concluded that  
the complaint was unfounded.

---

**2012 CMQC 80** – The complainant alleged that the presiding judge had placed himself in a conflict of interest situation during a trial by hearing the case despite his family ties with a member of the legal firm represented by the opposing party’s attorney. He also claimed the judge had overstepped his authority in managing the case. — When the complainant raised the alleged conflict of interest with the judge, the latter explained that he had been aware of the matter for some time and that in any case, he did not consider himself to be in a conflict of interest situation. The judge remained calm, polite, and courteous and addressed the complainant in English to ensure he fully grasped the proceedings. Lastly, the judge cannot be charged with any breach of ethics with regard to the way in which he rendered a decision in the case.

The Conseil concluded that  
the complaint was unfounded.

**2012 CMQC 61** – The complainant accused the judge of showing bias at a trial and claimed he lacked the necessary skills to fulfill his duties. The case being heard concerned the unjustified enrichment of the complainant’s former common-law spouse. In the face of documentary evidence insufficient to clearly establish the complainant’s assets prior to and after the common-law relationship, the judge concluded that it was impossible to determine whether he had grown poorer during the relationship. — Many of the points raised in the complaint were outside the Conseil’s jurisdiction. It cannot intervene in the assessment of the evidence or act as an appeal body to review a judge’s decision. Moreover, playback of the audio recording of the proceedings revealed that during the lawyer’s questioning, the judge interjected several times with comments that could have been interpreted as criticism. During these exchanges, the judge and the lawyer constantly interrupted each other. At one point, the judge strayed from his role as arbitrator and

---

moderator. But even though he could have done a better job, there was no ethical impropriety on the judge's part. During the four-day hearing, the judge sought to establish a healthy atmosphere for all the parties despite the particular difficulties of the case. He presided over the trial and managed these incidents without committing any breach of ethics. Lastly, there was no evidence to support the allegations of arrogance and contempt on the judge's part with regard to the complainant and his lawyer.

The Conseil concluded that the complaint was unfounded.

### **COMPLAINTS AGAINST JUDGES ASSIGNED TO THE CRIMINAL AND PENAL DIVISION OF THE COURT OF QUÉBEC**

#### **2012 CMQC 39 – The complainant criticized a judge for showing bias during a trial hearing and for making derogatory remarks about him.**

— Playback of the audio recording of the proceedings revealed that the complaint was unfounded. The physical characteristics referred to in the complaint were only mentioned by the complainant himself. The judge showed considerable empathy and was very tactful in his dealings with the complainant throughout the trial. The only time he asked the complainant to be quiet was to enable the prosecution witness to complete his testimony. Although firm, his tone was not threatening. The judge's attitude was beyond reproach. The complainant expressed doubts about the entire trial, but the Conseil cannot intervene in the assessment of the evidence or act as an appeal body to review judicial decisions.

The Conseil concluded that the complaint was unfounded.

---

#### **2012 CMQC 40 – The complainant criticized a judge's conduct at a trial hearing, alleging the judge was aggressive and rejected a request for postponement so a new attorney could be appointed.**

— In a second complaint, the complainant interpreted one of the judge's comments to mean that he had no chance with him, and that the judge's mind was already made up against him. The questions the judge asked to clarify the status of the complainant's case were posed directly and firmly, but were not out of place in the circumstances, since the judge needed to understand the overall situation. Speaking at length, the judge noted that the complainant had been without legal representation since September 14, 2012. Despite having been advised that his file was available from his former attorney, he had taken no steps to hire another lawyer or recover the file, even though he knew he had hearings scheduled for September 20 and 26. There was nothing untoward about the judge's tone during his interventions; he used clear and appropriate language to criticize the complainant's behaviour. He also took steps to ensure the complainant had all the necessary documents so his application for postponement could be heard. The complainant was clearly dissatisfied that his request was rejected. But it is not the Conseil's job to intervene in assessing the evidence or to review judicial decisions.

The Conseil concluded that the complaint was unfounded.

---

**2012 CMQC 55** – The complainant accused a judge of expressing impatience at his trial, refusing to hear certain witnesses, and rendering a judgment that did not take into account the evidence presented. — Playback of the audio recording of the proceedings revealed that the judge had patiently heard the complainant’s evidence without comment or any display of lack of interest. His decisions reflected normal courtroom time management practices. After hearing the evidence, the judge, at the request of the opposing party’s attorney, rendered his ruling in simple terms, rejecting the complainant’s claim. There was nothing wrong with the way he conducted the hearing.

**The Conseil concluded that the complaint was unfounded.**

---

**2012 CMQC 64** – The complainant claimed a judge had made inappropriate comments at his ex-spouse’s trial for spousal violence. When the complainant rejected the judge’s proposal to let the accused go home to recover personal belongings, the judge allegedly said the complainant was inflexible. The complainant also accused the judge of being apathetic during the hearing. — Playback of the audio recording of the proceedings, which lasted nine minutes, revealed that the judge’s comments did not violate his ethical obligations. Nor was there any evidence that he lacked dignity, integrity, or composure during the hearing. The judge did not breach any of the provisions of the *Judicial Code of Ethics*.

**The Conseil concluded that the complaint was unfounded.**

**2012 CMQC 65** – The complainant, who is hearing impaired, claimed the judge made fun of his disability during a hearing regarding a statement of offence. — Playback of the audio recording of the proceedings revealed that the inquiry and hearing were conducted cordially and calmly. There is no evidence that the judge, or the court clerk for that matter, made fun of the complainant. The judge allowed him to speak and gave him time to examine the photographs filed as evidence. He also took the complainant’s financial situation into account and did not order him to pay court costs. The judge did not breach any ethical guidelines.

**The Conseil concluded that the complaint was unfounded.**

---

**COMPLAINTS AGAINST JUDGES  
ASSIGNED TO THE YOUTH DIVISION  
OF THE COURT OF QUÉBEC**

**2012 CMQC 53 – The complainant criticized a judge for impatience, bias, and lack of concern in his conduct of a trial. He also accused him of inadequate case management.**

— The judge cannot be faulted for prolonging the proceedings for more than 15 months, or for having allowed the director of youth protection to do so.

Moreover, the complainant's claim that the judge had expressed discontent at having to return to work when he should have been on sick leave was unfounded. The judge's conduct showed that his personal situation was in no way prejudicial to either party. His only expressions of concern over the length of the inquiry were clearly related to the sense of urgency he felt about rendering a decision quickly, in the interest of the children. His repeated urgings to have the complainant testify were incompatible with the complainant's accusation. As for the allegations of bias, the judge was painstakingly prudent in this regard. He explained to the complainant that the latter could request his recusal, referred to provisions of the *Code of Civil Procedure*, and suspended the hearing so the complainant could discuss matters with his lawyer. He also said he would suspend the proceedings if either party considered him to be biased. In response, the complainant said he still felt comfortable pursuing the inquiry with the judge.

---

The complainant's reactions during the inquiry showed that he considered the judge's admission of a critical piece of evidence about him and certain decisions he disagreed with to be signs of bias. The importance the judge paid to the children's interests and rights was in keeping with the general principles of the statutory framework in this area and must not be confused with signs of bias.

The Conseil concluded that the complaint was unfounded.

**2012 CMQC 54 – The complainant criticized a judge for making insulting comments about him at a hearing he had not attended.**

— The judge used the word "poison" when rendering his oral decision in response to earlier remarks by the children's attorney, who was describing the content of a report filed in the court. In his conclusions, the judge granted the director of youth protection's request and ordered that custody of the children be awarded to the mother. He also forbade any contact with the father. The hearing was conducted in a normal way, and the language used was never discourteous to the complainant. The words spoken by the judge, including the word "poison," cannot be considered as discourteous in this context.

The Conseil concluded that the complaint was unfounded.

---

**2012 CMQC 57** – The complainant criticized a judge for speaking to him in a condescending and contemptuous tone, and for his lack of impartiality. — Playback of the audio recording of the proceedings revealed that the judge unequivocally disapproved of entrusting a very young child to a parent who, as the complainant did, used cannabis (marijuana) on a daily basis. However, the judge did not use the tone of voice alleged by the complainant. Throughout the hearing, he allowed the complainant to express himself and listened to him. In this context, we found no evidence of a breach of ethics.

The Conseil concluded that the complaint was unfounded.

**2012 CMQC 66** – The complainant claimed that the judge allowed the lawyer representing his child to make fun of the complainant’s religion. — Playback of the audio recording of the proceedings revealed that neither the child’s lawyer nor anyone else made disparaging or offensive comments about the complainant’s religion during the hearing. The accusations in the complaint were completely unfounded.

The Conseil concluded that the complaint was unfounded.

---

**2012 CMQC 74** – The complainant criticized a judge for showing bias and arrogance at a protection hearing for his five-year-old son. Since the child’s lawyer was opposed to granting the complainant supervised access rights, the judge had asked him why he had not come forward earlier, even though he knew the child was being abused by the mother, and questioned his ability to re-establish an emotional bond with his son. — Playback of the audio recording of the proceedings did not allow us to conclude that the judge had plotted with the child’s lawyer to prevent the complainant from seeing the child again. On the contrary, the proceedings showed that the judge made his decision based on evidence. Throughout the hearing, he allowed the complainant to express himself, and was polite and calm. When he rendered his oral decision, he said that the child’s situation was one of the saddest he had encountered, and that both parents had failed to fulfill their responsibilities. The judge did not violate any provisions of the *Judicial Code of Ethics*.

The Conseil concluded that the complaint was unfounded.

---

## COMPLAINTS AGAINST JUDGES ASSIGNED TO THE MUNICIPAL COURT

**2011 CMQC 70** – The complainant criticized a judge for the time it took to render a judgment in his case, i.e., 10 months after the trial. He tried to withdraw his complaint once the decision acquitting him on all counts was handed down. — Despite the complainant’s intention to withdraw his complaint, only the Conseil can determine complaint status. Furthermore, contrary to the complainant’s claims, the length of deliberations had nothing to do with the civil suit he had launched against the city after accusations were filed against him. The judge’s decision to ask counsel for the prosecution to present arguments regarding the complainant’s competency in the complainant’s absence placed the judge in a delicate situation. But since he agreed to receive a written argument, a copy of which was transmitted to the complainant, no inquiry was warranted.

The Conseil concluded that the complaint was unfounded.

---

**2012 CMQC 88** – The complainant claimed that a judge had ridiculed him during a trial at which he had to defend himself against a *Highway Safety Code* violation. He also claimed the judge was incompetent. — The judge did instruct the complainant to remove his sunglasses, but he did so politely. The complainant’s claim that the judge ridiculed him is completely unfounded. Part of the complainant’s defence was based on agreement between the Québec government and the Canadian Armed Forces, which he claimed exempted him from having to hold a Québec driver’s licence so long as he was in possession of his army-issued licence. A copy of that agreement was entered into the record and the judge was aware of it. The complainant did not appreciate the judge’s insistence on sticking to his role and jurisdiction as a municipal court judge. He wanted the judge to accept his interpretation of the agreement on the spot, and insinuated that the judge did not know the law. The examination of the facts revealed that the judge had not violated any provisions of the *Judicial Code of Ethics*.

The Conseil concluded that the complaint was unfounded.

---

**2012 CMQC 90 – The complainant criticized a judge for treating him with disrespect during a hearing on a motion for revocation of judgment.**

— Under the *Code of Penal Procedure*, a judge can grant a motion for revocation if he is convinced the alleged reasons are serious. In this case, the complainant and judge engaged in a short, courteous discussion. The complainant's age (20 years), the lack of serious grounds in support of the motion, and the unsuccessful attempt to find out from his absent mother why he hadn't shown up for his trial probably led the judge to use the expression cited in the complaint, i.e., "Grow up." These words served no useful purpose, but only accounted for a small part of the hearing and the judge's behaviour.

In conclusion, in accordance with article 267 of the *Courts of Justice Act*, the Conseil found that the nature and gravity of the complaint did not justify an inquiry.

**2012 CMQC 1 – The complainant criticized a judge for his aggressive attitude.**

— While rendering his oral decision, the judge refused to listen to the complainant when he tried to interject and also threatened to expel him. The judge's tone of voice and his recourse to court security in circumstances that did not justify it indicate a momentary loss of composure. The judge should have showed more restraint. However, this was the sole incident of note during the proceedings. Furthermore, the remarks attributed to the judge were not so serious as to make an impartial, reasonably well-informed person conclude that his conduct had undermined public confidence in the justice system or tarnished the integrity, dignity, and honour of the judiciary. The complaint did not warrant an inquiry.

In conclusion, in accordance with article 267 of the *Courts of Justice Act*, the Conseil found that the nature and gravity of the complaint did not justify an inquiry.

---

**2012 CMQC 5 – The complainant criticized a judge for having discriminated against him and for failing to act with integrity, dignity, and honour during a hearing on a motion for revocation of judgment.** — The judge did not discriminate against the complainant, but did make a joke. However, even light humour has no place in the courtroom. Despite this, there was no reason to believe that judicial ethics had been violated.

The Conseil concluded that the complaint was unfounded.

**2012 CMQC 18 – The complainant criticized a judge for failing to act with reserve, courtesy, and composure. The judge had found him guilty of a Highway Safety Code violation after determining that his version of the facts completely lacked credibility.** — It is up to the judge hearing the case to assess the credibility of the parties, at the risk that one of them may be dissatisfied. Playback of the audio recording of the proceedings showed that judge was convinced that the complainant was lying. In this case, the tone of voice and words used cannot be considered a breach of ethics. The judge used his power of discretion in a proper way in rejecting the complainant's version.

The Conseil concluded that the complaint was unfounded.

---

**2012 CMQC 20** – The complainant criticized a judge for his lack of objectivity at a hearing on a motion for revocation of judgment. According to the complainant, the judge refused to hear evidence that he had not been served a statement of offence for violation of municipal bylaw. — The judge ruled that there were no grounds for revoking the judgment. He committed no ethical violation in rejecting the motion. Moreover, the Conseil cannot intervene in judicial rulings. The judge did not make the remarks attributed to him by the complainant. There was no evidence of any breach of ethics.

The Conseil concluded that the complaint was unfounded.

**2012 CMQC 21** – The complainant criticized a judge for showing bias in conducting a trial. He also claimed to have been intimidated by the judge. — A review of the proceedings found no evidence for the complaint. Case management is the judge’s exclusive prerogative, and despite his firm tone, he remained calm, composed, courteous, and impartial at all times. There was no evidence of any breach of ethics. The complainant was dissatisfied with the guilty verdict against him, but it is not the Conseil’s job to review judicial decisions.

The Conseil concluded that the complaint was unfounded.

---

**2012 CMQC 27** – The complainant claimed that a municipal court judge had been discourteous and had made fun of him. — Generally speaking, the judge conducted himself appropriately during the 15 minute hearing. Some of his comments were out of place, notably when he told the complainant to sit down and be quiet until the trial ended. Under sections 2 and 8 of the Code of Ethics for Municipal Judges of Québec, judges must conduct themselves with integrity, dignity, and honour, and act in a manner that is reserved, serene, and courteous. Nonetheless, the nature and gravity of the judge’s remarks did not justify an inquiry.

In conclusion, in accordance with section 267 of the Courts of Justice Act, the Conseil found that the nature and gravity of the complaint did not justify an inquiry.

**2012 CMQC 72** – The complainant criticized a judge for being arrogant at a hearing on a statement of offence. — Contrary to the complainant’s claims, he was given a proper opportunity to present his defence. At no point did the judge speak in an arrogant or intimidating manner. When the complainant tried to interject while the prosecutor or judge was speaking, the judge asked him on several occasions to restrain himself. The complainant was dissatisfied with the judgment, but it is not the Conseil’s job to intervene in the assessment of evidence or to act as an appeal body to review judicial rulings.

The Conseil concluded that the complaint was unfounded.

---

### **Inquiry Stage (Formation of an Inquiry Committee)**

After examining a complaint, the Conseil may decide that an inquiry is warranted. If the Minister of Justice files a complaint, however, the Conseil must hold an inquiry. To conduct an inquiry, the Conseil forms an inquiry committee of five people chosen from among its members. Former Conseil members can also be chosen, but there must be at least three active Conseil members on the inquiry committee. The committee summons the judge and the complainant(s) in question and notifies the Minister of Justice.

Once the inquiry is complete, the committee submits a report to the Conseil, which endorses the enclosed recommendation. Inquiry reports are published on the Conseil's website.

In 2012–2013, three inquiry committees were formed to investigate eight complaints to the Conseil, six of which concerned the same judge and were thus referred to a single committee.

During this same period, reports were filed by three inquiry committees.

---

**2004 CMQC 3** – The complainant criticized a judge in the Court of Québec Youth Division for comments he made in a judgment regarding the *Commission des droits de la personne et des droits de la jeunesse*. The comments were made even though the Commission was not party to the request to review an order under section 95 of the *Youth Protection Act*. The Commission accused the judge of failing to render justice within the framework of the law, to appear objective and impartial, and act in a reserved, serene, and courteous manner. During the inquiry, the Commission contacted the inquiry committee's counsel to advise that its position regarding the complaint filed by the preceding administration had changed. Section 37 of the *Youth Protection Act*, the basis for the original 2004 complaint about the judge's decision, had been repealed in 2007. Furthermore, the Commission said it no longer had concerns about the judge's impartiality were he to hear a case involving the Commission. With this new stance, the Commission essentially abandoned two of the three allegations from the original complaint, i.e., failure to render justice within the framework of the law (Section 1 of the *Judicial Code of Ethics*) and failure to appear impartial and objective (Section 5 of the *Judicial Code of Ethics*). As a result, the scope of the initial complaint was narrowed to the two sentences from the judge's 121-paragraph judgment: "In practice, however, the Commission is invisible when it comes to its youth mission, especially in our region" and "In many respects, the Commission is like an organization that has responsibilities, but no teeth to enforce them."

---

— Once a complaint is filed, the Conseil and/or inquiry committee have exclusive authority to determine how it is handled. The complainant cannot unilaterally withdraw a complaint after its submission. In this case, the inquiry committee had to determine whether it was advisable to end the investigation in light of new information and suggestions from its legal counsel. The modifications narrowed the focus of the complaint to a single aspect. It was no longer a new issue, limiting its potential contribution to the ethics corpus. The specific purpose of the ethics process is to help make judges who are subject to complaint more aware of their duties, first by determining whether their behaviour violates judicial standards of conduct, and second by holding them accountable for their words and actions. The ethics process encourages them to model their future behaviour on recognized standards. In the case that concerns us here, these objectives have been met. The complaint had already gone through the examination stage and three days of inquiry committee hearings, and the judge had already offered a sincere apology. More generally, the ethics process must also play an educational and prevention role for the judiciary as a whole. Pursuing the inquiry at this point would have served little purpose in achieving educational and prevention goals, which could be met by issuing a general reminder to judges about their duties. In the new context created by the modified complaint, a renewed call for caution and restraint was sufficient to communicate the key educational and prevention goals.

---

Lastly, the committee had to determine whether terminating the inquiry was consistent with the goal of maintaining public confidence in the judiciary. It is hard to imagine that a well-informed public would want the ethics process to play out in full simply for the sake of two sentences in a ruling. Furthermore, the organization that filed the initial complainant has expressed its renewed confidence in the judiciary and no longer feels the judge's comments could undermine that trust. Given the narrow focus of the modified complaint, it was decided that pursuing the inquiry was unnecessary for the sound administration of justice, and would have been difficult to justify as an effective use of public funds in view of the direct and indirect costs.

**The inquiry was declared closed.**

---

**2011 CMQC 37** – The complainant criticized a Court of Québec Youth Division judge for his impatience in handing down a judgment and his lack of courtesy, as well as for exercising pressure to accept a compromise on protective measures required for the complainant’s children when visiting their father.

— The judge’s attitude during a Youth Division hearing, his impatience, his manner of intervening in the proceedings, and his inappropriate and often unnecessarily barbed and hurtful remarks to the complainant contravened his obligation to show dignity, objectivity, moderation, courtesy, and composure in carrying out his duties. In addition, his frequent attempts at humour were completely out of place and subjected the complainant to further ridicule. The difficulties of managing parental disputes in no way justified the judge’s language and tone. The complaint therefore had merit. As for the appropriate sanction, the judge’s unblemished disciplinary record must be taken into account, along with the fact that he did not spontaneously offer an apology to the complainant. In matters of judicial ethics, the purpose of a reprimand is to restore public confidence in the judge and the judicial system. In this case, the judge’s behaviour was highly reprehensible, but did not warrant removal.

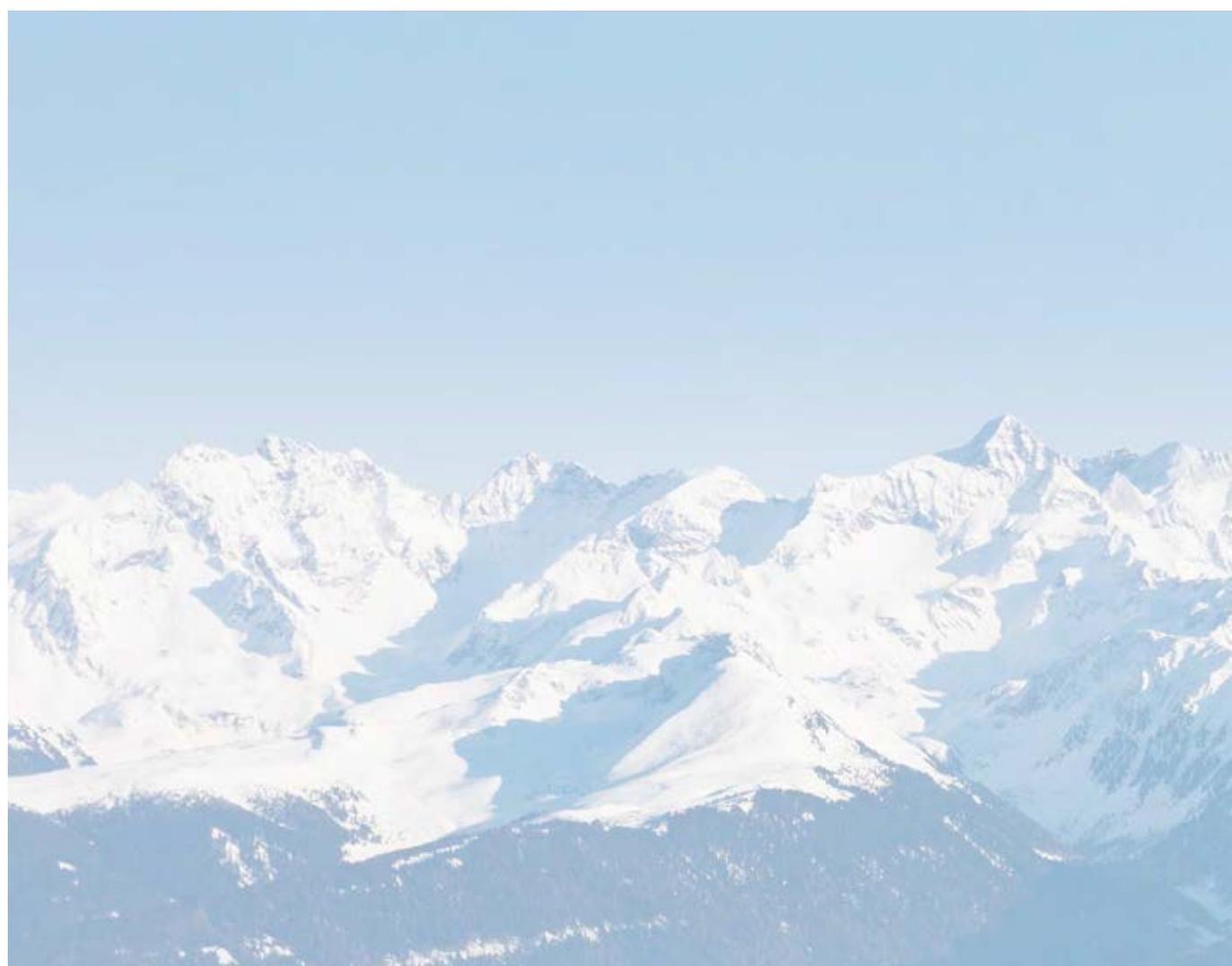
**In conclusion, the Conseil reprimanded the judge.**

---

**2011 CMQC 33** – The complainant criticized a Court of Québec Small Claims Division judge for his comments to an individual who came to court dressed inappropriately. The individual, who was unaware of courtroom rules of decorum, vainly attempted to modify his attire, but was told that the judge would nonetheless hear his case. The judge’s comments included references to the country of origin of the complainant, a Canadian citizen since around 1993. — The language used by the judge was abusive, inappropriate, and incompatible with the courtroom decorum a citizen has the right to expect. The judge’s assertion that the complainant would have been imprisoned for such behaviour in his home country made his remarks all the more offensive. He did not display the reserve citizens are entitled to expect in court. His language was disgraceful and violated the complainant’s dignity. He apologized, but reluctantly and only after considerable delay. The judge’s remarks violated sections 2 and 8 of the Judicial Code of Conduct. They undermined public confidence and damaged the integrity, honour, and dignity of the judiciary. Nonetheless, the comments and attitude of the judge, who had never been subject to a Conseil inquiry, were insufficient grounds for removal. A reprimand was necessary, however, because the judge must correct his behaviour. It was also vital to make the judiciary understand that discriminatory comments are unacceptable.

**In conclusion, the Conseil reprimanded the judge.**

While today's Conseil differs in many ways from that of 1978, its primary objective—earning the public's trust—hasn't changed. These words are more than a slogan; they allude to the mindset and motivation of those who make up the Conseil.



# PROCESSING OF COMPLAINTS IN 2012-2013



This section describes the actions taken by the Conseil in matters of judicial ethics, using tables and figures.

### Summary

Between April 1, 2012, and March 31, 2013, the Conseil de la magistrature received 94 complaints. A further 10 complaints received the previous year were not processed and resolved until 2012–2013

**Table 1:**  
**How complaints were handled**

Complaints deemed unfounded upon receipt	Complaints deemed unfounded after examination	Complaints not warranting inquiry (after examination)*	Complaints investigated	Complaints being processed as of March 31, 2013	TOTAL
49	24	2	8	11	94

\* Article 267 of Court of Justice Act

Complaints referred to the Conseil this year came from 98 complainants (31 women and 67 men). Of these 98 complainants, 11 were not parties to the dispute.

Furthermore, 73 of the 87 complainants who were parties to the dispute (84%) did not have legal representation before the court.

**Table 2:**  
**Complaints over the past three years**

	2010-2011	2011-2012	2012-2013
Number of complaints received	103	90	94
Number of complaints processed	116	99	104

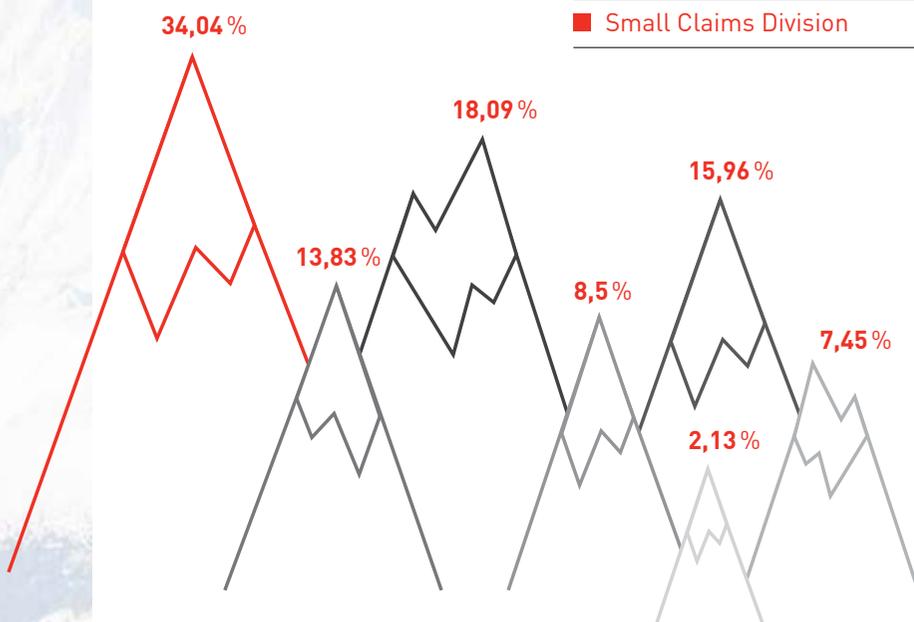
**Tableau 3:**  
**Courts and Tribunals subject to complaint**

Court or Tribunal	Complaints received	Complaints deemed unfounded	Complaints deemed unfounded after examination	Complaints not warranting inquiry (after examination)	Complaints investigated	Complaints under examination
Civil Division (excluding Small Claims Division)	8	4	1			3
Small Claims Division	32	18	8		1	5
Criminal and Penal Division	15	10	4			1
Youth Division	13	7	5			1
Presiding Justices of the Peace	2	2				
Municipal Courts	17	7	6	2	1	1
Other (events occurring outside of judiciary functions)	7	1			6	
<b>TOTAL</b>	<b>94</b>	<b>49</b>	<b>24</b>	<b>2</b>	<b>8</b>	<b>11</b>

**Figure 1**

This figure displays complaint jurisdictions:

	%
Human Rights Tribunal	<b>0</b>
Professions Tribunal	<b>0</b>
Presiding Justices of the Peace	<b>2,13</b>
Other	<b>7,45</b>
Civil Division (excluding Small Claims Division)	<b>8,5</b>
Youth Division	<b>13,83</b>
Criminal and Penal Division	<b>15,96</b>
Municipal Courts	<b>18,09</b>
Small Claims Division	<b>34,04</b>



**Table 4:**  
**Origin of complaints**

Let's take a closer look at where the 98 complaints received by the Conseil originated. Origin is determinate by the complainant's place of residence and not the judicial district where cases were heard, because certain cases may had to be transferred to another region.

Region of Origin	Number of Complainants
Abitibi-Témiscamingue	3
Bas-Saint-Laurent	1
Saguenay – Lac-Saint-Jean	5
Capitale nationale	10
Mauricie	1
Estrie	4
Montréal	21
Outaouais	5
Chaudière-Appalaches	4
Laval	7
Lanaudière	4
Laurentides	4
Montérégie	18
Gaspésie – Îles de la Madeleine	0
Centre-du-Québec	6
Côte-Nord	2
Outside of Québec	3
<b>TOTAL</b>	<b>98</b>

**Table 5:**  
**Summary of complaints**

The following table provides a summary of the decisions reached by the Conseil de la magistrature since it was created in 1978.

		Nombre de plaintes
Number of complains received		2 003
Complaints deemed unfounded upon receipt		1 236
Results after examination	Complaints deemed unfounded after examination	571
	Other complaints not warranting inquiry	49
	Other	27
	Complaints under examination	11
	Complaints investigated	109
Results after inquiry	Complaints deemed unfounded after inquiry	35
	Complaints resulting in a reprimand	47
	Complaints resulting in e recommandation to remove a judge	4
	Other	12
	Complaints under inquiry	11

While these figures do not include complaints currently under review, we can see in general that

- ~ 90.4% of complaints were deemed unfounded upon initial review
- ~ 49% of the complaints that reached the inquiry stage resulted in sanctions
- ~ And when both stages are combined
  - ~ 96.5% of complaints were deemed unfounded, did not warrant inquiry, or became moot
  - ~ 2.5% of complaints resulted in sanctions
- ~ 36.2% of complaints required the collection of additional information
- ~ 61.8% of complaints were ruled upon during the first meeting of the Conseil (i.e., at the examination stage)

Ce document a été rédigé par

**Conseil de la magistrature du Québec**  
300, boul. Jean-Lesage, bureau RC-01  
Québec (Québec) G1K 8K6

Téléphone : 418 644-2196  
Télécopieur : 418 528-1581  
Courriel : [information@cm.gouv.qc.ca](mailto:information@cm.gouv.qc.ca)  
[www.conseildelamagistrature.qc.ca](http://www.conseildelamagistrature.qc.ca)

Dépôt légal – Bibliothèque et Archives nationales du Québec, 2013  
ISBN : 978-2-550-69067-2 (Version imprimée)  
ISBN : 978-2-550-69068-9 (Version PDF – en ligne)

Design graphique : Bleuoutremer



