

Conseil
de la magistrature
du Québec

Activity Report

2015-2016

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ÉQUILIBRE

Between earth and sky
Between river and mountain
Out of the multi-hued horizon
Justice, you appear
Solitary, but serene
Helpful, but independent
Fair, but impartial
It's a question of balance!

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A WORD FROM THE CHAIR

2015–2016 was my final year as Chair of the Conseil de la magistrature. Looking back over my seven-year term, the first words that come to mind are commitment, passion, and the satisfaction of a job well done. I approached my role as Chair of the Conseil with the conviction that it was an opportunity for me to serve the cause of justice and help make it better. And I took up my position with the belief that ongoing efforts would be needed to maintain the public's trust in the judiciary.

Every citizen complaint that raises an ethical issue is a chance for judges to reflect on how they do things, both as individuals and as members of the judiciary.

They also remind Conseil members what an honour it is to work for citizens and litigants and to uphold the ideals of our democracy.

I was thrilled to take on this position, which allowed me to meet amazing people from all over the world and to work with deeply committed individuals dedicated to fulfilling their role and very aware of what a great responsibility it is to objectively handle complaints lodged against their peers.

Over the years, I worked hard to build on the successes of my predecessor, the honourable Guy Gagnon, who devoted his energy to modernizing this institution and using information technology to the benefit of citizens and members of the judiciary alike.

Further steps were taken to make the Conseil more transparent by publishing Conseil and inquiry committee decisions and by helping citizens and judges better understand the Conseil's role. The professional development program for members of the judiciary has been continually improved. It provides

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judges with a variety of content-rich training sessions. Year in, year out, I see the work that judges put into organizing professional development and their attendance at training sessions and annual conferences as a token of their appreciation.

My priorities were innovation and the sharing of expertise. I am particularly proud to have established the Réseau francophone des conseils de la magistrature judiciaire.

Throughout my term, I relied on the commitment and close cooperation of Conseil members and numerous colleagues from the courts and tribunals under Conseil jurisdiction. Without this crucial support, I would not have been able to accomplish as much as I did.

I leave behind a dynamic, cutting-edge, outward-looking organization. I feel a great sense of accomplishment.

I would like to sincerely thank the vice chair of the Conseil, the honourable Mario Tremblay, for his support over the years. His judgement and advice helped me make more informed decisions and better serve the judiciary.

To all members and former members of the Conseil de la magistrature, thank you for your support, the diligence and serious attention given to each complaint, and all the good work you have done over the years. Many thanks also to André Ouimet for his unwavering support and loyalty to the Conseil de la magistrature, its members, and me during the six years he served as Conseil secretary under my chairmanship. My positive assessment of my term as chair owes so much to the work of the entire Secretariat staff. Thank you all so much.



Elizabeth Corte
Chair of the Conseil

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A WORD FROM THE SECRETARY

As the new secretary of the Conseil, I am pleased to submit my first activity report. The report details the results of a busy year that was, for me, a time of transition as I familiarized myself with the Conseil's various responsibilities. The successes of the past year are due to the work of my predecessor, André Ouimet, and the Secretariat team, as I have only been secretary for the past four months.

Over this short period of time, I have made two important observations that in my view speak volumes about the dynamism of the Conseil and its operational model, which is unique in Canada.

My first observation is that the Conseil, in conjunction with the courts and tribunals under its jurisdiction, provides outstanding professional development services for a number of public organizations. The quality of the programs offered and the excellent judicial participation rate are due in large part to the combined efforts of all those involved in putting together and running the programs. Training topics range from legal refreshers to sensitivity training on modern social realities and specific constituent groups. This past year judges had access to 33 training seminars organized by the courts and tribunals and also attended 21 external conferences. A great deal of effort was also made to provide English language training in the form of semi-private classes and intensive immersion sessions. Over 55 judges attended training to improve their English. New judges also receive judicial ethics training shortly after they are appointed. This past year, the Conseil secretary met with 27 new judges.

My second observation is that the number of complaints received by the Conseil has grown over the past three years. The Conseil received 90 complaints in 2011–2012, 89 in 2012–2013, 107 in 2013–2014, 145 in 2014–2015, and 134 in 2015–2016. Most of the complaints received each year have to do with the Small Claims Division of the Court of Québec. Two things should be

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kept in mind in considering these statistics: the number of cases handled by the Small Claims Division and the fact that the parties represent themselves before the judge. Over the last year, of the 125 complainants who were parties to a dispute, 115 (82.7%) did not have legal representation before the court. Is this the reason for the increase in the number of complaints made to the Conseil? It would be dangerous to draw such a conclusion. The theme of the Conseil's annual conference, "Going it alone: Judges and self-representing litigants," was therefore extremely relevant and helped to better prepare judges who find themselves dealing with more and more self-represented litigants.

In the coming year, the Conseil's has several major priorities to deal with, including the ongoing review of the complaints process, helping with Université de Montréal's Centre de recherche en droit public's Access to Law and Justice project on self-representation, and improving the judicial ethics training programs.

Due to the unique nature of the Conseil, few professional experiences can prepare someone to fill the role of Conseil secretary. I would like to thank my predecessor, André Ouimet, for his support as I took over this role and for his advice and encouraging words.

I would also like to thank the honourable Élisabeth Corte, Chief Judge of the Court of Québec and Chair of the Conseil de la magistrature, and the honourable Mario Tremblay, senior associate chief judge and vice chair of the Conseil, for their trust, support, and patience during this learning period.

Finally, I would like to sincerely thank the members of the Secretariat for their dedication and support during my first year in my new role.



Mrs. Fernande Rousseau, Lawyer
Secretary of the Conseil de la magistrature

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1

About the Conseil de la magistrature

Created under the *Courts of Justice Act*, Québec's Conseil de la magistrature is an organization independent of the Ministry of Justice, the government, and all courts and tribunals. This characteristic—*independence*—makes the Conseil a truly one-of-a-kind organization.

Vision, Mission, and Values

Vision

To protect and affirm the independence of the judiciary, to actively contribute to improving the bond of trust between the public and judicial institutions, and to ensure leadership in judicial ethics.

Mission

The Conseil's mission is to ensure judges have access to the best professional development programs, ensure that judges under its jurisdiction have access to the legal documentation they need to do their jobs, receive and examine complaints about the judiciary, and promote the efficacy and standardization of proceedings before the courts. The Conseil's mission also involves working closely with organizations pursuing similar aims outside Québec.

Values

The Conseil's day-to-day activities are dictated by ethics, listening, and adherence to the values laid down in the strategic plan: independence and impartiality, creativity and innovation, and quality service during each interaction.

Functions

The Conseil was assigned seven functions when it was created in 1978 and they remain unchanged to this day. Section 256 of the *Courts of Justice Act* sets out these functions as follows:

1. Organize professional development programs for judges
2. Adopt a judicial code of ethics
3. Receive and examine any complaint lodged against a judge under its jurisdiction
4. Promote the efficiency and standardization of procedure before the courts
5. Receive suggestions, recommendations, and requests made regarding the administration of justice, study them, and make the appropriate recommendations to the Minister of Justice

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6. Cooperate with all bodies pursuing similar aims outside Québec

7. 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 the functions set out in the act are particularly important and constitute the majority of the Conseil's activities:

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

The Conseil carries out these functions with regard to the more than 400 judges appointed by the province who sit on the Court of Québec, including justices of the peace, and on the Professions Tribunal, the Human Rights Tribunal, and municipal courts.

Members

In November 2015, Section 248 of the *Courts of Justice Act* was amended to increase the number of Conseil members from 15 to 16. Consequently, upon the recommendation of Conférence des juges de paix magistrats du Québec, a justice of the peace was chosen and appointed on March 30, 2016.

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

Four associate chief judges of the Court of Québec

A presiding judge of a Municipal Court

One judge chosen from among the presidents of the Human Rights Tribunal or the Professions Tribunal

One judge chosen from among presiding justices of the peace and appointed upon the recommendation of the Conférence des juges de paix magistrats du Québec

Two judges chosen from among the judges of the Court of Québec and appointed upon the recommendation of the Conférence des juges du Québec

Two lawyers appointed upon the recommendation of the Barreau du Québec

One judge chosen from among municipal court judges and appointed upon the recommendation of the Conférence des juges municipaux du Québec

Two citizens who are neither judges nor lawyers

The vice chair is elected by Conseil members. Currently it is the senior associate chief judge of the Court of Québec who holds this position. 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 chief judge, senior associate chief judge, and four associate chief judges from the Court of Québec are ex-officio members of the Council.

The other members are appointed by the government for a maximum three-year term. Once their terms are up, Conseil members remain in their position until they are replaced or their appointments are renewed.

The terms of several Conseil members expired in 2015–2016, and they were replaced or their appointments were renewed. This was the Conseil membership as of March 31, 2016.

Élizabeth Corte
Chair of the Conseil de la magistrature
and Chief Judge of the Court of Québec

Mario Tremblay
Vice Chair of the Conseil
and Senior Associate Chief Judge
of the Court of Québec

Pierre E. Audet
Associate Chief Judge of the Civil Division
of the Court of Québec

Claude C. Boulanger
Associate Chief Judge of the Youth Division
of the Court of Québec

Danielle Côté
Associate Chief Judge of the Criminal
and Penal Division of the Court of Québec

André Perreault
Associate Chief Judge of the Court of Québec
in Charge of Municipal Courts

Martin Hébert
Judge of the Court of Québec
and Chair of the Professions Tribunal

Bernard Mandeville
Presiding judge of the Municipal Court
of Montréal

Johanne Roy
Judge of the Court of Québec

Georges Massol
Judge of the Court of Québec

François Gravel
Judge in charge of the Municipal Court
of Gatineau

Jean-Georges Laliberté
Presiding justice of the peace

Odette Jobin-Laberge
Attorney Emeritus (*Advocatus Emeritus*)

Claude Rochon
Attorney

Cyriaque Sumu
Member representing the public

Jocelyne Lecavalier
Member representing the public

Committees

Executive Committee

The Conseil may adopt by-laws to facilitate the management of its internal affairs or to establish committees and determine their duties. It adopted an internal management by-law to govern the administration and day-to-day operations of the Conseil. The by-law has been reproduced in Appendix II.

The internal management by-law provides for the creation of an executive committee consisting of five Council members, including the chair and vice chair. The three other members are appointed by the Conseil for a term it determines.

Members of the Executive Committee for the 2015–2016 fiscal year

The honourable Élizabeth Corte
Chair

The honourable Mario Tremblay
Vice Chair

The honourable Johanne Roy

The honourable François Gravel

Claude Rochon

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Duties of the Executive Committee

- ▶ Examine issues brought before it, execute the mandates entrusted to it by the Conseil, and then report back to the Conseil
- ▶ At the request of the Conseil chair, examine certain issues in order to present recommendations to the Conseil
- ▶ Examine and make decisions regarding administrative matters between meetings of the Conseil Submit decisions made by the Executive Committee for approval at the next Conseil meeting

In 2015–2016, the Executive Committee met four times.

Complaints Process Committee

In creating a committee to review the process for handling judicial ethics complaints, Conseil de la magistrature du Québec had one specific objective in mind: ensure the effective, efficient, and fair treatment of the complaints it receives. The Conseil assigned the committee this task in November 2013 as part of the objectives described in its 2013–2018 strategic plan.

The committee initially consisted of the following Conseil members:

Judge Mario Tremblay
Committee Chair

Judge Hubert Couture
(whose term ended during committee proceedings)

Odette Jobin-Laberge

André Ouimet, Secretary of the Conseil de la magistrature, provide the committee with assistance. The Secretary and another committee member conducted selection interviews and retained the services of Sèdjro Axel-Luc Hountohotegbè, a PhD student and lecturer at Université de Sherbrooke's Faculty of Law, to assist and guide the committee in its work. Mr. Hountohotegbè was also in charge of writing the committee report, which he submitted in late April 2015.

The committee was specifically tasked with examining a number of issues raised by members, including complaints brought against judges who have retired, resigned, or died, the application of Section 267 of the *Courts of Justice Act*, and the fact that judges are unable to engage in business activities, to name a few. After the committee's report was tabled in February 2016, its recommendations were submitted to the conference of judges for consultation and feedback.

Some of the committee's recommendations would require amending the *Courts of Justice Act*, such as modifying the makeup of the Conseil. Other recommendations could be implemented without changing the Act, such as the initial processing of complaints.

The Conseil's Main Priorities

During Conseil meetings, members also determine the Conseil's main priorities.

2

The Conseil de la magistrature Secretariat

Because Conseil members do not serve full time, the Conseil has a permanent Secretariat. The chair appoints the secretary of the Conseil for a five-year term. The secretary is selected from among lawyers who have been registered with the Barreau du Québec for at least 10 years and are members of the public service. The government determines the secretary's salary, benefits, and other working conditions. Once appointed, the secretary ceases to be subject to the *Public Service Act*. The appointee is no longer considered a civil servant and is on leave from the public service without pay for the duration of his or her term as secretary of the Conseil de la magistrature du Québec.

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. During the 2015–2016 fiscal year, the secretary was backed by three permanent employees and one casual employee. Secretariat employees are civil servants appointed and remunerated under the *Public Service Act*. One of the three permanent employees is an information officer who holds the position of administrative assistant. 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 clerk was renewed in January 2016.

The Secretariat is the repository for the Conseil's official documents. Secretariat employees are also assigned numerous responsibilities to help the organization carry out its mission. They follow up on various administrative matters and coordinate all Conseil activities and current operations.

Secretariat employees are also responsible for providing information to citizens. The Conseil's website is therefore regularly updated to ensure the information on it is accurate. Conseil decisions are published on the website as well as documents intended for the public such as the *Applied Judicial Ethics* guide, the strategic plan, and activity reports. Citizens who wish to file a complaint about a judge can do so directly online by filling out the form on the website. There is also a secure section of the website exclusively for judges where they can access legal documentation online.

In matters of judicial ethics, Secretariat staff handle calls, emails, and letters from individuals requesting information or submitting complaints to the Conseil. They provide information on how to file a complaint and what information the Conseil members will need and also guide citizens through the process as needed or direct them to services that may be better able to assist them. In keeping with objectives set out in the Conseil's strategic plan, Secretariat staff work to respond promptly to and monitor information requests from the public. The Secretariat also meets certain needs for judges under the Conseil's jurisdiction, and helps with orientation sessions for newly appointed judges.

During orientation, judges receive training in ethics and professional conduct. The Secretariat oversees professional development, administers budgets, and provides judges with the legal documentation they need to fulfil their duties.

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

The Secretariat team also handles major initiatives. The following sections provide a summary of the matters dealt with in 2015–2016.

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Budget

To better manage assignments it receives, the Conseil's budget is divided into three categories:

- ▶ Judicial ethics
- ▶ Day-to-day operations
- ▶ Professional development and legal documentation for judges

Shortly after being appointed, new judges meet with the Conseil secretary and the secretary's assistant.

Judicial ethics budget

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

Conseil operations budget

Like the judicial ethics budget, the Conseil de la magistrature operating budget comes from Québec's consolidated revenue fund. As in past years, the Conseil Secretariat paid special attention to the expenditures incurred for fiscal 2015–2016.

Aside from the salaries of Secretariat employees, operating expenses totalled \$301,021.21.

- ▶ \$81,981.39 for judicial ethics
- ▶ \$219,039.82 for Conseil operations

Budget allocation for professional development for 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 refresher and professional development courses for the 400 judges under the Conseil's jurisdiction.

The budget is determined by government decree. The budget for 2015–2016 was \$1,268,698. Of this amount, the Council spent \$526,998.30 to purchase legal documents in paper and electronic formats. This subject is detailed in Section 3 of this report.

The following table provides a breakdown of amounts allocated to each court and tribunal under Conseil jurisdiction for training in fiscal 2015–2016:

| | |
|---------------------------------|------------------|
| Court of Quebec | \$426,350 |
| Presiding justices of the peace | \$55,800 |
| Human Rights Tribunal | \$6,600 |
| Professions Tribunal | \$5,500 |
| Municipal courts | \$117,780 |

The funds allocated for professional development are calculated according to the needs of the courts and tribunals. During the fiscal year, requests to adjust the budget allocation can be submitted to the Conseil for approval. An amount is earmarked to organize and run the Conseil's annual conference, and for certain professional development courses such as a training session on criminal and penal matters for newly appointed judges, and English language courses for judges.

Highlights

2015 Judges 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.

This year, the judges conference was held in Charlevoix from November 4 to 6, 2015. Over the years, the conference has become a must-attend event for judges and was a big success again this year.

The theme this year, «Seul devant le juge... seul», was met by attendees with enthusiasm and interest. There have always been people who appear in court without legal representation. This is not a new phenomenon. However, the trend has accelerated over the years and more and more people are now representing themselves. And at the end of the day, the judge is on his or her own too! The conference included workshops and lectures to gauge the extent and nature of the phenomenon, both in Québec and elsewhere. The conference also addressed a number of questions: is this a generational phenomenon? Is there a cultural aspect to it? Is it a reflection of the times? Is it simply a matter of cost or is it a deliberate choice? In short, is there an explanation for this phenomenon and its scope and spread?



Changes to the Conseil's Secretariat

On November 30, 2015, André Ouimet retired as secretary of the Conseil after serving a five-year term, which was renewed for another three. He held the position for eight years. Fernande Rousseau has taken over as secretary for a five-year term. Although Mr. Ouimet is no longer secretary of the Conseil, he will continue to act as secretary of the Réseau francophone des conseils de la magistrature judiciaire.

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Conseil Promotion

Under the *Courts of Justice Act*, the Conseil has a mandate to cooperate with bodies outside Québec that pursue similar goals. To fulfill this mandate, the Conseil has developed closer ties with institutions responsible for professional development and judicial ethics in Canada and in France.



Réseau francophone des conseils de la magistrature judiciaire

Réseau francophone des conseils de la magistrature judiciaire

The initial work carried out by the Réseau francophone des conseils de la magistrature judiciaire (RFCMJ) since its creation by Conseil de la magistrature du Québec has helped it to strengthen its role. The Conseil chair, the honourable Élisabeth Corte, held an initial meeting for executive committee members. During the conference call, André Quimet was appointed secretary general.

The annual conference, the Conseil's flagship event, was originally planned for November 2015 but was postponed until April 2016 due to the Paris attacks. In the meantime, the secretary general had several meetings to build and strengthen ties with organizations, other networks, and the International Organisation of La Francophonie, one of RFCMJ's institutional partners.

Awareness and information activities

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.

Orientation for New Judges

Every year, the Court of Québec and municipal courts induct new judges into their ranks. Between April 1, 2015, and March 31, 2016, the provincial Cabinet appointed 14 new judges and 2 new justices of the peace to the Court of Québec.

In addition, 8 new judges were inducted—two full time at the Municipal Court of Montréal, two full time at the Municipal Court of Laval, and one full time at the Municipal Court of Québec City. The provincial Cabinet also appointed three new part-time municipal judges, one at the Municipal Court of Châteauguay, one at the Municipal Court of Blainville, and one at the Municipal Court of Mont-Saint-Hilaire.

Shortly after being appointed, all the new judges under the Conseil's jurisdiction 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. During this meeting, the new judges familiarize themselves with 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.

3

Documentation, Training, and Continuing Education for 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 fiscal 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 a website available to judges giving them online access to a multitude of legal documents and case law and statute databases. In addition, a partnership agreement signed with Centre d'accès à l'information juridique (CAIJ) has increased the quantity of available documentation by providing judges with access to databases and well-organized libraries in most regions throughout Québec.

The Conseil is making every effort to improve access to online databases. Over the course of 2015–2016, the Conseil spent \$430,093 on purchasing legal documentation in paper and electronic format, including acquiring licenses to access databanks of jurisprudence and statutes.

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

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 submit an annual professional development plan and file a fiscal year-end report on the activities conducted during the year. After reviewing the programs offered, the Conseil allocates a budget to each court and tribunal based on expressed needs recognized by the Conseil. Thus, each court or 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 and penal matters for newly appointed judges.

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Amounts allocated for training judges must be used primarily for training sessions, seminars, and study days. 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.

At the end of the fiscal year, the Conseil asks the courts and tribunals to compile a report on the professional development activities they have held. The following section describes the training sessions organized by the courts and tribunals for judges presiding over the various divisions and bodies.

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.

Judges of the Court of Québec

The Court of Québec has jurisdiction over civil, criminal, and penal matters as well as youth matters. Its judges also sit on administrative matters and in appeal in cases provided for by law. The court is divided into three divisions: the civil division, the criminal and penal division, and the youth division.

During the 2015–2016 fiscal year, Court of Québec judges attended numerous professional development activities. Eighteen two- to four-day seminars were held and a wide variety of topics were addressed:

- ▶ Criminal law days
- ▶ Civil law days
- ▶ Youth days
- ▶ Justice in Aboriginal communities
- ▶ Introduction to youth law
- ▶ Tax law
- ▶ Administrative law
- ▶ Settlement conferences in civil cases
- ▶ Settlement conferences in youth cases
- ▶ Small claims
- ▶ Case management
- ▶ Special case management
- ▶ Penal proceedings (Special Penal Cases Division)
- ▶ Judgment writing
- ▶ Social realities
- ▶ Ethics
- ▶ Computer science
- ▶ Fundamental rights

In addition to these topics, activities included regional training, basic training for new judges, and the 21 external conferences attended by 24 judges.

In November 2015, an additional training session was also held on the new *Québec Code of Civil Procedure*, which all the judges in the civil and youth divisions of the Court of Québec attended.

Presiding justices of the peace

The core competencies of presiding justices are exercised concurrently with the judges of the Court of Québec. Judges hear cases brought under Part XXVII of the *Criminal Code* concerning violations of federal laws other than the *Criminal Code*, as well as cases concerning infractions of provincial and federal laws to which the *Code of Penal Procedure* applies. They authorize and hear cases in accordance with the *Code of Criminal Procedure*. They issue warrants and other types of authorizations pertaining to searches, frisks, seizures, and access to premises under the *Criminal Code* as well as under other federal and provincial laws. They also issue arrest warrants and summons orders, preside at appearances, and order remands in custody and releases.

Presiding justices of the peace attended certain seminars organized for them, including:

- ▶ Communication and courtroom conduct
- ▶ Retirement planning seminar
- ▶ Social realities
- ▶ Basic training of new judges
- ▶ Mentor judge training

Judges also received special training in judgment writing, in addition to attending regional training sessions.

Members of the Human Rights Tribunal

As a specialized tribunal, the Human Rights Tribunal is authorized to hear and decide discrimination and harassment disputes based on race, color, sex, gender identity or expression, pregnancy, sexual orientation, civil status, age, religion, political views, language, ethnic or national origin, social condition, disability, or the use of any means to palliate a disability. The Tribunal may also hear cases involving the exploitation of elderly people or individuals with disabilities and cases involving affirmative action programs.

The report submitted to the Conseil by the chair of the Human Rights Tribunal mentions two main professional development activities for its members:

- ▶ Members' summit on the theme of "Conflicts between fundamental rights"
- ▶ Legal writing seminar

This year's Human Rights Tribunal annual conference was held on the theme "The Human Rights Tribunal: 25 years of experience in equality"

Members of the Professions Tribunal

The Professions Tribunal is an appeal body specializing in professional matters that is recognized by superior courts. Created in 1973 under section 162 of the *Professional Code*, the Tribunal is made up of 11 judges of the Court of Québec. Its role is to hear appeals of professional order decisions. The Tribunal can uphold, amend, or overturn any ruling by a professional order.

Professions Tribunal members attended two professional development activities during the 2015–2016 fiscal year.

- ▶ The Tribunal's annual conference was held in April. It was an ideal opportunity for members to share ideas and reflect on the changing rules of professional law.
- ▶ The annual joint-action day took place in December 2015.

Municipal judges of Québec

Municipal courts, created by the *Act Respecting Municipal Courts*, are courts of first instance. They are spread throughout the province and are presided over by municipal judges.

They have limited jurisdiction in civil matters, exercised mostly in connection with tax claims, permit rates, law, and compensation. In penal matters, they have jurisdiction over penal proceedings for offences that violate Charter provisions; municipal bylaws, resolutions or orders; or acts governing a municipality.

Municipal courts also hear and rule on violations of Part XXVII of the *Criminal Code*, i.e., summary conviction offences.

The professional development program provides six training days each year for all municipal judges, an additional day and a half for judges who hear cases under Part XXVII of the *Criminal Code*, and two additional days for judges who wish to register for the oral judgment seminar or the judgment writing seminar.

In 2015–2016, 121 participants registered for the 7 seminars offered to municipal judges.

- ▶ Basic training day
- ▶ Seminar on conduct of trial
- ▶ Penal law seminar
- ▶ Symposium
- ▶ Social realities seminar
- ▶ Criminal law seminar

186 participants attended the 14 conferences offered to judges of the Municipal Court of Montreal, and 28 judges registered for the Municipal Court of Montreal Symposium.

Eight municipal judges also had the opportunity to attend five external training activities.

- ▶ Communication skills in the courtroom, Stratford
- ▶ Criminal procedure, ethics, and the Charter, Edmonton
- ▶ Questions pertaining to the Charter, Québec City
- ▶ The new normal: managing cases involving self-represented litigants, Vancouver
- ▶ France-Québec visit, fight against recidivism – mental health – therapeutic jurisprudence, Paris

Furthermore, seven municipal judges attended training sessions offered by the National Judicial Institute or the Federation of Law Societies of Canada.

Other Training and Professional Development Activities

Specialized training on criminal issues

Every year in Québec, the Canadian Association of Provincial Court Judges (CAPCJ) partners with provincial courts to organize a specialized training session on criminal issues for newly appointed judges. In 2015–2016, the training session took place from April 19 to 24, 2015, and was attended by 14 judges from the Court of Québec and 2 municipal judges.

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 one program organized by the Office of the Commissioner for Federal Judicial Affairs Canada.

To this effect, it established a policy, which was updated in March 2015. The policy was updated mainly so judges could take advantage of semi-private courses and receive language training through various means of learning. For example, instructors and judges can agree on lessons in person, on the phone, or using a video conference system such as FaceTime or Skype.

Application of the policy

For 2015–2016, the federal government awarded the Conseil de la magistrature a \$108,000 grant to deliver English language training programs for judges. In order to be accepted into this program, judges must meet certain criteria.

- ▶ They must first undergo an assessment test to demonstrate that they have intermediate-level English language skills. The goal of the program is for judges to perfect their English, so beginners are not eligible.
- ▶ Once they have begun the program, judges must progress to an advanced level of English within two years.

As part of the program, judges can take advantage of semi-private lessons. When they register for the program, they agree to receive eight hours of instruction per month over a ten-month period. For the 2015–2016 fiscal year, 36 judges were registered for semi-private lessons.

Another option for judges looking to perfect their English is a the week-long immersion course. The Provincial Court of New Brunswick organizes sessions and invites judges from the Court of Québec and municipal judges to attend. A session was offered in 2015–2016 and 12 judges attended.

Office of the Commissioner for Federal Judicial Affairs' English language training program

The Office of the Commissioner for Federal Judicial Affairs organizes English-language immersion sessions. The sessions are offered to federally and provincially appointed judges and are held outside Québec. The Office of the Commissioner for Federal Judicial Affairs determines the number of judges from Québec who can attend each session. Last year, three judges from the Court of Québec attended an immersion session held in Fredericton, New Brunswick.

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Judicial Ethics

The Conseil's job is to receive and examine complaints lodged against provincially appointed judges. Complaints are usually analyzed in two steps. First, Conseil members examine the complaint and decide if they require additional information to reach a decision. If necessary, one member is chosen to collect the information and report back to the Conseil. Once it has concluded its examination, the Conseil makes a decision. It can decide that the complaint is unfounded, that the nature and scope of the complaint does not warrant an inquiry, or that there is a need to form an inquiry committee, made up of five Conseil members. Following its inquiry, the committee makes a recommendation that the Conseil close the file, reprimand the judge, or recommend that the Minister of Justice initiate proceedings to remove the judge in question.

Judicial Ethics Support Committees

Judges under Conseil jurisdiction can count on the advice and support of other judges and can talk to them when they find themselves in situations that raise questions about ethics or professional conduct.

Further to the recommendations of a working group composed of representatives from the Conseil de la magistrature, the Conférence des juges de la Cour du Québec, and the Conférence des juges municipaux, two committees have been formed to support judges in ethical matters.

Governance committee

The governance committee's mandate is to identify judges interested in being part of an advisory committee, define that committee's mandate and operating rules, organize ethics and professional conduct training for members of the advisory committee and judges, and take steps to raise awareness about the advisory committee.

The governance committee is composed of:

- ▶ The senior associate chief judge or an associate chief judge of the Court of Québec
- ▶ A judge of the Civil Division of the Court of Québec
- ▶ A judge of the Youth Division of the Court of Québec
- ▶ A judge of the Criminal and Penal Division of the Court of Québec
- ▶ A municipal judge
- ▶ A presiding justice of the peace

Members are appointed by the chief judge of the Court of Québec for a three-year renewable term. They are appointed upon the recommendation of the Conférence des juges de la Cour du Québec, the Conférence des juges de paix magistrats, and the Conférence des juges municipaux.

Advisory committee on ethics and professional conduct

The advisory committee's main job is to respond to requests for opinions and guidance from judges. The committee is composed of three judges. Each year, the committee reports to the governance committee on the number of opinions provided and the main subjects discussed. The committee's work is strictly confidential.

Codes of Judicial Ethics

Two codes of judicial ethics adopted by the Conseil de la magistrature in 1982 outline the conduct expected of judges. They are the *Judicial Code of Ethics* and the *Code of Ethics for Québec 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, who work exclusively as municipal judges in Québec. The second specifically addresses part-time municipal judges in Québec who act in other municipalities.

The *Code of Ethics for Judges* applies to the greatest number of judges.

It contains the following ten articles:

1. The judge should render justice within the framework of the law.
2. The judge should perform the duties of his office with integrity, dignity and honour.
3. The judge has a duty to foster his professional competence.
4. The judge should avoid any conflict of interest and refrain from placing himself in a position where he cannot faithfully carry out his functions.
5. The judge should be, and be seen to be, impartial and objective.
6. The judge should perform the duties of his office diligently and devote himself entirely to the exercise of his judicial functions.
7. The judge should refrain from any activity which is not compatible with his judicial office.
8. In public, the judge should act in a reserved, serene and courteous manner.
9. The judge should submit to the administrative directives of his chief judge, within the performance of his duties.
10. The judge should uphold the integrity and defend the independence of the judiciary, in the best interest of justice and society.

Article 9 of the *Code of Ethics for Judges* is absent from the *Code of Ethics for Municipal Judges* because it does not apply to municipal 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 behaviors, nor list permissible ones.

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.

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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.

Complaints Handling Process

Anyone may file a complaint with the Conseil de la magistrature against a judge under its jurisdiction, if they have knowledge of actions or speech that does not comply with the conduct expected of judges outlined in the *Judicial Code of Ethics*. 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.

The members of the inquiry 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 Minister's representative may intervene during the inquiry. At this stage, the Conseil may retain the services of a lawyer or specialist to assist the committee in its inquiry. The judge in question 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 to preserve the integrity of the judiciary. The function of the inquiry committee is subject to public order.

Depending on the nature of the complaint, the Conseil 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. 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 sends a reasoned opinion to the Minister of Justice, the judge in question, and the complainant.

If, on the other hand, the inquiry report determines that the complaint is founded, the Conseil, 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 suspends the judge for a period of 30 days.

As for the removal of judges, the Conseil only has the power of recommendation. If the Conseil concludes as a result of its inquiry that removal is necessary, it advises the Minister of Justice and Attorney General, who petition the Court of Appeal.

At this point, the judge is automatically suspended from his or her position until the Court of Appeal rules on the matter.

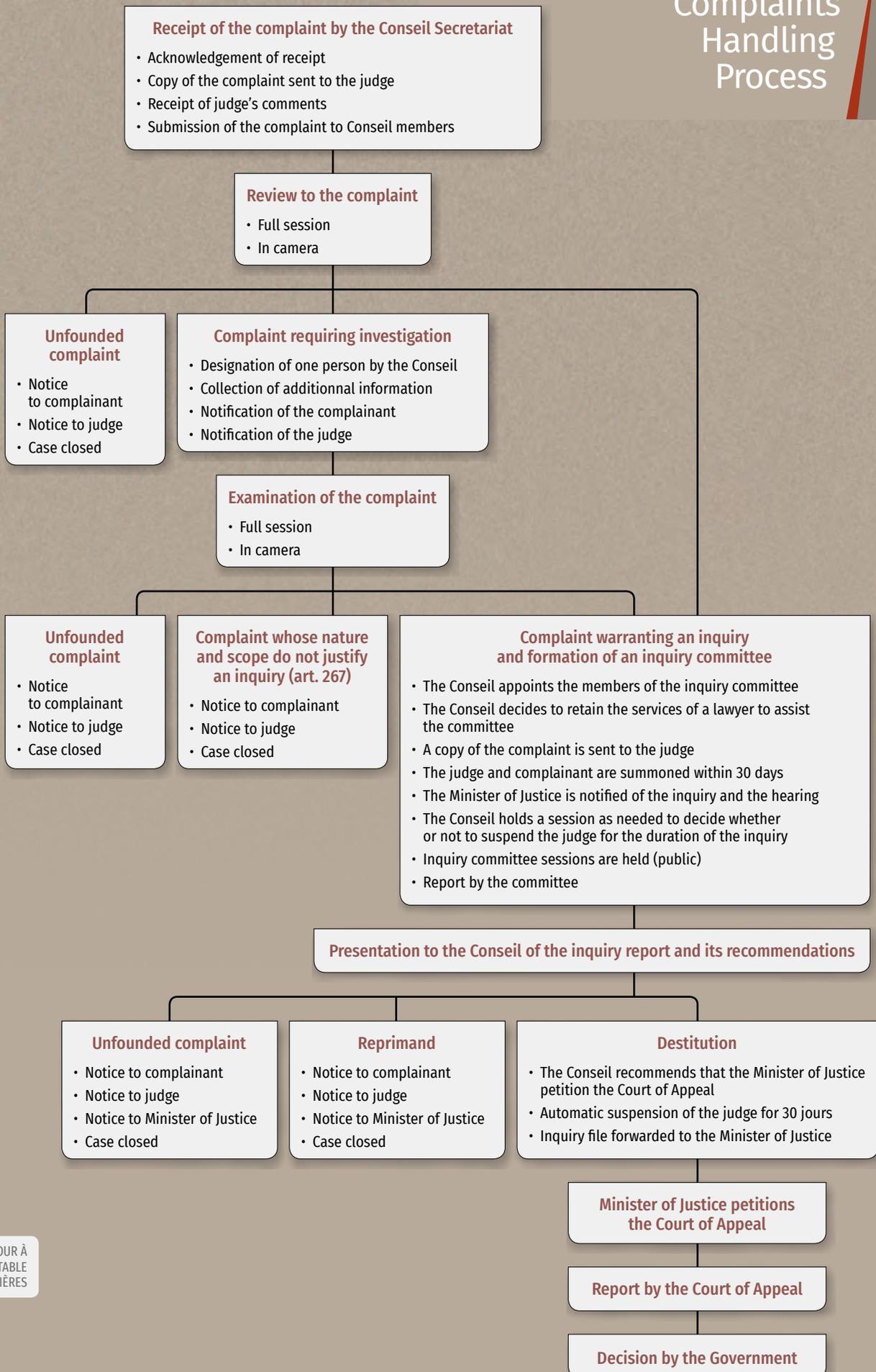
After its inquiry, the Court of Appeal sends a report to the government, which has the power to remove a judge from the bench.

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.

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Complaints Handling Process



Decisions by the Conseil

This section summarizes the decisions made by the Conseil following an examination and collection of additional information or following an inquiry. However, complaints that were deemed unfounded—i.e., not requiring the collection of additional information—were not summarized. In such cases, most of the time, the complainants were dissatisfied with the ruling handed down by the judge, and the criticisms made were not associated with the judge's behavior.

Examination stage (collection of additional information)

The Conseil may request any information it deems necessary from anyone and examine the relevant record. 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 summaries, names of judges and complainants have been redacted, i.e., omitted to ensure confidentiality of personal information.

Complaints against judges assigned to the Small Claims Division of the Court of Québec

2014-CMQC-085

The complainant criticized the judge's behavior towards her. In particular, she claimed the judge was impolite and impatient with her for no reason, that he prevented her from speaking, and that he lost his temper.

The judge was polite and patient. He tried to help the complainant properly by providing the necessary explanations about rules of evidence and applicable law, but she seemed convinced that the mere fact that she had been the victim of an accident warranted compensation. The presentation of evidence clearly did not go as the complainant had hoped. Judges should remain composed throughout the trial, and the judge did lose his patience at the end of the 1 hour and 23 minute hearing. The judge had the authority to render a decision based on his assessment of the evidence, but the way he ended the hearing was abrupt and unreasonable and could be considered a failure of his duty to remain calm. Had he not retired, an inquiry would have been recommended, but given the circumstances, the file will be closed.

2014-CMQC-093

The complainant accused the judge of displaying a generally inappropriate and unsuitable attitude. She claimed the judge was flippant and overly familiar as well as aggressive and confrontational. After greeting the parties, the judge proceeded to investigate whether or not the defendants had been in contact with people infected with Ebola. According to the complainant, the judge was concerned because the defendant's spouse was born in New Guinea, one of the countries affected by the epidemic. The complainant also claimed he used a mocking, vulgar tone when verifying the defendant's name.

The analysis of the complaint revealed it could not be dealt with summarily. The complaint needs to be handled in accordance with the process established by the *Courts of Justice Act*. The complaint raises questions about the judge's behavior. An inquiry will allow us to determine to what extent the judge's behavior and speech may have constituted a breach of ethics. An inquiry will conclude if the judge acted within the framework of the law, with sufficient integrity, dignity, and honor, if he properly and diligently performed his judicial duties, and if he was reserved, polite, and composed.

The Conseil concluded that the complaint warranted an inquiry. An inquiry committee was therefore formed.

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2015-CMQC-005

The complainant accused the judge of harshly scolding him during his testimony, expressing anger towards him, not giving him time to refute the charges laid against him, showing bias, and withholding documents the judge had been given access to by the defendant.

Playback of the audio recording of the proceedings revealed that the judge's behavior was above reproach and that he continually steered the complainant and the defendant back to the matter at hand—a \$685 claim. He was polite to both parties, and in accordance with section 977 of the *Code of Civil Procedure*, conducted oral examinations himself. He provided each party with fair and impartial assistance so as to apply the law and ensure that it was sanctioned. He gave the complainant the opportunity to discuss the dispute without interfering and showed no anger towards the complainant. When he explained to the parties that if their dispute persisted, they would end up in the Criminal Division, he was addressing both the complainant and the defendant. The judge showed no bias and remained completely impartial.

The Conseil concluded that the complaint was unfounded.

2015-CMQC-006

The complainant accused the judge of being rude and acting condescending towards him.

Playback of the audio recording of the proceedings revealed that the judge's overall behavior was above reproach up until the moment she granted the postponement the complainant requested. At this point, for no apparent reason she adopted a sharp, curt tone when addressing the complainant. Her comments were all the more surprising because they came at the end of the hearing and were about the complainant's initial attempt to have his case heard before the one preceding it. The judge should have shown greater restraint and been more courteous. She did not demonstrate the composure required of judges in court.

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

2015-CMQC-030

The complainant accused the judge of being disrespectful, patronizing, temperamental, impatient, and curt, and claimed he had rushed to end the hearing. He also accused the judge of partiality and of refusing to recuse himself. The complainant accused the judge of making the decision not to recuse himself unilaterally when the complainant requested a revocation.

The procedure laid down in Section 238 of the *Code of Civil Procedure* states that any motion seeking recusal be handled by the judge hearing the case. Therefore, the judge did not violate any rules of ethics in ruling on this request. The judge did explain to the complainant a number of times how the hearing should proceed and that it was his job and not the complainant's to examine witnesses. It is not true that the complainant was not allowed to present his evidence. The photographs were already in the case file and he was allowed to comment on them. The onus was on the complainant to prove that damage was caused. The Conseil de la magistrature is not a court of appeal and it cannot intervene in the assessment of evidence presented to a judge. During the hearing, the judge firmly but politely tried to help the complainant determine what was actually being disputed and noted where the evidence was lacking, which is his job.

The Conseil concluded that the complaint was unfounded.

The complainant accused the judge of being aggressive, impatient, of continually cutting him off and of raising his voice and yelling at him.

The hearing for the complainant's case lasted an hour and a half, nearly 50 minutes of which were spent on the complainant's arguments and testimony. Playback of the court proceedings did not support any of the allegations made by the complainant. On the recording, the judge was not aggressive, impatient, or unfair. On the contrary, throughout the hearing the judge was patient, asking the complainant questions so he could explain his claim, trying to guide him so as to understand the amounts claimed and clarify his explanations, and calling him to order when necessary by asking the complainant to get to the point without putting his day-to-day relationships with the owners association and the management company on trial. The judge had to remind the complainant to turn his phone off, but his manner was not aggressive and he did not yell as the complainant claims. The judge used the same tone of voice and addressed the complainant in a calm and composed manner. He asked the complainant several times to speak into the microphone, but it was to point out that the complainant's voice couldn't be heard and the proceedings were being recorded. Finally, the claims that the judge was unfair and acted differently with the complainant than with the defendant were not supported by playback of the audio recording. The judge tried to understand the nature of the parties' dispute and did not show partiality. Clearly the complainant was dissatisfied with the ruling. But the Conseil de la magistrature has no authority to intervene with the assessment of evidence or act as an appeal body to reverse rulings handed down by a judge.

The Conseil concluded that the complaint was unfounded.

The complainant criticized the judge's behavior during a trial hearing. She claimed he was unpredictable, abusive, aggressive, had an excessive need to control everything, and intimidated both parties right from the beginning of the hearing.

Playback of the audio recording of the proceedings revealed that the judge did state at the beginning that he would control the proceedings, as it customary for a judge to do in court. It's also true that the judge asked the complainant three times not to address the witnesses directly but to ask him the questions instead, and if she needed clarification, he would ask the questions himself. The first time, the judge explained that the complainant could not examine a witness herself because that was the rule. The second time, he told her she did not have the right to cross-examine the merchant who would be testifying. The third time, he listened to the question but deemed it inadmissible because the witness familiar with the facts at issue had not yet testified and the evidence could not be refuted before the testimony had been heard. This type of interruption is normal in a hearing and the judge had to remind the complainant of that fact. She claimed that the judge was biased, but playback of the audio recording of the proceedings shows that he was equally strict with the opposing party and his witness. The judge's intervention about the complainant's misunderstanding of certain passages was justified, but could have been handled more delicately. As for the discomfort expressed by the complainant's property manager and the opposing party, who had sent her emails, the Conseil cannot take cognizance of their opinion but must limit itself to the playback of the audio recording of the proceedings. The judge's tone was not arrogant. His tone was perhaps somewhat light and jovial at times, but that is not what the complainant and others perceived. However, it is difficult to see any indication of unpredictable, abusive, aggressive, sarcastic, or cruel behavior on the part of the judge or to conclude he threatened the complainant from the outset of the hearing. The complainant enclosed a Conseil decision with her complaint indicating that the judge had previously been reprimanded. This document is not relevant because the Conseil must examine complaints it receives on their own merits and according to the specific facts of each complaint.

The Conseil concluded that the complaint was unfounded.

2015-CMQC-090

The complainant accused the judge of being rude, disrespectful, and of talking down to him. According to the complainant, the judge's tone and behavior were unwarranted and his responses to the complainant's remarks were unfounded, gratuitous, insulting, disrespectful, and even degrading.

The complainant is a lawyer who had requested the revocation of a judgement against him ordering him to pay \$5,572 for an outstanding balance on the installation of a geothermal system. He claimed he had never received the notice to appear but had instead received a copy of a judgement that did not concern him and had promptly returned it to the registry office without keeping a copy. Playback of the audio recording of the proceedings revealed that the judge spoke in a calm and patient tone for nearly ten minutes while he read the judgement the complainant was asking be revoked and then asked him questions about his absences. He raised his voice on several occasions, but played his role of controlling the courtroom, whereas the complainant continued to restate his version of the facts without being able to provide any evidence that he received the wrong document, since he had not kept a copy. He asked the judge to take him at his word and overturn the ruling on the grounds that he had not received the notice to appear due to a court office error, when in fact a copy of a notice to appear was on file. The *audi alteram partem* rule was not violated during this hearing. In this case, the judge was firm and only raised his voice because of the inconsistencies and insufficient proof presented by the complainant. This is not abnormal given the amount of times the complainant repeated himself and does not constitute a breach of ethics.

The Conseil concluded that the complaint was unfounded.

2015-CMQC-088

The complainant accused the judge of losing control of the situation and of losing his temper. She claimed he lashed out at her and others. She claimed the copy of the court recording was falsified and that all the evidence that could have incriminated the defendant or proven the complainant's claim had been erased. She complained she was not given a chance to refute the accusations made by the defendant.

Playback of the audio recording of the proceedings revealed that the judge never lost control of the situation or of his temper and did not "have a go" at anyone, contrary to the complainant's accusation. He was patient and the complainant had every opportunity to tell her side of things. He listened attentively to the complainant's version of events and paid attention to the details to get a clear understanding of the facts. He treated the defendant and his witnesses the same way. The Conseil de la magistrature found no evidence warranting further investigation of the complainant's allegations that the recording had been falsified and evidence erased. Regarding her claim that the judge did not call any witnesses when the two parties gave their version of events, it is the judge's responsibility to properly manage the proceedings, which includes hearing witnesses. In this case, the judge was not presented with any request to exclude witnesses. Therefore, the judge did not violate any provisions of the *Code of Ethics*.

The Conseil concluded that the complaint was unfounded.

2015-CMQC-097

The complainant accused the judge of interrupting him several times while he was presenting evidence, of being impatient with him, and of giving the defendant preferential treatment in the context of his case. He also claimed that during his testimony, the judge had advised him that it was 5 p.m., and that she wanted to go home, as did everybody else present.

Playback of the audio recordings of the proceedings revealed that the judge was patient and gave the complainant the necessary time to present his evidence. Her tone was polite and the atmosphere of the trial was calm throughout. The judge showed no signs of partiality towards the defendant, contrary to the complainant's claim. The judge's behavior was above reproach.

During his testimony, the complainant tried to bring up remarks made during mediation. The judge reminded him that mediation sessions were confidential and she therefore did not want to hear anything about it. This was the only restriction the complainant faced when giving his testimony.

The judge's stance was not only valid, it was legally necessary. None of the judge's comments were meant to rush the parties in the dispute or bring the hearing to a sudden end. At the end of the hearing, the complainant thanked the judge for the time she took to hear the case before going into deliberation.

The Conseil concluded that the complaint was unfounded.

2015-CMQC-104

The complainant, his spouse, and their son were representing a defendant accounting firm in proceedings that came before the judge in question. The complainant accused the judge of being “disturbingly biased,” of impatiently interrupting the defendant’s witnesses, and of making analogies that left them feeling muzzled and humiliated. He also claimed that the judge had prevented him from presenting evidence, had accused him of unfair competition and of using confidential data based on the testimony given, had not read the 2,000 pages the defendant submitted to the court, and had not allowed the defendants to present a full defense. The complainant further claimed that the judge had been disrespectful and impatient with his spouse, had told him that he had “a long way to go” in his counterclaim, and had only allowed him to present one of his 67 pieces of evidence.

Playback of the audio recording of the proceedings showed that at no time was the judge impatient during the full-day trial. No portion of the playback implies that the judge was “disturbingly biased” or biased at all. On the contrary, he was clearly impartial and was equally respectful to both parties and everyone present in court. Right from the beginning, the judge explained to the parties that the \$3,000 in damages claimed by the plaintiff for unfair competition and use of confidential information could not be claimed in cash, so it was irrelevant for the defendant to introduce evidence to counter this portion of the claim. The judge was under no obligation to read the 2,000 pages submitted by the defendant. He retained the option of consulting all or some of the documents if the hearing made clear the need to do so, but manifestly this was not the case. He repeatedly asked the parties about relevant exhibits that would support their allegations and testimonies related to the real issues in dispute. Full playback of the court audio recordings revealed that the judge was not disrespectful or exasperated when dealing with the complainant's spouse. The judge's tone was respectful when he spoke to the complainant's spouse and other people, including the complainant. The judge dealt with the complainant in a calm, gentle, and patient manner. He used the expression “the bar is high” when commenting on the defendant's counterclaim. The judge simply stated that the evidence did not show any abuse or bad faith at that time on the part of the plaintiff and explained, using strong imagery, the burden of proof that lay with the defendant to prove her claim. In this context, the terms the judge used were not inappropriate.

The Conseil concluded that the complaint was unfounded.

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The complainant accused the judge of not treating him with respect, of criticizing key points of the case, and of having tried to force him to negotiate with the other party.

Playback of the court audio recording showed that while familiarizing himself with the case, the judge questioned the complainant without providing him with the assistance necessary to present evidence, was critical of the evidence of damage, and made derogatory remarks about the complainant. The analysis of the complaint revealed it could not be dealt with summarily. When the complainant indicated he wanted to proceed despite the judge's invitation to suspend the hearing and allow the parties to meet and find a compromise, the judge began to criticize the evidence again and even went so far as to say it seemed insufficient. He spoke again about the advantages of negotiating. One party, presumably the plaintiff, offered to meet with one of the defendants, who appeared to be holding a document. The judge immediately announced, in a sarcastic tone, that there would be a postponement at the defendant's expense. Surprisingly, the judge repeated his offer to suspend the hearing so the parties could talk things over. One of the defendants repeated that he wanted to proceed. The judge ordered a postponement, gave a few reasons, and ordered the defendants to pay the fees. The complaint needs to be handled in accordance with the process established by the *Courts of Justice Act*. Playback of the audio recording of the proceedings revealed serious questions about the judge's behavior. Collecting and analyzing the facts will allow us to determine if the judge acted within the framework of the law, with integrity, dignity, and honor, if he conducted himself with reserve, courtesy, and composure, and if he discharged his judicial duties in a helpful and diligent manner.

The Conseil concluded that the complaint warranted an inquiry. An inquiry committee was therefore formed.

Complaints against judges assigned to the Civil Division of the Court of Québec

The complainant claimed that the judge knew in advance that the tenant would win the case, as indicated by his attitude. She affirmed that the judge laughed at her, that she felt belittled, and that she was treated unjustly and unfairly.

Playback of the audio recording of the proceedings showed that during the hearing the judge did not ask any questions meant to embarrass, undermine, or irritate the complainant. The complainant reacted negatively to questions the judge asked about amounts and payment dates, even though the amounts and dates were central to the dispute. The complainant had all the time she needed to express herself and the judge didn't hesitate to let her speak again to add something after she had already begun summarizing the arguments. The complainant was obviously dissatisfied with the ruling, but the Conseil de la magistrature cannot intervene with the assessment of evidence or act as an appeal body to review the rulings of a judge.

The Conseil concluded that the complaint was unfounded.

The complainant—who was a defendant in an originating motion and an applicant in a preliminary argument to dismiss an action—accused the judge of suspending the hearing in the absence of the plaintiff and prosecutor in order to phone the plaintiff’s lawyer directly (without the defendants present) to find out why they were absent.

The judge’s overall attitude during the trial shows that, for reasons of efficiency, he tried to clarify unresolved questions about whether the parties were supposed to appear in court that day, while respecting the applicable rules of procedure and acting in a manner fair to each party. It certainly would have been advisable for the judge to avoid speaking directly to the lawyer without the defendants being present, knowing that the lawyer’s explanations would be contested by the defendants and would have to be assessed in his decision to defer the case. If this is common practice, it should be abandoned. Despite steps to inform the defendants and record the details of the conversation the judge had with the plaintiff’s lawyer in the minutes, the defendants did not have an opportunity to submit their comments and were left with a bad impression of the proceedings. When the judge refused to allow the defendants to comment on the explanations provided by the plaintiff’s lawyer before asking them to contact the lawyer to agree on a new court date, the complainant and her spouse said they felt disappointed, and that the judge was being unfair and unjust. In reality, the judge tried to manage the proceedings in a way that made sure the lawyer was present, and to be as transparent as possible by informing the court of his intentions in advance and by subsequently relaying the results. In this case, the examination of the complaint did not reveal any breach of ethics on the judge’s part.

The Conseil concluded that the complaint was unfounded.

The complainant accused the judge of rudely and aggressively lashing out at him, of behaving in a completely unacceptable manner, of making derogatory remarks about the judge who upheld his previous request to postpone the hearing, and of making factual errors.

Playback of the court audio recordings revealed that not once during the trial did the judge address the complainant in a disrespectful manner. For the first half hour, the judge tried to determine the relevant facts the applications were based on, i.e., the lawyer’s reasons for ceasing to represent the complainant and the complainant’s request to postpone the hearing about his objections to tax assessments. There may be a hint of criticism in the judge’s comments suggesting a lack of diligence on the part of a complainant who waited until the beginning of the hearing to request an additional postponement so he could prepare other arguments. The judge’s tone was firm but never impolite and her comments were not out of line. In exercising her discretionary power to grant or refuse adjournment, the judge was entitled to inquire about the ins and outs of the case and assess the complainant’s explanations in order to make a decision. Her decision to refuse the adjournment did not please the complainant, but it did not constitute a breach of ethics. The same goes for the observation about the patience of the judge who preceded her. The Conseil de la magistrature has no authority to intervene in the assessment of the evidence or act as an appeal body to review a judge’s decision.

The Conseil concluded that the complaint was unfounded.

2015-CMQC-044

The complainant accused the judge of behaving aggressively and showing contempt for him and his spouse.

Playback of the court audio recording did not support any of the allegations made by the complainant. The judge spoke to the complainant and his spouse in a respectful, polite, and calm manner. The rigor that a legal text requires should not be confused with aggressive and contemptuous behavior. The judge never behaved incorrectly and nothing shows that he committed a breach of ethics.

The Conseil concluded that the complaint was unfounded.

2015-CMQC-056

The complainant accused the judge of not respecting her right to a fair trial on account of her being hard of hearing and because French is not her mother tongue.

Playback of the court audio recording did not support any of the allegations made by the complainant. The judge did not yell at any time as the complainant claimed. On the contrary, the hearing progressed in a completely civil manner. The judge welcomed the parties, explained how much time each party would have to make their arguments, and calmly explained how he would proceed in reaching his decision. Nothing indicates that the judge lost his composure at any time or that he was impatient. The complainant's other accusations were also unfounded. As for the complainant being hard of hearing, the judge seemed sensitive to her comments to this effect and spoke louder as requested. Playback of the discussions between the judge and the complainant did not indicate she had any apparent difficulty understanding the points made and she verbally reacted to certain arguments made by the opposing party. It is therefore impossible to conclude that the judge was disrespectful on this matter. As for the question of language, the complainant spoke in her mother tongue (English) throughout the trial. The judge also spoke to her in English. An interpreter translated the opposing party's arguments from French into English for the complainant. The interpreter was not available for the second part of the hearing in the afternoon, the twelve minutes devoted to the oral judgement. The judge chose to give his decision in French, but reminded the complainant she could request a written transcription of the judgement. Playback of the audio recording did not support the claim that the judge was biased. There is every reason to believe that the complainant's assessment stems from the result of her request for leave to appeal.

The Conseil concluded that the complaint was unfounded.

2014-CMQC-099 AND 37 OTHER COMPLAINTS

The applicant in a case was informed by the judge that she could not be heard because she was wearing a head scarf. The applicant told the judge that she was Muslim and was wearing the scarf for religious reasons. The judge asked the applicant to remove her hijab, invoking section 13 of the *Regulation of the Court of Québec*, which stipulates that "every person present in the courtroom must be suitably dressed," and stating that the courtroom was a secular space. The applicant refused to remove her hijab, so the judge suggested a postponement so she could consult a lawyer. The court was adjourned *sine die*.

A number of complainants accused the judge of incorrectly comparing the hijab to sunglasses or other clothing. Others affirmed that the applicant had not been heard because she was wearing a head scarf, that the judge had failed to accommodate the applicant in any way, or that she had misinterpreted the regulation. These complaints do not raise any ethical issues: some of the complainants cited facts reported in the media and others did not accuse the judge of any misconduct. These complaints were therefore not examined. However, a number of complainants stated that the *Canadian Charter of Rights and Freedoms* had been violated, cited provisions of the Conseil's *Code of Professional Conduct*, and accused the judge of unfair treatment, xenophobia, discrimination, lack of neutrality, partiality, making racist comments,

or having ridiculed the applicant. Still others accused the judge of racism, discrimination, intolerance, close-mindedness or claimed that she had not been impartial and objective, which would constitute breaches of the *Code of Professional Conduct*. The judge's decision was made based on her interpretation of section 13 of the *Regulation of the Court of Québec*. It remains to be seen whether it was a legal ruling or a breach of ethics. If it was a legal ruling, it is not the Conseil de la magistrature's place to examine it. That is the job of a review tribunal. In the examination stage, the tribunal can effectively assess if the judge's decision and accompanying comments constituted a breach of ethics. Some elements did not come out in the examination. A more in-depth analysis of the facts and circumstances that led to the decision and the judge's behavior towards the applicant will shed some much needed light on the issue. Due to the Conseil's educational and preventive role, an enquiry committee will be formed to examine the issue.

The Conseil concluded that of the 38 complaints received, 10 were unfounded and 28 warranted an inquiry. An inquiry committee was therefore formed.

Complaints against judges assigned to the Youth Division of the Court of Québec

2014-CMQC-138

The complainant and her spouse are parents of a minor for whom an application for protection was made under sections 38 and 75 of the *Youth Protection Act*. During the complainant's testimony, the judge in question intervened a number of times to speak to her. The complainant's spouse was examined by the prosecutors, then the complainant asked to call a witness she described as an expert. After questioning the witness about his credentials, the judge explained that he could not be retained as an expert witness and could only testify about the facts he personally observed. Since his remarks were based solely on hearsay, the judge—after explaining why—cut short his testimony. The complainant accused the judge of being biased, rude, prejudiced, and of acting in an arrogant, disdainful, and discriminatory manner. She claimed he did not let her expert witness testify and alleged that neither she nor her spouse were able to speak freely.

A judge must manage the trial so the hearing moves forward objectively, in a manner respectful of everyone, and in accordance with the law. The complainant testified at length and every time the judge intervened, he did so in a courteous, calm, and respectful manner. Diligence should not be mistaken for partiality. The judge explained the complainant's rights to her a number of times as well as the rules of evidence she must respect when testifying. He was patient and listened actively, and did nothing that lends support to the allegations of the complaint. When the complainant's spouse testified, the judge invited him to have his say, but asked him not to repeat the testimony the complainant had given earlier. In refraining to recognize the complainant's witness as an expert, the judge made a decision within his discretionary power; this is not a question of judicial ethics. The judge's remarks and explanations were given in a courteous and polite manner. Nothing in the audio recording shows that the judge committed a breach of ethics.

The Conseil concluded that the complaint was unfounded.

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The complainant, a grandmother, had been the legal guardian of two of her grandchildren since 2011. Her complaint concerns a court appearance she and her husband made as the parties to three applications. The first application was to gain custody of their grandson, who was put into foster care in 2014. The second application was presented by the director of youth protection to keep the child in foster care and suspend supervised visits with the grandparents. The third application was to remove the granddaughter from the grandparents' custody. At the end of the second day of the trial, the grandparents' lawyer stated that they were withdrawing their application and would not be present at the next hearing date. On this date, their new lawyer stated that they would like to testify, this time as witnesses, on the issue of access rights and respond to what had been said during the first two days of the hearing. The new lawyer—who had been retained the day before and had obligations in another district—asked that the case be adjourned, which the parties opposed. In the interest of the children, the judge in question rejected the request and said she wanted to hear the grandparents. She was informed that the grandfather had left the courthouse and the grandmother had not appeared in court that day. She proceeded with the case and made her decision. Even though the complainant never testified as a witness, she complained about the judge's remarks towards her and the final decisions rendered in the case.

Playback of the audio recording of the proceedings revealed that the judge spoke to the complainant twice about remarks or gestures she made in the courtroom. The first time the judge intervened, her tone was above reproach. The second time, the judge intervened not only to again put a stop to the disruptive behavior, but also to allow the father to testify uninterrupted. The father had previously asked that his parents leave the courtroom so he could testify in a less stressful environment. In this context, the firmness the judge used to put a stop to the complainant's behavior was fitting and appropriate. Nothing supported the complainant's claim that she was denigrated during the testimony of the person who had filed a report with Youth Protection. The complainant was obviously dissatisfied with judge's methods, but the Conseil de la magistrature cannot interfere with the assessment of evidence or act as an appeal body to review the rulings of a judge.

The Conseil concluded that the complaint was unfounded.

Complaints against judges assigned to the Criminal and Penal Division of the Court of Québec

The complainant accused the judge of showing a lack of judgement by affirming that children with Asperger syndrome can't lie and said the judge was disrespectful towards her when she left the courtroom.

Playback of the court proceedings did not indicate that the judge was impolite or disrespectful. Throughout the entire hearing, the judge managed the proceedings with a constant concern for protecting the interests of each of the parties in a fair and impartial manner. When she made remarks, her tone was always composed and she expressed herself in a clear, firm, and respectful manner. On several occasions, she acted to ensure the atmosphere was conducive to full and candid testimony regarding the facts that needed to be established. She took the initiative to ask the accused to withdraw when she noticed the complainant was uncomfortable. In making sure the complainant could testify in a comfortable atmosphere, the judge also explained to the accused why she was taking this measure and showed concern about how he could communicate this information to his lawyer. The judge has a duty to ensure hearings run smoothly and it was in performing this duty that she made comments when the complainant

returned to the courtroom. Given the interruption to the closing arguments of the prosecution, the judge informed the complainant that she had to remain either in or out of the courtroom and asked the special constable to limit the comings and goings in the courtroom. The comment was made politely, without any judgement or lack of courtesy with respect to the complainant. The judge did make a specific comment about the personalities of children with Asperger syndrome based on evidence from other cases, but the exchange ended with the conclusion that the evidence had low probative value and was hearsay. It is not the Conseil's role to review decisions about questions of law and the assessment of evidence nor is it the Conseil's role to rule on them. The Conseil's role is to ensure that judges fulfil their ethical duties. In this case, the judge exhibited exemplary behavior and was polite, understanding, and respectful of the complainant, the accused, the lawyers, and court staff. She also made sure the hearing ran smoothly in the best interest of justice.

The Conseil concluded that the complaint was unfounded.

2015-CMQC-055

The complainants accused the judge of “conducting a parallel investigation” during deliberations for the release hearing of one of the complainants. They claimed that the day before his decision, the judge had asked for additional information from the police force involved without notifying the defense lawyer or the complainants. They claim this led to a decision that was “far from impartial” and completely disregarded the presumption of innocence.

One of the complainants appeared before the judge for a bail hearing on eight charges in two cases related to a car accident that the complainant was involved in as a driver and that resulted in the death of three people in the other vehicle. The day before rendering his decision, and after both sides had entered all their evidence, the judge ran into a police officer at the courthouse and asked him to check if there was a solid center line on the road at the site where the accident occurred. The police officer spoke to the officer who had investigated the collision. That officer returned to the site and told him where the solid line began and ended, and this information was then passed to the judge. The day after the judge made his decision, the prosecution informed the complainant's lawyer of the request the judge had made to the police officer he met. The investigating officer on the case subsequently submitted a written statement regarding the police officer who had passed on the judge's request, and a *habeas corpus* petition and an ancillary writ of *certiorari* were submitted to the superior court. The superior court ruled that the judge's decision was illegal and returned the case to the Court of Québec for a new hearing. Two days later, the complainant's lawyer filed a notice of appeal with the Court of Appeal and a petition to disqualify the prosecutors of the Director of Criminal and Penal Prosecutions for the region. The judge in question felt that the number of times the complainant allegedly passed vehicles on the road before the accident was important because the solid yellow line in the middle of the road made passing illegal. He believed such driving behavior constituted an aggravating factor. In this context, the precise nature of the judge's request and the reasons—presently unknown—for which he made his request warrant that an enquiry committee collect the facts and evidence so that it can make a recommendation to the Conseil de la magistrature or determine whether the complaint is unfounded.

The Conseil concluded that the complaint warranted an inquiry. An inquiry committee was therefore formed.

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The complainant criticized the presiding justice of the peace for his disconcerting attitude and the unprofessional way the hearing was conducted.

Playback of the court proceedings did not support any of the allegations made by the complainant. On the recording, the presiding justice of the peace did not act in a disconcerting way. On the contrary, throughout the hearing the judge listened attentively and was patient, empathetic, and respectful towards the complainant. He spoke to the complainant respectfully. He spoke clearly and in a firm tone, but was always polite and courteous. The complainant tried to interrupt the judge when he was handing down his decision, which the judge allowed him to do once, reminding him that he was giving his decision and it was too late to argue. The complaints about the court room decorum were also unfounded. At the first opportunity, the presiding justice of the peace intervened to put an end to the noisy discussions outside the courtroom. As for the special constable's intervention after the trial had ended, the complainant himself acknowledged that the presiding justice of the peace had left the courtroom. Clearly the complainant was dissatisfied with the ruling. But the Conseil de la magistrature cannot interfere with the assessment of evidence in any way or act as an appeal body.

The Conseil concluded that the complaint was unfounded.

The complainant accompanied a friend who had been sexually assaulted to court. She criticized the judge's behavior and the remarks he made after the facts had been presented. She accused the judge of emphasizing that the accused's decision to plead guilty was commendable and that his chances of being acquitted would have been 99%, of describing his absolute discharge as justified and very reasonable for a crime against a person, and of saying he was insulted by the victim's criticism of the judicial system. She also criticized the judge for having given the impression that the case was already decided before the trial began, and for congratulating the rapist and scolding the victim. She also claimed the judge was so lacking in compassion and restraint that the victim's experience with the legal system, rather than helping her heal, had wounded her further.

Playback of the audio recording of the proceedings reveals that when the judge ruled on the appropriateness of the joint submission, he clearly stated that he did not believe the victim when she testified before the court. He then estimated that the accused's chances of acquittal were high and said the accused's decision to plead guilty was highly praiseworthy. The complainant alleged that the judge congratulated the accused and scolded the victim. She also detailed the power judges hold, particularly in sexual assault cases, to show compassion and empathy and to help the victim on their journey to heal after staying silent and feeling ashamed. Since judges need to be particularly sensitive when hearing such cases, the Conseil believes that its educational and preventive duties warrant that it follow up on the complaint in accordance with the procedure enacted by the *Courts of Justice Act*. Collecting and analyzing the facts will allow the enquiry committee to determine if the judge acted within the framework of the law, if he performed his duties with dignity, and if he conducted himself with reserve, courtesy, composure, impartiality, and objectivity.

The Conseil concluded that the complaint warranted an inquiry. An inquiry committee was therefore formed.

Complaints against judges assigned to the Municipal Court

2014-CMQC-097

The complainant is the spouse of the defendant, who was accused of violating a municipal bylaw on watering on private properties. She appeared in court in her husband's place. She accused the judge of not listening and of being rude. At the hearing, the judge explained to the complainant that by law, she could not contest the offence in any way because she was not the person accused, and that, under the law, she could not represent her husband because she was not a lawyer. He refused to modify the statement of offence, as the counsel for the prosecution requested, and substitute the complainant's name for her husband's as the defendant. He based his decision on section 179 of the *Code of Penal Procedure*, which states that judges cannot substitute one defendant for another or one offence for another. He then adjourned the hearing to a later date.

Playback of the audio recordings of the proceedings revealed that the judge never said “shut up” when speaking to the complainant. He tried to make the complainant understand the legal and procedural context that made it impossible for her to replace her husband, the only one of the two co-owners cited by the municipality for the bylaw violation. The complainant was understandably dissatisfied with the turn the hearing took and voiced her frustration and disbelief to the judge, given that she was also a co-owner and was under the impression that she could contest the violation. The judge did interrupt the complainant, but it was to reiterate the legal reasons for which the complainant could not act as the defendant or act on behalf of her spouse and to put an end to a debate that was going nowhere because the complainant could not legally be a party to the hearing. At all times, the judge was respectful and spoke to the complainant in an even tone without raising his voice.

The Conseil concluded that the complaint was unfounded.

2014-CMQC-139

The complainant accused the judge of interrupting her while she was testifying, of making a big show of telling his life's story, of not letting her express herself, of being aggressive and intimidating, of making fun of her, and of exchanging looks and laughing with the prosecution attorney when he found her guilty of a traffic offense. She accused him of being biased.

Playback of the audio recording of the proceedings revealed that the judge used the first 15 minutes of the hearing to direct the complainant's testimony and he also used the occasion to tell a personal story about safe driving. He spoke calmly and appropriately and raised his voice slightly to stress certain points, not to mock the complainant or intimidate her. The judge intervened a second time to limit the geographical description of where the offense took place. The complainant had all the time she needed to explain her behavior, her driving, and the telematics equipment her car was equipped with. Playback of the court proceedings did not reveal any conspiratorial laughter with the prosecution attorney. The judge was never impatient with the complainant and was not arrogant. He continually tried to redirect the discussion back to the facts. In doing so, he personalized the examples he provided. That is not appropriate behavior for a judge, but does not constitute a breach of ethics.

The Conseil concluded that the complaint was unfounded.

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2015-CMQC-004

The complainant was the investigator in a case that came before the judge in question. He accused the judge of inappropriate behavior and making snide remarks meant to undermine his credibility and those of police officers in general. On two occasions, the judge said he thought the complainant had acted like a cowboy, then added—seemingly to the complainant, although we can't say for sure—“you messed up there.”

Playback of the audio recording of the proceedings revealed that the judge did make the remarks quoted in the complaint to describe his dismay with the methods the complainant had used while he was on duty. The words the judge used were inappropriate, but they do not constitute a breach of conduct. Overall, the judge used a calm and respectful tone. At one point he was a bit more firm when he spoke, but the playback of the court proceedings did not reveal any contempt or anger.

The Conseil concluded that the complaint was unfounded.

2015-CMQC-052

The complainant accused the judge of not asking if she preferred English or French, as he had done in the cases that were heard before hers, and of not conducting the hearing in English right from the outset, even though she had faxed a letter requesting a hearing in English. She claimed the judge discriminated against her because she is an anglophone black woman. She claimed she was not treated the same way as the people who were heard before her and said the judge did not ask her if she had anything else to add to her testimony.

Playback of the court audio recording did not support any of the allegations made by the complainant. As for the language of the hearing, as soon as the complainant was sworn in, she asked that the trial be conducted in English. From that moment on, all proceedings, including the judgement, were conducted in English. Regarding the discrimination allegation, the judge made no remarks about the fact that the complainant was a young, black, anglophone student. The judge used a respectful tone throughout the hearing and never raised his voice. As for the photographs the judge did not examine, the complainant did not submit them to him. She only mentioned that she had taken the photos. Had she felt they were essential to her defense, it was up to her to take the necessary steps to submit them. Lastly, with regard to the complainant's claim that she didn't have a chance to complete her testimony, the judge explicitly asked her at the end if she had anything else to add and she said no. The only time she was prevented from speaking was when she tried to interrupt the judge while he was handing down his decision.

The Conseil concluded that the complaint was unfounded.

2015-CMQC-043

The complainant accused the judge of not giving him a chance to explain himself when he had case law to present to him. He also accused the judge of being abusive.

Playback of the audio recording of the proceedings raised questions about the judge's behavior, attitude, and the ton he adopted when he asked questions. An inquiry will conclude if the judge's behavior, attitude, and remarks constitute a breach of ethics. The inquiry will also conclude if the judge performed his duties with integrity, dignity, and honor, and if he conducted himself with reserve, courtesy, and composure.

The Conseil concluded that the complaint warranted an inquiry. An inquiry committee was therefore formed.

The complainant accused the judge of yelling, insulting him, and disparaging him during a hearing about charges laid against him further to events involving him and his ex-wife.

Playback of the court audio recording did not support the allegations made by the complainant. Nothing indicates that the judge was impatient, yelled, or threatened the complainant. On the contrary, he was calm and used an appropriate tone when he spoke to the complainant to explain the consequences of not complying with the conditions of his court order. The judge raised his voice once because of the noise in the courtroom and called the complainant by his name to let him know that there were two other offences. The judge's tone was appropriate and he remained calm. He could not be accused of any breach of ethics.

The Conseil concluded that the complaint was unfounded.

Complaints against judges outside of their judicial functions

The complainant criticized the judge for his behavior towards her for more than two years and claimed he implied she couldn't do anything about it because he was a judge. The facts are related to a difficult marital situation. The complainant complained to the police on November 21, 2013, but the investigating officer told her there was a statute of limitations. In 2014, she was charged with criminal harassment of the judge. She signed a promise to appear in exchange for her release.

She submitted her complaint to the Conseil the same day she was released. Nearly two years after being charged with harassment for the first time, after long negotiations between the prosecution and the defense, the parties informed the court that the complainant was ready to sign a peace bond. No charges were laid further to the complaint that the complainant filed with police against the judge. The prosecution and the complainant (represented by a lawyer) deemed that the outcome of the proceedings was well served by the peace bond signed by the complainant. To be considered founded, complaints must be supported by clear and objective facts. In this case, an examination of the facts and circumstances revealed that there were no grounds for acting on the complaint.

The Conseil concluded that the complaint was unfounded.

Inquiry stage (creation of an inquiry committee)

After examining a citizen's complaint, the Conseil may decide it warrants an inquiry. If the complaint originates with the Minister of Justice, however, the Conseil is obligated to conduct an inquiry.

To conduct this inquiry, the Conseil forms a five-person committee chosen from among its members. It may also choose certain committee members from among former Conseil members. However, the inquiry committee must include at least three current members of the Conseil. The committee summons the judge and the complainant(s) in question. The Minister of Justice is notified that the inquiry is being conducted. At the end of the inquiry, the committee submits a report to the Conseil, which endorses the accompanying recommendation. Inquiry reports are published on the Conseil de la magistrature's website.

In 2015–2016, one inquiry committee was formed after four complaints were filed.

The four complaints were about the same judge, following separate events.

The judge in questions was named in four complaints in which he was accused of having a generally inappropriate and unacceptable attitude, demonstrating excessive, intimidating, even aggressive behavior, making offensive comments to parties, failing to conduct himself with reserve, courtesy, and composure, and managing trials in a way that calls into question his objectivity and impartiality. In the opinion of the prosecutor assisting the inquiry committee, there was no evidence suggesting that the judge's untimely and insolent reactions and his impatience were the result of the painful treatments he was undergoing to fight a disease. He indicated that the frequency of the poor behavior and the judge's overall tone suggested that the behavior was unlikely to stop.

The audio recording of the court proceedings revealed systematically inappropriate behavior. In addition, the prosecutor confirmed that the judge's testimony before the inquiry committee did not indicate that he had any real awareness of the behavioral changes he needed to make. He asserted that the judge's repeated bad behavior—which continued even after he was reprimanded in 2009—led to a breach of trust. In his view, the situation warranted more than a second reprimand and the appropriate action would be removal. The lawyer representing the judge asked the inquiry committee to consider the exceptional circumstances during the period in question, when the judge was experiencing major health problems that had serious physical and psychological consequences. He urged the committee to ask themselves if the judge's behavior had undermined overall public trust in legal institutions, and not to consider the cases of the four complainants only.

Clearly the judge's behavior during the four trials held between September 23 and October 2014 was similar to the behavior he was reprimanded for in 2009. Such behavior is not what people appearing in court expect and is not representative of the judiciary. A reprimand would be an appropriate sanction, provided it is useful and credible. The committee must take the judge's past ethical record into consideration when they determine the appropriate recommendation to restore public trust in the judge and the justice system.

The judge was already reprimanded once after complainants had made similar accusations. The fact that the judge repeated the reprimanded behavior shows that he did not learn a lesson or change his behavior. At the same time, his conduct in the four complaints under review, while reprehensible, was not of a nature to affect his impartiality or the integrity and independence of the judiciary, which would make him unfit to remain a judge.

However, his behavior constitutes a major breach of ethics. The judge displayed the same behavior he was sanctioned for in 2009, which shows his lack of regard for the Conseil's warning and the need to question what litigants expect from the judiciary, particularly when they are representing themselves. Furthermore, the number and nature of the complaints reveals behavior that may indicate an inadequate approach to trial management. This leads us to question if the judge truly regrets his behavior and how willing he really is to change it. His remarks and tone are not in keeping with the image or calm demeanor the public expects from the judiciary. The judge's behavior undermines litigants' trust and is harmful to the integrity, honor, and dignity of the judiciary.

Nonetheless, the judge's behavior was not sufficiently egregious to erode the public's confidence and make him unable to perform his duties. The judge failed in his duty to conduct himself with reserve and composure by being impatient, raising his voice for no reason and speaking rudely to the complainants. Under the circumstances, a severe reprimand seems to be the most appropriate and fair sanction in proportion to the misconduct.

Handling of complaints in 2015–2016

This section describes, with the help of tables and figures, the actions taken by the Conseil de la magistrature in matters of judicial ethics.

After review, complaints brought against judges can be categorized under six main themes:

- ▶ Poor listening
- ▶ Inappropriate tone
- ▶ Lack of empathy
- ▶ Missed deadlines
- ▶ Partiality
- ▶ Poor trial management

Data summary

Between April 1, 2015, and March 31, 2016, the Conseil de la magistrature received 134 complaints.

TABLE 1
HOW COMPLAINTS WERE HANDLED

The following table breaks down results for the handling of complaints received in 2015–2016: 21 of these complaints were still being processed as of March 31, 2016.

| | |
|---|------------|
| Complaints deemed unfounded upon receipt | 85 |
| Complaints deemed unfounded after examination | 18 |
| Complaints not warranting inquiry (after examination) Sect. 267 CJA) | 1 |
| Other (cases closed) | 1 |
| Complaints investigated | 8 |
| Complaints being processed as of March 31, 2016 | 21 |
| TOTAL | 134 |

Of the 125 complainants who were parties to a dispute, 115 (82.7%) did not have legal representation before the court.

TABLE 2
COMPLAINTS OVER THE PAST THREE YEARS

| | 2013-2014 | 2014-2015 | 2015-2016 |
|--------------------------------|-----------|-----------|-----------|
| Number of complaints received | 107 | 145 | 134 |
| Number of complaints processed | 107 | 145* | 113 |

* Of the 145 complaints received in 2014–2015, 23 were dealt with in 2015–2016.

TABLE 3
COURTS AND TRIBUNALS SUBJECT TO COMPLAINT

| Courts and tribunals | Complaints received | Unfounded Complaint | Complaints deemed unfounded after examination | Complaints not warranting inquiry (after examination) | Other (cases closed after inquiry) | Complaints Investigated | Complaints under examination |
|---|---------------------|---------------------|---|---|------------------------------------|-------------------------|------------------------------|
| Civil Division (excluding Small Claims Division) | 13 | 8 | 4 | --- | --- | --- | 1 |
| Small Claims Division | 59 | 40 | 8 | 1 | --- | 1 | 9 |
| Criminal and Penal Division | 18 | 10 | 1 | --- | --- | 5 | 2 |
| Youth Division | 12 | 9 | 1 | --- | --- | --- | 2 |
| Presiding justices of the peace | 3 | 2 | 1 | --- | --- | --- | --- |
| Municipal courts | 22 | 14 | 3 | --- | --- | 1 | 4 |
| Other (events occurring outside of judiciary functions) | 7 | 2 | --- | --- | 1 | 1 | 3 |
| TOTAL | 134 | 85 | 18 | 1 | 1 | 8 | 21 |

This figure displays complaint jurisdictions.

| Courts and tribunals | % |
|--|------|
| Civil Division (excluding Small Claims Division) | 9,7 |
| Small Claims Division | 44 |
| Criminal and Penal Division | 13,5 |
| Youth Division | 9 |
| Presiding justices of the peace | 2,2 |
| Municipal courts | 16,4 |
| Professions Tribunal | 0 |
| Human Rights Tribunal | 0 |
| Other | 5,2 |

TABLE 4
ORIGIN OF COMPLAINTS

Origin is determined by a complainant's place of residence and not the judicial district where cases were heard because certain cases may have had to be transferred to another district.

| District of origin | Number of complaints |
|---------------------------------|----------------------|
| Abitibi-Témiscamingue | --- |
| Bas-Saint-Laurent | 3 |
| Capitale nationale | 9 |
| Centre-du-Québec | 1 |
| Chaudière-Appalaches | 6 |
| Côte-Nord | --- |
| Estrie | 7 |
| Gaspésie – Îles de la Madeleine | 1 |
| Lanaudière | 7 |
| Laurentides | 9 |
| Laval | 3 |
| Mauricie | 7 |
| Montérégie | 22 |
| Montréal | 49 |
| Outaouais | 5 |
| Saguenay – Lac-Saint-Jean | 5 |
| Outside of Québec | 5 |
| TOTAL | 139 |

TABLE 5
AVERAGE TIME TO PROCESS COMPLAINTS AT THE EXAMINATION STAGE

Time between the date the Conseil's Secretariat receives the complaint and the date the decision is sent to the Conseil.

| | 2013-2014 | | 2014-2015 | | 2015-2016 | |
|---|------------------|----------------------|------------------|----------------------|------------------|----------------------|
| | Timeframe (days) | Number of complaints | Timeframe (days) | Number of complaints | Timeframe (days) | Number of complaints |
| Complaints that don't require further information | 35 | 79 | 32 | 75 | 30 | 90 |
| Complaints that require further information | 95 | 28 | 228 | 70 | 91 | 23 |
| All cases | 57 | 107 | 96 | 145 | 41 | 112 |

On the 134 complaints received in 2015–2016, 21 complaints are under examination. This is an overview.

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AVERAGE TIME TO PROCESS COMPLAINTS AT THE EXAMINATION STAGE

The average time between the date the inquiry committee is formed and the report is submitted to the Conseil.

Only cases whose inquiry report has been submitted to the Conseil before March 31, 2016 are considered. As of March 31, 2016, no inquiry committee had completed its examination.

| 2013-2014 | | 2014-2015 | | 2015-2016 | |
|------------------|----------------------|------------------|----------------------|------------------|----------------------|
| Timeframe (days) | Number of complaints | Timeframe (days) | Number of complaints | Timeframe (days) | Number of complaints |
| 13 | 1 | 9 | 4 | n/d | 5 |

AVERAGE PROCESSING TIMES RECORDED SINCE THE CONSEIL'S CREATION IN 1978

- ▶ Of the 63 cases that were not appealed in the courts, the average processing time was 7.7 months.
- ▶ Of the 13 cases that were appealed in the courts, the average processing time was 33.1 months.
- ▶ The average processing time for all the cases was 11.9 months.

TABLE 6
SUMMARY OF COMPLAINTS

The following table is a record of decisions made by the Conseil since it was created in 1978.

| Results of the Examination Stage | |
|--|-------|
| Number of complaints received | 2 384 |
| Complaints deemed unfounded upon receipt | 1 477 |
| Complaints deemed unfounded after examination | 646 |
| Other complaints not warranting inquiry | 61 |
| Other | 30 |
| Complaints under examination | 21 |
| Complaints investigated | 149 |
| Results of the Inquiry Stage | |
| Complaints deemed unfounded after examination | 38 |
| Complaints resulting in a reprimand | 54 |
| Complaints resulting in a recommendation to remove a judge | 4 |
| Other | 17 |
| Complaints under inquiry | 36 |

Not including complaints currently being processed, we have observed the following:

- ▶ 93.7% of complaints were deemed unfounded upon initial review
- ▶ 51.3% of the complaints resulted in sanctions after inquiry
- ▶ After both stages,
 - 97.5% of complaints were deemed unfounded, did not warrant inquiry, or became moot
 - 2.5% of complaints resulted in sanctions
- ▶ 34.9% of complaints required the collection of additional information
- ▶ 63.9% of complaints were ruled upon during the first meeting of the Conseil (i.e., at the examination stage).

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APPENDIX I

EXCERPT FROM THE COURTS OF JUSTICE ACT

PART VII
THE CONSEIL DE LA MAGISTRATURE,
REFRESHER PROGRAMS FOR JUDGES
AND JUDICIAL ETHICS
1978, c. 19, s. 33.

CHAPTER I
THE CONSEIL DE LA MAGISTRATURE
1978, c. 19, s. 33.

DIVISION I
ESTABLISHMENT

1978, c. 19, s. 33.

247. A body, hereinafter called the “council”, is established under the name of Conseil de la magistrature.

1978, c. 19, s. 33.

248. The council shall be composed of 16 members, namely,

- a) the chief judge of the Court of Québec who shall be the chairman of the council;
- b) the senior associate chief judge of the Court of Québec;
- c) the four associate chief judges of the Court of Québec;
- d) a president judge of a municipal court;
 - d.1) one judge chosen among the persons exercising the functions of president of the Human Rights Tribunal, or chairman of the Professions Tribunal;
 - d.2) (paragraph repealed);
- e) two judges chosen among the judges of the Court of Québec and appointed upon the recommendation of the Conférence des juges de la Cour du Québec;
- f) one judge chosen among the judges of the Municipal Courts and appointed upon the recommendation of the Conférence des juges municipaux du Québec;
 - f.1) one judge chosen among the presiding justices of the peace and appointed upon the recommendation of the Conférence des juges de paix magistrats du Québec;
- g) two advocates appointed upon the recommendation of the Barreau du Québec;
- h) two persons who are neither judges nor advocates.

1978, c. 19, s. 33; 1986, c. 48, s. 4; 1986, c. 61, s. 47; 1987, c. 50, s. 8; 1988, c. 21, s. 53; 1991, c. 70, s. 4; 1995, c. 42, s. 42; 1998, c. 30, s. 40; 2002, c. 21, s. 48; 2001, c. 26, s. 172; 2015, c. 26, s. 40.

249. The Government shall appoint the members of the council contemplated in paragraphs d, d.1 and e to h of section 248. To sit on the council, those members shall make the oath contained in Schedule III before the chief judge or the senior associate chief judge of the Court of Québec.

The vice-chairman of the council is elected by the council from among its members.

The term of office of the members of the council appointed under the first paragraph is not more than three years; at the expiry of their term, these members remain in office until they are replaced or reappointed.

1978, c. 19, s. 33; 1988, c. 21, s. 54; 1989, c. 45, s. 6; 1995, c. 42, s. 43; 1998, c. 30, s. 41; 1999, c. 40, s. 324.

250. The members of the council who are not judges are not entitled to any remuneration, except in such cases, on such conditions and to such extent as may be determined by the Government. They are, however, entitled to the reimbursement of expenses incurred in the performance of their duties, on the conditions and within the limits determined by the Government.

The judges are entitled to the indemnity provided for in section 119.

1978, c. 19, s. 33; 1988, c. 21, s. 55.

251. Nine members of the council, including the chairman or vice-chairman, are a quorum.

1978, c. 19, s. 33; 1986, c. 48, s. 5; 2015, c. 26, s. 41.

252. The council meets as often as necessary, when convened by the chairman.

It may sit incamera and hold its sittings at any place in Québec.

The council has its head office in the territory of Ville de Québec or in the territory of Ville de Montréal, as the Government may decide.

1978, c. 19, s. 33; 1996, c. 2, s. 985.

253. The council may make by-laws for its internal management or to establish committees and determine their functions.

1978, c. 19, s. 33.

254. The minutes of the sittings of the council or of one of its committees are authentic if they are approved by the members of the council or of the committee, as the case may be; the same rule applies to documents or copies emanating from the council or forming part of its records if they are certified true by the chairman or the secretary.

1978, c. 19, s. 33.

255. The chairman shall appoint the secretary of the council, for a five-year term, from among the advocates on the Roll of the Order of Advocates for at least 10 years who are members of the public service. The Government shall determine the salary, the employment benefits and other conditions of employment of the secretary. Upon being appointed, the secretary shall cease to be subject to the Public Service Act (chapter F-3.1.1); the person appointed to the office of secretary shall be on leave without pay for the duration of the five-year term. 1978, c. 19, s. 33; 1978, c. 15, s. 140; 1983, c. 55, s. 161; 1989, c. 45, s. 7; 1997, c. 76, s. 2.

255.1. The secretary of the council shall exercise the functions of the secretary on an exclusive basis, under the authority of the chairman.

The secretary shall, before taking office, make the oath set out in Schedule III, before the chief judge of the Court of Québec.

1989, c. 45, s. 7; 1997, c. 76, s. 2; 1999, c. 40, s. 324.

255.2. At the expiry of the five-year term of office, the secretary shall remain in office until replaced or reappointed.

1989, c. 45, s. 7; 1997, c. 76, s. 2.

255.3. The members of the personnel of the council, other than the secretary, shall be appointed in accordance with the Public Service Act (chapter F-3.1.1).

1989, c. 45, s. 7; 1997, c. 76, s. 2; 2000, c. 8, s. 242.

255.4. (Replaced).

1989, c. 45, s. 7; 1997, c. 76, s. 2.

DIVISION II

FUNCTIONS OF THE COUNCIL

1978, c. 19, s. 33.

256. The functions of the council are:

- a) to organize, in accordance with Chapter II of this Part, refresher programs for judges;
- b) to adopt, in accordance with Chapter III of this Part, a judicial code of ethics;
- c) to receive and examine any complaint lodged against a judge to whom Chapter III of this Part applies;
- d) to promote the efficiency and uniformization of procedure before the courts;
- e) to 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;

f) to cooperate, in accordance with the law, with any body pursuing similar purposes outside Québec, and

g) to hear and decide appeals under section 112.

1978, c. 19, s. 33; 1988, c. 21, s. 56.

CHAPTER II

REFRESHER PROGRAMS FOR JUDGES

1978, c. 19, s. 33.

257. The council shall establish information, training or refresher programs for judges of the courts and presiding justices of the peace under the legislative authority of Québec and appointed by the Government.

1978, c. 19, s. 33; 2004, c. 12, s. 9.

258. The council shall determine the needs, prepare the programs and fix the terms and conditions of application; it may, for that purpose, act in cooperation in particular with the Conférence des juges de la Cour du Québec, the Conférence des juges municipaux à titre exclusif du Québec, the Conférence des juges municipaux du Québec, the Conférence des juges de paix magistrats du Québec, the Barreau du Québec, the law faculties and the Ministère de la Justice.

1978, c. 19, s. 33; 1987, c. 50, s. 9; 2004, c. 12, s. 10; 2015, c. 26, s. 42.

259. The Government determines the amounts over which expenditures by the council in the application of this chapter require the approval of the Minister of Justice.

1978, c. 19, s. 33.

CHAPTER III

JUDICIAL ETHICS

1978, c. 19, s. 33.

DIVISION I

GENERAL PROVISION

1978, c. 19, s. 33.

260. This chapter applies to a judge appointed under this Act.

The provisions of this chapter applicable to judges also apply to the judges of the municipal courts and to presiding justices of the peace.

1978, c. 19, s. 33; 1980, c. 11, s. 98; 1995, c. 42, s. 44; 2004, c. 12, s. 11.

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DIVISION II

CODE OF ETHICS

1978, c. 19, s. 33.

261. The council shall, by regulation, adopt a judicial code of ethics.

However, it must previously call a meeting of the judges to whom the code of ethics applies to consult them on the draft regulation.

A regulation made under this section is published in the Gazette officielle du Québec at least thirty days before it is submitted to the approval of the Government. If it is so approved, it comes into force on the date of its publication in the Gazette officielle du Québec or on a later date fixed therein.

1978, c. 19, s. 33.

262. The code of ethics determines the rules of conduct and the duties of the judges towards the public, the parties to an action and the advocates, and it indicates in particular which acts or omissions are derogatory to the honour, dignity or integrity of the judiciary and the functions or activities that a judge may exercise without remuneration notwithstanding section 129 or 171 of this Act or section 45.1 of the Act respecting municipal courts (chapter C-72.01).

It may be stipulated in the code that certain of those provisions do not apply to judges of Municipal Courts, or special provisions may be established for those judges. For the purposes of this chapter, the rules set out in section 45 of the Act respecting municipal courts are deemed to be special provisions of the code of ethics applicable to municipal judges. The provisions of the code of ethics applicable to municipal judges may vary according to whether they apply to judges exercising their functions on a part-time basis or to judges exercising their functions on a full-time and exclusive basis. Special provisions for presiding justices of the peace may also be stipulated in the code.

1978, c. 19, s. 33; 1980, c. 11, s. 99; 1988, c. 21, s. 57; 1988, c. 74, s. 8; 1989, c. 52, s. 138; 1998, c. 30, s. 42; 2002, c. 21, s. 49; 2004, c. 12, s. 12.

DIVISION III

EXAMINATION OF COMPLAINTS

1978, c. 19, s. 33.

263. The council receives and examines a complaint lodged by any person against a judge alleging that he has failed to comply with the code of ethics.

1978, c. 19, s. 33; 1988, c. 21, s. 58.

264. Any complaint is made in writing to the secretary of the council and states the facts with which the judge is charged and the other relevant circumstances.

1978, c. 19, s. 33.

265. The council shall examine the complaint; it may, for that purpose, require from any person such information as it may deem necessary and examine the relevant record, even if the record is confidential under the Youth Protection Act (chapter P-34.1).

If the complaint is lodged by a member of the council, he cannot participate in the examination of the complaint by the council.

1978, c. 19, s. 33; 1986, c. 48, s. 6; 1988, c. 21, s. 59.

266. The council shall forward a copy of the complaint to the judge; it may require an explanation from him.

1978, c. 19, s. 33.

267. If the council, after examining a complaint, establishes that it is not justified or that its nature and importance do not justify an inquiry, it shall notify the plaintiff and the judge of it and state its reasons therefor.

1978, c. 19, s. 33.

268. The council may, after examining a complaint, decide to make an inquiry. It must make an inquiry, however, if the complaint is lodged by the Minister of Justice or if the latter requests it pursuant to the third paragraph of section 93.1 or the third paragraph of section 168.

1978, c. 19, s. 33; 1988, c. 21, s. 60; 1990, c. 44, s. 24; 2004, c. 12, s. 13.

DIVISION IV

INQUIRY

1978, c. 19, s. 33.

269. To conduct an inquiry on a complaint, the council establishes a committee consisting of five persons chosen from among its members and designates a chairman among them.

Three persons are a quorum of the committee.

1978, c. 19, s. 33.

269.1. Notwithstanding the first paragraph of section 269, a committee of inquiry may be composed of members of the council and of persons who have previously been members of the council.

However, such a committee must include at least three members of the council, from whose number the committee shall designate a chairman, and not more than two previous council members.

1991, c. 70, s. 5.

269.2. Any person who has previously been a member of the council and who is appointed to sit on a committee must, before taking up his functions, make the oath contained in Schedule III, before the chief judge or the senior associate chief judge of the Court of Québec.

1991, c. 70, s. 5; 1995, c. 42, s. 45; 1999, c. 40, s. 324.

269.3. A person who ceases to be a member of the council may continue to sit on a committee of inquiry established under section 269 or 269.1 in order to complete an inquiry undertaken by the committee.

1991, c. 70, s. 5.

269.4. A person to whom either of sections 269.2 and 269.3 applies is entitled for the time he is a member of a committee to no remuneration other than the remuneration and indemnities council members are entitled to receive under section 250.

1991, c. 70, s. 5.

269.5. (Repealed).

2004, c. 12, s. 14; 2015, c. 26, s. 43.

270. The committee meets as often as necessary, when convened by its chairman.

1978, c. 19, s. 33.

271. The committee communicates to the judge a copy of the complaint or of the request of the Minister of Justice made pursuant to the third paragraph of section 93.1 or the third paragraph of section 168.

Within thirty days after the communication of the complaint, the committee calls the judge concerned and the plaintiff; it also notifies the Minister of Justice, and the latter or his representative may intervene at the proof or hearing.

1978, c. 19, s. 33; 1988, c. 21, s. 61; 1990, c. 44, s. 24; 2004, c. 12, s. 15.

272. The committee hears the parties, their attorneys and their witnesses.

It may inquire into the relevant facts and call any person apt to testify on such facts.

The witnesses may be examined or cross-examined by the parties.

1978, c. 19, s. 33.

273. The members of the committee enjoy, for the purposes of an inquiry, the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (chapter C-37), except the power to order imprisonment.

1978, c. 19, s. 33; 1992, c. 61, s. 621.

273.1. An advocate who is a judge of a Municipal Court may not act as a prosecutor for the application of this chapter.

1980, c. 11, s. 100.

274. A party to the inquiry may request the recusation of a member of the committee for one of the causes provided for in articles 202 and 203 of the Code of Civil Procedure (chapter C-25.01).

Furthermore, a member of the committee who is aware of a ground of recusation to which he is liable is bound to declare it.

1978, c. 19, s. 33; I.N. 2016-01-01 (NCCP).

275. The committee may make rules of procedure or regulations for the conduct of an inquiry.

If necessary, the committee or one of its members makes the orders of procedure, based on the Code of Civil Procedure (chapter C-25.01), that are necessary for the carrying out of its duties.

1978, c. 19, s. 33; I.N. 2016-01-01 (NCCP).

276. The council may suspend a judge for the duration of an inquiry on him.

1978, c. 19, s. 33.

277. The committee submits the report of its inquiry and its recommendations to the council. It transmits that report to the Minister of Justice; in addition, it transmits a copy of its record of the inquiry in the case where the council makes the recommendation provided for in paragraph b of section 279.

1978, c. 19, s. 33.

278. If the report of the inquiry establishes that the complaint is not justified, the council notifies the judge concerned, the Minister of Justice and the plaintiff. That notice states the grounds on which it is based.

1978, c. 19, s. 33.

279. If the report of the inquiry establishes that the complaint is justified, the council, according to the recommendations of the report of the inquiry,

a) reprimands the judge; or

b) recommends that the Minister of Justice and Attorney General file an application with the Court of Appeal in accordance with section 95 or section 167.

If it makes the recommendation provided for in paragraph b, the council suspends the judge for a period of thirty days.

1978, c. 19, s. 33; 1980, c. 11, s. 101; 1988, c. 21, s. 62; 1988, c. 74, s. 9; 2004, c. 12, s. 16; I.N. 2016-01-01 (NCCP).

280. If the Minister of Justice and Attorney General, in accordance with section 95 or section 167, files an application with the Court of Appeal, the judge is suspended from office until the report of the Court.

1978, c. 19, s. 33; 1988, c. 21, s. 63; 2004, c. 12, s. 17; I.N. 2016-01-01 (NCCP).

281. The council may retain the services of an advocate or of another expert to assist the committee in the conduct of its inquiry.

1978, c. 19, s. 33.

CHAPTER IV

MISCELLANEOUS PROVISIONS

1978, c. 19, s. 33.

282. The amounts required for the application of this part are taken out of the Consolidated Revenue Fund.

1978, c. 19, s. 33.

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APPENDIX II

CONSEIL DE LA MAGISTRATURE RULES OF INTERNAL GOVERNANCE

(R.S.Q., C. T-16, S. 253)

DIVISION I

GENERAL PROVISIONS

1. The following definitions shall apply in these by-laws:
 - a) “Act”: the Courts of Justice Act (R.S.Q., c. T-16);
 - b) “Council”: the Conseil de la Magistrature as established under section 247 of the Act;
 - c) “President”: the Chief Judge of the Court of Québec;
 - d) “Vice-President”: a member of the Council, elected by the members of the Council.
2. The head office of the Council shall be located in Québec City at 300 boulevard Jean-Lesage. The Council may also have an office in the City of Montreal.

DIVISION II

Functions and powers

3. The Council, in addition to its functions and powers as set forth in the Act, shall assume the following responsibilities:
 - a) approve the training and continuing education programs presented by the Chief Judges and the Presidents of the courts and tribunals under its jurisdiction, in keeping with the operating methods adopted by the Council;
 - b) determine the budget allocated to each court and tribunal for its training and continuing education programs and carry out regular follow-ups during its meetings;
 - c) establish committees and give them the necessary powers to fulfil their mandates;
 - d) approve the Activity Report of the Council.
4. The President of the Council, in addition to managing the operations of the Council, shall exercise the following functions:
 - a) prepare and preside over the meetings of the Council;
 - b) determine which issues shall be brought before the Council;
 - c) oversee the preparation of the budget and take the necessary steps to secure its approval;
 - d) sign, alone or together with any other person designated by the Council, any documents or records that fall under the jurisdiction of the Council;

e) assign responsibilities to the members of the Council as well as to the Secretary.

5. The Vice-President, elected by the Council from among its members, shall assume the functions and responsibilities of the President of the Council in the event of the latter’s absence or inability to act.
6. Under the authority of the President, the Secretary of the Council shall carry out the general functions pertaining to his position and those that may be assigned to him by the President or by the Council.
More specifically, the functions of the Secretary shall be the following:
 - a) assume, in matters of managing the resources of the Council, which have been devolved upon him according to all applicable Acts and by laws;
 - b) prepare the meetings of the Council, draft the minutes of the meetings, and follow up on decisions made by the Council;
 - c) act as the Secretary of the Executive Committee and other committees established by the Council;
 - d) prepare an annual budget allocation plan for the Council’s training and continuing education programs;
 - e) keep and maintain the records of the Council;
 - f) prepare, for the benefit of the members, documents concerning points of interest for the Council;
 - g) certify the minutes of the meetings of the Council or any of its committees, as well as any documents or copies emanating from the Council;
 - h) at the request of the members of the Council, express his opinion on the different issues dealt with at the meetings of the Council;
 - i) prepare an annual report on the issues to be brought before the Council.

DIVISION III

COUNCIL MEETINGS

7. The Council shall hold its meetings at the head office of the Council or at any other location specified in the notice of meeting.
8. The number of meetings of the Council shall be determined by the latter in accordance with a timetable that it shall establish.
9. In addition to the regular meetings, the Council may hold special meetings as often as it deems necessary.

10. Meetings of the Council shall be convened by a written notice from the Secretary at the request of the President.
The President shall arrange for a special meeting to be convened at the written request of two members of the Council.
11. The Secretary shall forward to the members of the Council, at least three days before the meeting, a written notice of meeting which shall specify the date, time and place of the meeting. This notice of meeting shall be accompanied by an agenda.
In the case of a special meeting, the notice of meeting may be given by telephone 24 hours before the meeting. During these meetings, discussions are based solely on the items on the agenda, unless members agree otherwise.
12. The Council may dispense with notice of meeting formalities if all members of the Council consent to it.
A member may, before or after a meeting, waive the notice of meeting.
The presence of a member at a meeting constitutes a waiver on his part to a notice of meeting.
13. The members of the Council may participate in a meeting by means that enable all participants to communicate verbally, notably by telephone.
14. The meetings of the Council shall be presided over by the President or, in his absence, the Vice-President.
15. The quorum of the Council shall consist of eight members, including either the President or the Vice-President.
If a quorum is not present one half-hour after the time specified in the notice of meeting, the meeting shall be adjourned and a new notice of meeting must be issued. However, the President may extend the deadline before adjourning the meeting.
16. A meeting may, by a majority vote, be adjourned to another time or to a later date and a new notice of meeting shall not be required.
17. The decisions of the Council shall be made by a majority vote of the members present.
18. Votes shall be cast orally or by a show of hands unless the President or two members of the Council request a secret ballot.
19. In the absence of a secret ballot, the declaration by the President that a decision has been made unanimously or by a majority and the recording of this declaration in the minutes of the meeting shall constitute proof of the Council's decision, without the need to divulge the specific way in which members voted, except if a request is expressed to this effect by one of the members of the Council.
20. In case of a tie vote, the President, or the Vice-President in the absence of the President, shall have a deciding vote on any matter submitted to the Council regardless of whether the votes are cast orally, by a show of hands, or by secret ballot. The President or the Vice-President may or may not exercise his right to a deciding vote.
21. The decision to hold all or part of a meeting in camera shall be made by a majority of the members present.
22. The Council shall exercise its powers by means of decisions, except in matters that must be settled by way of a regulation, as prescribed under the Act.
A decision signed by all of the members of the Council shall have the same value as a decision made during a Council meeting which was duly convened and held. This decision shall be recorded in the minutes of the meeting following the date on which it was signed.
23. The Secretary of the Council shall draft and sign the minutes of each meeting. The minutes shall contain a summary of the deliberations of the Council as well as the decisions made at each meeting.
24. Apart from the President of the Council, the Secretary may also certify the minutes, excerpts from the minutes and other documents and copies emanating from the Council or forming any part of its records.
25. In the event that the Secretary is not able to attend any of the meetings, the Council may designate a member of the Council or a member of the staff of the Council to draft the minutes. These minutes shall be signed by such person and by the Secretary of the Council.

**DIVISION IV
COMMITTEES OF THE COUNCIL**

26. The Council shall establish an Executive Committee consisting of five members of the Council, including the President and the Vice-President of the Council. The other members shall be designated by the Council from among its members for a mandate that it shall determine.
27. The President of the Council shall be the President of the Executive Committee and the Vice-President of the Council shall be the Vice-President of the Executive Committee.
28. The Executive Committee shall have the following mandate:
 - a) examine the matters and execute the mandates which are entrusted to it by the Council and then report to the Council;

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- b) examine, at the request of the President of the Council, certain matters in order to make recommendations;
 - c) examine and make decisions on administrative matters between meetings of the Council and to submit its decisions for approval at the next meeting of the Council.
29. The quorum of the meetings of the Executive Committee shall consist of three members, including the President or the Vice-President.
 30. The Secretary of the Council shall be the Secretary of the Executive Committee and as such, shall prepare the notice of meeting, draft and sign the minutes of the meetings, which shall be presented at the meetings of the Council.
 31. With the necessary adaptations, section 7, paragraph 1 of section 11, sections 12, 13 and 14, as well as sections 16 through 25 shall apply to the Executive Committee.
 32. The Council may also establish other committees. The Council shall determine the composition, mandates and powers of these committees.
 33. Unless the Council decides otherwise, the Secretary shall act as Secretary of the committees established by the Council under section 32.

DIVISION V
FINAL PROVISIONS

34. These by-laws shall not be amended without the prior notification of members of the Council of such amendment in a notice of meeting.
The text of the proposed amendment must accompany the notice of meeting.
35. The internal by-laws of the Council shall be effective at the time of their adoption by the Council and shall replace any other internal by-laws previously adopted by the Council.

1999.12.15