

ACTIVITY REPORT
2010-2011

TABLE OF CONTENTS

A Word from the President	3
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A Word from the Secretary	5
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CHAPTERS

1 Introduction to the Conseil de la magistrature	7
--	---

2 Secretariat of the Conseil de la magistrature	8
---	---

3 Documentation, Training, and the Professional Development of Judges	12
---	----

4 Judicial Ethics	14
-------------------------	----

5 Processing of Complaints in 2010-2011	42
---	----

APPENDIXES

1 Members and staff of the Conseil de la magistrature as at march 31, 2011	46
--	----

2 Excerpts from the Courts of Justice Act (R.S.Q., c. T-16)	47
---	----

3 Excerpts from the Act respecting municipal courts (c. C-72.01)	58
--	----

4 Codes of ethics	59
-------------------------	----

5 internal bylaws of the conseil de la magistrature	60
---	----

6 description of the courts and tribunals whose judges are under council jurisdiction	64
---	----



A Word from **THE PRESIDENT**

BUILDING TRUST

Amid the hustle and bustle of the daily routine, the period dedicated to writing the activity report provides the Conseil de la magistrature with a much needed time-out to take stock of its accomplishments and contemplate the tasks ahead. Accountability is the watchword for this period of assessment so conducive to reflection and looking forward.

As president of the Conseil, I believe that this annual reporting exercise must begin with an overview, an opportunity to take full measure of the events that marked 2010-2011 and made news—events that may have helped erode citizens' trust in judicial institutions. We need only look at the phone calls, letters, and emails from citizens regarding the process for selecting and appointing judges to see the effect of the allegations reported in the media—which also sought our input more than usual this past year.

Despite unanimous reassurances as to the professionalism and competency of our judges, the media spotlight on the judicial appointment process over several months may have undermined public trust in our judiciary institutions. The Conseil de la magistrature was specifically established over 30 years ago to maintain citizens' trust in their judicial institutions.

To bolster this trust, the Conseil pursued its work and carried out its mandates the same way it always has, with measured thoroughness and determination, applying the values that guide its actions: independence, impartiality, and integrity—the three values that characterize judicial institutions.

Again this year, the Conseil followed the path first laid out over 30 years ago, setting guidelines for judicial behaviour and providing citizens a place where they can complain about behaviour they deem inappropriate. By pursuing its work with the same diligence—notably the analysis of complaints—the Conseil hopes that citizens will separate fact from fiction, truth from gossip. Recent opinion polls on the Québec judiciary seem to have proven us right.

REPORTING AND FUTURE TASKS

The Conseil is active on two levels in fulfilling its mission. To maintain judges' competency, it oversees professional development and ensures that they have access to training programs not only in law, but in a range of subjects. This is vital, particularly as it is first and foremost up to judges to keep their expertise up-to-date. As Supreme Court justice Louis LeBel recalled, it is not simply a matter of preserving your knowledge of law, essential as that may be. There is an ethical obligation to be open-minded and enrich one's own personal culture that goes beyond the mere development of legal knowledge.

However, if inappropriate behaviour is alleged, the Conseil meets rapidly in plenary to examine the complaint, taking into account the values common to both judicial institutions and the teaching of the courts. And the bar is set high. As the Supreme Court has already indicated, the rules of judicial ethics aim for nothing less than perfection. The goal is to improve the judiciary as a whole and not simply sanction one of its members.

The activity report specifically describes the work of the Conseil in the areas of professional development and ethics.

In terms of training, the Conseil contributed significantly to revising the induction procedure for new judges. The Conseil will henceforth dedicate a full day to inducting new judges and informing them of their responsibilities in terms of ethics and rules of conduct.

Another contribution worth mentioning is the Conseil's active participation in ethics training of municipal and Court of Québec judges last year.

The Conseil also collaborated this year on creating an ethics committee whose mission is to advise judges. Although this committee cannot report to the Conseil for obvious reasons, it can take advantage of the expertise of its members and Secretariat staff.

As for judicial ethics, this area remains an important part of our work, one that requires considerable energy and gives rise to much thought and discussion.

It is important to remember that all complaints, without exception, are subject to rigorous analysis by all Conseil members, a representative group of experienced individuals (judges, lawyers, and citizens).

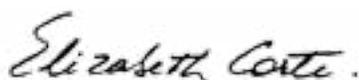
By presenting a summary of the complaints that required more in-depth investigation during the year, the Conseil aims to meet two objectives. The first is to make activities of an ethical nature more transparent. The examples given are not hypothetical cases, but rather real situations that citizens have brought to the attention of the Conseil. The second is to raise awareness—particularly among the judiciary—of behaviour that, without violating judicial ethics, nonetheless upset the persons involved. In most cases such behaviour did not require the intervention of the Conseil. Exceptionally, the Conseil has acknowledged that the nature and scope of these complaints did not justify the launch of an investigation. However, all decisions by the Conseil do allow for lessons to be drawn concerning the behaviour expected of judges.

On account of cases brought before the Court of Appeal this year, the Conseil was determined to defend, in court, the principles it believes must be reiterated. Québec's highest court confirmed the soundness of its decisions. The report will describe the rulings made by the Court of Appeal in this regard once the Supreme Court has disposed of the matter. In the meantime, the Conseil's website, which is regularly updated, provides all information in this regard.

TEAMWORK

The Conseil is made up of 15 members from various backgrounds. It includes not only judges, but lawyers and citizens who help ensure its independence. The Conseil also has its own Secretariat, made up of individuals dedicated to serving judges and the public. Without the support and tireless dedication of the members of the Conseil and its Secretariat, the achievements reported here would no doubt be entirely different.

I would like to thank everyone for their excellent work and their commitment to providing Québec citizens with a judicial council of the very highest quality.



Elizabeth Corte
January 2012



A Word from **THE SECRETARY**

MISSION ACCOMPLISHED

END OF A CYCLE

The Conseil de la magistrature is now at the end of a cycle. In 2008 the Conseil adopted its 2008-2011 Strategic Plan. A strategic plan is an important document for any organization, setting directions, defining objectives, and identifying the means to meet them.

As the Conseil's Strategic Plan so aptly states, the close relationship between the Conseil and the Secretariat makes it difficult to separate their responsibilities.

While it is true that the duties of the Conseil are demanding, those of the Secretariat are no less so. It has a full agenda, what with supporting the Conseil's actions, ensuring its decisions are carried out, providing information on the complaints process, supplying legal documentation, suggesting professional development priorities, and promoting the Conseil.

Looking back at the years covered by the last Strategic Plan, we need to realize how far we've come and note the changes the Conseil has undergone. The activity reports for this period speak volumes, providing ample confirmation of our achievements in relation to the directions that were set. There is no hierarchy in the Strategic Plan. Every aspect is equally important. However, if we look at the last one, we can size up the commitments made to our clientele four years ago to raise awareness of the Conseil.

First of all, it must be said that the Secretariat caters to three clienteles: the Conseil, judges, and the public. The Conseil can judge the services that it receives from its Secretariat itself. But what about judges and citizens? Are they more familiar than before with the Conseil and the duties it performs? Judges are easy to identify and we can readily list them by name, but the same cannot be said for individuals. Who will be the next person to seek information on the complaints process from the Secretariat? It is hard to say. However, despite intrinsic difficulties, we think we have met the challenge of raising awareness about the Conseil and what it does.

Let's start with judges. Judges under the jurisdiction of the Conseil perform various duties, which are specifically described in the activity report. Most serve at the Court of Québec in civil, criminal, penal, and youth matters. There are also those who perform their duties at the Human Rights Tribunal or Professions Tribunal. At the municipal level, judges in Laval, Montréal, and Québec City work full time, whereas those in other Québec cities work part time. There are also justices of the peace. A total of nearly 400 judges are under the jurisdiction of the Conseil, which is responsible for their professional development and receiving and examining all complaints about them.

During the years covered by the Strategic Plan, the Secretariat worked tirelessly to raise awareness of the Conseil's role. Its initiatives took various forms, including documentation, emails sent to all judges, followup with these same judges, and contributions by Secretariat staff to various activities, specifically the organization of the annual conference.

Are there any judges still unaware that the Conseil plays not only a punitive role, but also contributes by various means to their training and professional development? There may well be. But it must be acknowledged that considerable effort has been made to reduce this number by presenting the Conseil as more than just a punitive institution!

As for citizens, they remain at the heart of the Secretariat's concerns. The Conseil receives in the neighbourhood of 100 written complaints every year, not to mention thousands of phone calls that generally give Secretariat staff an opportunity to explain the Conseil's role. Were you to listen in on these phone calls, you would often hear the following phrase repeated like a recurring mantra: The Conseil is not an appeal court or tribunal with the authority to review judges' rulings; its role is to examine behaviour for which judges are criticized.

Admittedly, it can be hard to draw the line between the two, especially since section 1 of the Judicial Code of Ethics states that a judge should render justice within the framework of the law. This leads many to believe that the Conseil will restore a ruling they feel is justified. However, this is the role of appeal courts, where applicable.

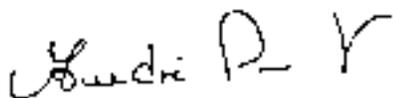
To provide its staff with support to fulfill its mission, the Secretariat set up a new and improved website, primarily to better inform the public in simple, everyday language.

A NEW CYCLE BEGINS

The end of one Strategic Plan marks the beginning of another. First, some thought is required. With the support of the Secretariat, the Conseil must identify new targets in keeping with the responsibilities incumbent upon it. The recent arrival of several new Conseil members is an ideal opportunity for the Conseil to announce its intentions in this regard. It is up to the Secretariat to nourish the reflections initiated early in the year.

New priorities are already emerging. The makeover of the judicial intranet—a major task undertaken recently—should yield its first results in the next few years. In the long run, the adaptation of documentary tools to new technology should make all legal documentation available to judges in a more comprehensive and user-friendly form. The public will be the first to benefit.

There are other projects as well, some of which will be continued while others are initiated. The next Strategic Plan will determine what they are. In the meantime, it is important to remember that our duties remain the same, and that judges and citizens can rely on the professionalism of the Conseil to fulfill them with all the diligence required for a mission of such importance to our judicial institutions.



André Ouimet, Lawyer
January 2012

CHAPTER 1

INTRODUCTION TO THE CONSEIL DE LA MAGISTRATURE

The Conseil de la magistrature is an independent body. Contrary to what some may believe, it is not under the authority of the chief judge of the Court of Québec, Ministère de la Justice, or the government. Created under the *Courts of Justice Act*, the Conseil is part of the judicial branch. Under the separation of powers doctrine, neither the National Assembly nor the government interferes in the Conseil's affairs. You could say that the Conseil de la magistrature is unique!

FUNCTIONS OF THE CONSEIL

The Act specifically decrees the seven functions that the Conseil de la magistrature must perform. Two are major functions that consist primarily of the following activities:

- Receive and examine any complaints lodged against judges to denounce their behaviour
- Organize refresher programs for judges and provide them with any legal documentation they require

The Conseil de la magistrature has jurisdiction over all judges appointed by the Québec government. There are approximately 400 such judges appointed to the Court of Québec, the Professions Tribunal, the Human Rights Tribunal, the municipal courts, and as justices of the peace.

COMPOSITION OF THE CONSEIL

The Conseil is composed of 15 members:

- 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, who was elected vice chair of the Conseil from among its members on March 31, 2011
- Four associate chief judges of the Court of Québec
- The president judge of the Municipal Court of Laval, Montréal, or Québec City. As of March 31, 2011, the president judge of the City of Montréal was member
- The president of the Human Rights Tribunal or the chair of the Professions Tribunal. As of March 31, 2011, the chair of the Professions Tribunal was member
- Two judges of the Court of Québec
- One municipal court judge
- Two lawyers
- Two citizens who are neither judges nor lawyers

Conseil members do not serve on a full time basis. They generally meet every five weeks to examine complaints presented to them and direct the Conseil's main priorities.

CHAPTER 2

SECRETARIAT OF THE CONSEIL DE LA MAGISTRATURE

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

First, a lawyer serves as the secretary of the Conseil. Appointed by the Conseil chair for a five-year term, the secretary is selected from among lawyers who have belonged to the Ordre des avocats du Québec for at least 10 years and must be a member of the Québec public service. The government determines the secretary's salary, employment benefits, and other conditions of employment.

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 the term.

The secretary performs the duties of the position on an exclusive basis, reporting to the Conseil chair. At the end of the term, the secretary remains in office until replaced or reappointed.

The secretary is backed by three permanent employees and one casual employee. Unlike the secretary, these personnel are appointed and remunerated under the *Public Service Act*. They are therefore public employees.

The three permanent employees are the assistant to the secretary, a secretariat officer, and a desk officer. The casual employee is a paralegal who served the Secretariat until January 2011, when she left for a permanent position at another organization.

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

In matters of judicial ethics, the Secretariat staff handle incoming calls, emails, and letters from citizens. They provide information on how to file a complaint by identifying the information the Conseil will need, guides citizens through the process if required, directs them to services that may better meet their needs, and listens to them.

The Secretariat also meets the needs of judges under its jurisdiction. For example, it oversees professional development, administers budgets, and purchases legal documentation.

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

Although the Secretariat's team is small, it handles major initiatives. The following sections provide a summary of the matters dealt with in 2010-2011.

2.1 BUDGET

The Conseil’s budget is divided into three major categories: judicial ethics, professional development and legal documentation for judges, and the Conseil’s operations (day-to-day operations). Let’s take a closer look at how this budget is used.

2.1.1 BUDGET FOR OPERATIONS AND ETHICS

The *Courts of Justice Act* states that the funds required to carry out the Conseil’s mission will come from the government’s financial reserve (consolidated revenue fund), which means that its operating budget is not established based on government-allocated sums.

This singular characteristic guarantees that the Conseil has the full financial independence necessary to properly perform its duties. It is due to the fact that the Conseil cannot anticipate how many of the complaints it receives will warrant the creation of an inquiry committee. Decisions concerning activities that involve judicial ethics should not be influenced by budget considerations in any way.

As in previous years, the Conseil’s Secretariat paid special attention to operating expenses, not only reexamining the Conseil’s needs, but reducing spending by over \$235,000 compared to the previous year. Expenditures for 2010–2011 totalled \$418,520.66, which were divided as follows:

- \$348,457.86 for operations
- \$70,062.80 for judicial ethics

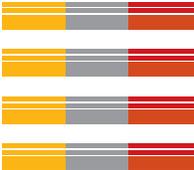
2.1.2 TRAINING AND PROFESSIONAL DEVELOPMENT BUDGET FOR JUDGES

The training and 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 courses for the 400 judges under the Conseil’s jurisdiction.

The budget is determined by government decree. In 2010–2011, the amount was set at \$1,206,720, including \$506,690.68 allocated exclusively for the purchase of legal documentation in paper or electronic form. To learn more, please go to Section 3 of this report.

The following table provides a breakdown of the Conseil’s spending on training in fiscal 2010–2011:

Court of Québec:	\$335,977.20
Justices of the peace:	\$41,063.88
Human Rights Tribunal:	\$4,500.00
Professions Tribunal:	\$5,500.00
Municipal courts:	\$108,014.96



2.2 2010 ANNUAL CONFERENCE

The Conseil de la magistrature organizes an annual conference. In November 2010 the event was held in Montréal under the theme "Case management or *alternative judging*."

In support of the 2002 reform, the Code of Civil Procedure now stipulates that "*the court sees to the orderly progress of the proceeding and intervenes to ensure proper management of the case.*" This paragraph, which affects courts and tribunals, engendered what is now known as "case management."

Judges took advantage of the annual conference to discuss, share, and implement new practices in order to comply with the new approach introduced by legislators.

2.3 ORIENTATION FOR NEW JUDGES

Lawyers are appointed to the bench every year. The Court of Québec in particular, and occasionally municipal courts, regularly welcome new judges or justices of the peace.

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

Induction training also allows them to learn about the administrative rules that apply to them, the training opportunities and support provided by the Conseil, and the work tools now available to them.

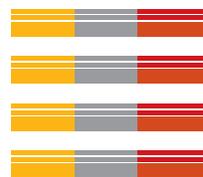
2.4 EXTERNAL RELATIONS

The *Courts of Justice Act* entrusts the Conseil with a mandate to cooperate with bodies outside Québec that pursue similar goals. The Act also specifies that the Conseil may work in collaboration with other organizations, notably law faculties, regarding the professional development of judges.

In response to these provisions, the Conseil has maintained relations with other institutions responsible for judicial training and ethics in Canada and France for several years.

In a new development this past year, the Conseil also concluded mutual cooperation agreements with Québec's universities—specifically their faculties of law—and the École nationale de la magistrature in France. In the long run these agreements will help support student training and the development of special relations between the Conseil and the various faculties of law.

Next year there are plans to look to our neighbours to the south to explore initiatives under way in matters within the Conseil's purview.



2.5 REFRESHER PROGRAM COMMITTEE

Under the *Courts of Justice Act*, the Conseil de la magistrature is responsible for the professional development of judges. In reality, this responsibility has been delegated to the courts and tribunals for several years, with the Conseil playing a monitoring and oversight role, both for budget allocation and spending and for the programming of the activities conducted every fiscal year.

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

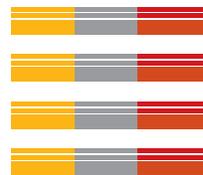
To better harmonize the presentation of the training programs and reports presented to the Conseil for approval and to ensure that all relevant information is published, the Conseil formed a committee tasked with reviewing the information in these documents and proposing a new standard information chart for the various authorities.

2.6 INTRAMAGIS COMMITTEES

In 2005 the Conseil de la magistrature developed an intranet that allows information to be shared among all the courts and tribunals under its jurisdiction.

This intranet, called Intramagis, is now seven years old and, despite its usefulness, is in need of an update. The Conseil therefore created two committees in June 2010 to overhaul Intramagis.

The first committee is tasked with revising the homepage and various tabs and making the site more user-friendly. The second committee is responsible for reviewing site content, taking into account the partnership between the Conseil and the Centre d'accès à l'information juridique (CAIJ). CAIJ specializes in legal documentation. It makes a number of databanks available to judges and also offers specialized services, particularly in research.



CHAPTER 3

DOCUMENTATION, TRAINING, AND THE PROFESSIONAL DEVELOPMENT OF JUDGES

3.1 LEGAL DOCUMENTATION

The Conseil de la magistrature is responsible for providing judges with the documentation necessary to perform their duties. To keep current with their field, judges must have access to the laws, regulations, and reference works that comprise the tools of their trade. At the start of the year, each judge is given a budget to be used for book purchases. The policy for allocating funds for legal documentation recognizes that specific needs may exist in certain regions or with respect to a judge's practice areas. Under this policy, judges receive an amount set by the Conseil that takes into account the subject areas judges may need to address.

In its ongoing effort to reduce spending, the Conseil has made an intranet called Intramagis available to judges. In operation for the past seven years now, this tool gives judges online access to important documents and databanks.

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

Over the course of the 2010-2011 year, the Conseil spent \$506,690.68 on purchasing legal documentation in paper and electronic form.

3.2 TRAINING AND PROFESSIONAL DEVELOPMENT ACTIVITIES ORGANIZED BY THE COURTS AND TRIBUNALS

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

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

To allow for greater flexibility in the way budgets are distributed, the Conseil decided to create a reserve to respond to certain requests or special situations at the start of or during the fiscal year. Establishing a reserve makes it possible to take into account the situation of certain courts and tribunals that have fewer judges.

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

3.3 OTHER TRAINING AND PROFESSIONAL DEVELOPMENT ACTIVITIES

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

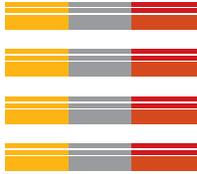
In April 2010 the training session took place in Québec. Ten Court of Québec judges and two Municipal Court of Montréal judges attended.

3.4 ENGLISH LANGUAGE COURSES

Since the 1990s the Conseil has offered English language training programs to Québec judges. Group courses and immersion sessions are offered with financial support from the federal government under three-year federal-provincial agreements.

In May 2010 the Québec Minister of Justice informed the chair of the Conseil de la magistrature that he had been unable to "obtain assurances that the \$90,000 grant would be paid before the end of the 2010-2011 fiscal year."

Despite the Conseil's interventions with the main provincial and federal actors involved, the grant was not paid. The Conseil cannot help but deplore this decision. People before the courts must be able to express themselves in the official language of their choice, and the Conseil hopes they can continue to do so without the aid of interpreters.



CHAPTER 4

JUDICIAL ETHICS

4.1 CODES OF JUDICIAL ETHICS

Two codes of judicial ethics adopted by the Conseil de la magistrature outline the conduct expected of judges. They are the *Judicial Code of Ethics* and the *Code of Ethics for Part-Time Municipal Judges*. The first applies to judges at the Court of Québec, the Human Rights Tribunal, and the Professions Tribunal, as well as to presiding justices of the peace and judges at the municipal courts of Laval, Montréal, and Québec City. The second specifically addresses part-time municipal judges and judges who act in other municipalities.

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

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

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

The codes of ethics were drafted for an independent judiciary in that they do not dictate standards for judges, but establish general principles of conduct meant to serve as a reference tool for judges.

Québec codes of ethics neither enumerate prohibited behaviours nor list permissible ones.

As the courts have indicated, they express values rather than setting precise rules of conduct.

Besides expressing values, the codes of ethics aim to preserve the public's trust in its judicial institutions.

These considerations ensure that the Conseil and, where applicable, an inquiry committee, evaluate judges' conduct based on these general principles. They are therefore occasionally called upon to spell them out in the course of the process for examining a complaint.

Judicial ethics has a remedial function with respect to the judiciary, not the judge affected by a sanction.

By recommending that a judge be sanctioned, the inquiry committee plays an educational and preventive role to avert any further undermining of the judiciary's integrity.

Judicial ethics are unique for all these reasons. In this sense, they are not comparable to any other system of professional oversight.

4.2 COMPLAINTS HANDLING PROCESS

Anyone may file a complaint against a judge. 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. The secretary then forwards an acknowledgement of receipt to the complainant and a copy of the complaint to the judge, for comment as desired.

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

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

If, on the other hand, the Conseil decides that the complaint warrants investigation, it will form a five-member inquiry committee from among its members. An inquiry committee may be made up of past and present Conseil members. However, it must include at least three current Conseil members, one of whom is appointed chair.

For the purpose of the inquiry, the members of this committee are invested with the powers and immunities of commissioners appointed under the *Act respecting public inquiry commissions*, except for the power of imprisonment.

Thirty days before beginning the inquiry, the inquiry committee issues a written summons to the judge and the complainant in question. It also notifies the Minister of Justice. The minister or the latter's representative may intervene during the inquiry.

At this stage, the Conseil de la magistrature may retain the services of a lawyer or an expert to assist the committee in conducting the inquiry. The judge against whom the complaint was filed may also retain the services of a lawyer.

The inquiry committee hears the parties, their lawyers, and their respective witnesses. It may summon any person qualified to testify about the facts. Witnesses may be examined and cross-examined by the parties.

The function of an inquiry committee is purely investigative and guided by the search for truth. Its primary goal is to ensure compliance with judicial ethics in order to preserve the integrity of the judiciary and, by the same token, help maintain law and order.

Depending on the nature of the complaint, the Conseil de la magistrature may suspend the judge for the duration of the inquiry. A suspension, which is not a sanction, is intended solely to protect the credibility of the justice system.

Once the inquiry is completed, the inquiry committee submits its report to the Conseil de la magistrature. The Conseil may not alter any of the report's content, in part or in full. It reviews the report and adopts its recommendations as its own.

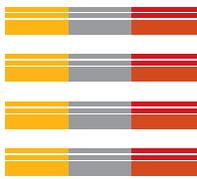
If the inquiry report concludes that the complaint is unfounded, the Conseil de la magistrature sends a reasoned opinion to the Minister of Justice, the judge concerned, and the complainant.

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

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



4.4 DECISIONS BY THE CONSEIL

This section summarizes all decisions by the Conseil either upon completion of an examination (collection of additional information) or upon completion of an inquiry committee's work. However, complaints that were deemed unfounded—i.e., not requiring the collection of additional information—were not summarized. In such cases, complainants generally wanted to have a judge's decision reviewed.

4.4.1 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 summary, names of judges and complainants have been omitted to protect privacy.

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

Most of the complaints received by the Council concern judges who are assigned to the Small Claims Division, which, it should be noted, is governed by its own set of rules. For example, under the *Code of Civil Procedure*, judges must provide the parties with summary explanations of the rules of evidence that must be followed and the procedures that they deem appropriate. Because the parties are not represented by counsel, judges are also responsible for conducting oral examinations themselves and for providing all parties with fair and impartial assistance so as to render effective the substantive law and ensure that it is carried out.

As a result, judges are expected to intervene extensively in the proceedings, which may explain the higher number of complaints.

A complainant criticized a judge for comments he made about documents that the complainant had submitted late to the opposing party. More specifically, he reported that the judge had stated that the vast majority of people did not submit documents to the opposing party far enough in advance.

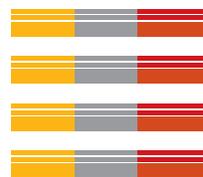
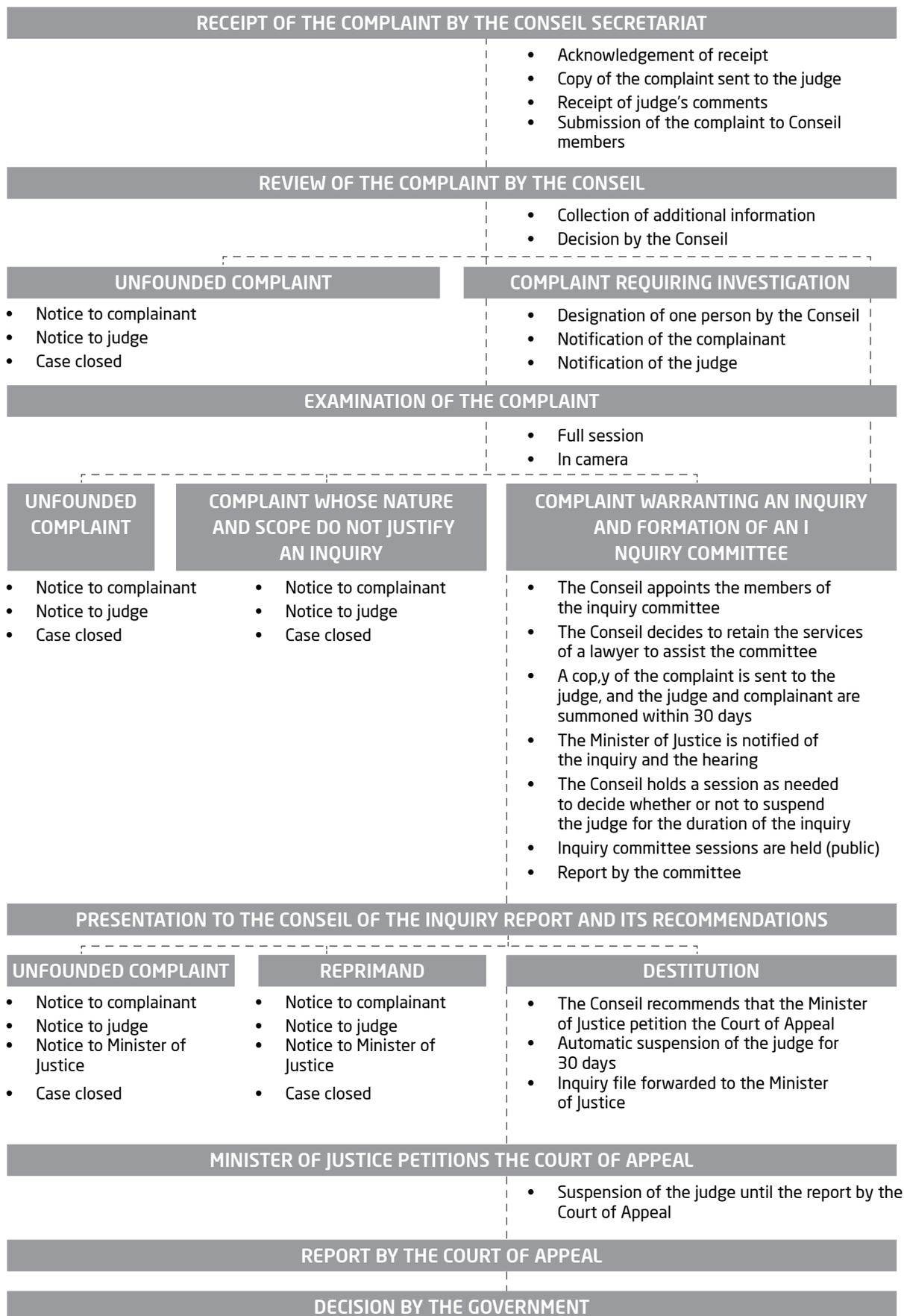
The members of the Conseil judged these criticisms sufficient to seek further information. The Conseil therefore appointed one of its members to listen to the audio recording of the court proceedings, which revealed that the comments the judge had been criticized for had been made in a calm and courteous manner. The comment that was the subject of this complaint was made during an exchange between the complainant and the judge. The judge directed the proceedings and provided assistance to the two parties in accordance with Small Claims Division rules. He took special care to give the parties the time they required to make their presentations.

The thanks that both parties gave the judge at the end of the hearing indicated that they had been satisfied with the conduct of the hearing prior to the verdict being pronounced.

The Conseil came to the conclusion that the complainant was dissatisfied with certain decisions made by the judge. It reiterated that the Conseil does not have the power to review judges' decisions. It is not a court of appeal.

Upon completing its examination, the Conseil de la magistrature concluded that the complaint was unfounded.

4.3 COMPLAINTS HANDLING PROCESS



In her complaint, a citizen accused a judge of mistreating her, of not giving her an opportunity to explain the situation, of intimidating her and her son, and of not showing any interest in listening to their version.

She alleged that she was not treated with respect and was left with a “very poor image of justice and respect.”

The complainant was present with her son at the hearing because she had personal knowledge of certain facts relevant to the case, which she and her son were working on together. Her son was the plaintiff in the case.

Based on the facts presented, the Conseil assigned a member to collect additional information and make a report.

Playback of the court proceedings revealed that at the beginning of the hearing, the judge examined the documentary evidence and addressed a few questions to the parties. The complainant intervened to respond on several occasions and the judge accepted her comments, although she was not a party to the dispute.

At one point he asked a question that neither she nor her son could answer. He then asked them how well they knew their case and pointed out to the complainant that she was a witness, which meant that she could not speak for her son.

A little later on the complainant requested permission to speak. The judge took the time to explain that she was a witness and would be able to express herself, but at a later time. When her turn came to speak, the complainant gave a brief testimony that she concluded by stating that that was all she had to say.

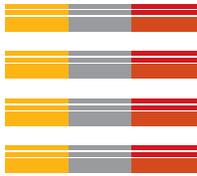
Once all evidence had been heard, the judge asked the plaintiff whether he wished to cross-examine any of the witnesses. He responded that he did not, except for one question he wished to ask one witness. On one occasion, the judge pointed out to the plaintiff that he was free to consult his mother before the cross-examination.

At the end of the proceedings, the judge offered both parties an opportunity to say a final word. They did not add anything.

Playback of the court proceedings revealed that the judge had offered everyone present, parties and witnesses alike, an opportunity to express their views. He did not use intimidation toward anyone whatsoever. He was polite in his interventions and respectful in his tone. He was curt on one occasion in his comment to the plaintiff and his mother about their lack of knowledge of their case.

Aside from this remark made during the hearing, which lasted nearly an hour and ten minutes, the proceedings were conducted in an atmosphere of calm.

The judge did not violate any provisions of the *Judicial Code of Ethics* in his conduct of the proceedings, which led the Conseil to conclude that the complaint was unfounded.



In addition to legal issues more in keeping with an appeal and sometimes even a judicial review, a woman filed a complaint with the Conseil in which she criticized a judge for being aggressive without just cause. She specified that her behaviour did not justify the judge's level of impatience, sarcastic tone, and inappropriate attitude.

The complainant's claim dealt with a winter garment that she had wished to have cleaned by the defendant's company and that had been substantially altered. The judge deemed that the claim had not been proven and the complainant, who was aware of this, politely but firmly maintained the reasonableness of her claim.

The judge quickly filed a four-page ruling dealing with all the major issues addressed during the hearing.

A member of the Conseil listened to the audio recording of the court proceedings and was unable to detect the extent of uneasiness experienced by the complainant, who said she had felt contempt.

However, the playback also revealed that although she had been challenged several times, the complainant maintained her position, always in control, and did not seem to have been deprived of a hearing that allowed her to fully and completely make her case. On several occasions the complainant even asked the judge for permission to comment, which was always granted.

Playback of the proceedings did reveal, however, that the judge had directed proceedings with a firm hand. Although he never lost patience or raised his voice, he both granted and denied the right to speak with a firmness that may have given the impression that he was impatient, not listening, or even discourteous to the witnesses.

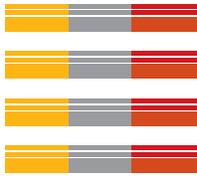
That said, he did not appear to have been impatient, aggressive, sarcastic, or inappropriately behaved. At worst, he could be criticized for being a bit too heavy-handed in the way he conducted the proceedings. The complainant argued throughout her testimony, and the judge was insistent at times, either to maintain control or to instruct her to stick to the facts. Unfortunately, however, he gave little information.

Judges are responsible for the conduct of hearings. They ensure that proceedings run smoothly and intervene if they deem there is just cause to keep things in check.

Where small claims are involved, judges invite the parties to present their claims and then conduct the questioning themselves.

Each case is unique. In this case, the judge's conduct of the hearing and some of his choices may have been poorly perceived, but no breach of ethics was found.

The Conseil de la magistrature concluded that the complaint was unfounded.



In a complaint addressed to the Conseil de la magistrature, a citizen claimed that on the second day of a hearing, the presiding judge had completely disregarded the first day of testimony. He criticized the judge for having impatiently had all the evidence repeated, and for being very impolite with the witness. The complainant said he was so upset that he couldn't summarize his evidence and properly finish arguing his case.

The case involved a dispute between the complainant and other members of a hunting and fishing club. The land where they hunt and fish is owned by a third party, who grants the club members hunting and fishing rights.

The owner of the property informed the club that he would no longer take out third-party liability insurance and members would therefore have to ensure that they were properly insured. The complainant and another club member disagreed on the way the club should handle this matter and did not want to pay the portion of the premium required by the club, arguing that their personal insurance policies were sufficient.

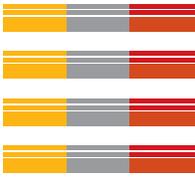
Playback of the court proceedings showed that the judge had clearly taken the case very seriously. In general he was patient, polite, and courteous with all the witnesses and asked relevant questions to understand each party's position.

Playback also revealed that the judge raised his voice on two occasions: once during the testimony of the property owner and once when he noted that a summoned witness was not present. However, he never exceeded his authority in managing the proceedings and obtaining accurate or appropriate responses from the witnesses.

The complainant essentially criticized the judge for the way he conducted the second day of the hearing and the fact that he was impatient. He stated that he was unable to summarize his evidence and effectively finish arguing his case. The playback did not show that the complainant was prevented in any way whatsoever from making his arguments. To the contrary, he intervened on multiple occasions and the judge asked him whether he had anything else to add.

The Conseil was of the opinion that the complainant was obviously dissatisfied with the judge's decision. However, the Conseil de la magistrature cannot interfere with the assessment of evidence in any way or act as an appeal body to reverse a ruling.

The Conseil de la magistrature concluded that the complaint was unfounded.



A complainant stated in his complaint that a judge had been unfair, biased, and discriminatory in his ruling.

In the dispute, the defendant was the administrator of a condominium corporation, one of whose members was the complainant. He alleged that he had been harassed.

During his testimony, the judge asked him a number of questions to provide useful clarifications. The judge asked him to produce relevant documents that he had in his possession. The judge took notes and asked him to slow down. The judge then asked him whether he had any other documents to file or anything else to add or say. The complainant said he did not. The judge asked him if he had any witnesses to call and asked him to sit down.

The judge subsequently heard the defendant and her two witnesses. He then asked the complainant whether he had anything to submit in the form a conclusion.

The complainant spoke for four minutes, during which time the judge reminded him that he could not introduce new evidence at that stage.

The floor was then given to the defendant, who had nothing further to add.

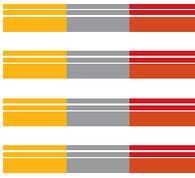
The judge informed the parties that he would analyze all the evidence submitted and they would be informed of the ruling.

Playback of the court proceedings showed that during the hearing, the judge, who had quite a deep voice, occasionally adopted a firm, sometimes directive tone. He sporadically took this tone with both the complainant and the defendant, but never to the extent that he disrespected the parties.

Neither the playback of the proceedings nor the reading of the ruling revealed any discriminatory behaviour. In fact, there was nothing even suggesting any discrimination on the part of the judge in his behaviour or ruling.

The allegation of bias was in no way supported by the judge's behaviour toward the complainant. The complainant's allegation of unfairness was a result of his dissatisfaction with the judge's ruling.

The Conseil de la magistrature concluded that the complaint was unfounded.



In a complaint made to the Conseil, a citizen criticized a judge for a number of reasons. He claimed that the judge had been impolite and insolent, had spoken in an unpleasant, malicious, and impatient tone, and had treated him differently than the other party.

After greeting the complainant at the beginning of the hearing, the judge told him that he needed to speak louder and asked him to make his case for his claim.

For a second time, in a tone betraying his annoyance at having to repeat himself, the judge again asked the complainant to speak louder, criticizing him for gesturing and not enunciating properly. Playback of the court proceedings revealed that the complainant had a strong accent and continually spoke in a low voice. As for the judge, his tone was sometimes firm, but always calm. He showed impatience at having to have the complainant repeat himself.

Before ending the proceedings, the judge informed the parties that they would receive a decision in writing and wished them a nice day.

Playback of the court proceedings did not indicate that the judge was impolite or insolent. In no way did the judge mislead the complainant.

The three-page ruling bears the date of the day after the hearing. The falsity alleged by the complainant in the ruling was simply a contradiction of the defendant's claim on his part. This does not constitute ethical misconduct.

As for the "alleged" injustice of the ruling, this is not a criticism of an ethical nature.

In short, the criticisms made regarding the ruling and the request for mediation made by the defendant had nothing to do with ethics.

However, playback revealed that the judge had to continually remind the complainant to speak louder, which the complainant was unable to do, this in a situation where the judge was wearing a hearing aid and was not embarrassed to say so.

The complainant therefore detected impatience on the part of the judge.

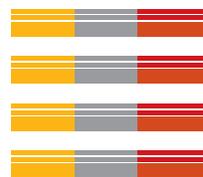
The judge's tone, which varied with situations that came up, did sometimes betray a certain impatience with the complainant's persistent low voice, certain positions the complainant took, and some of his responses.

In its ruling, the Conseil reiterated comments it has made in the past to the effect that in certain situations, judges may react with impatience. Judges are not made of stone. They cannot be expected to remain impassable and smile in all circumstances.

However, playback of the proceedings led to the conclusion that the tone adopted by the judge, which varied according to the circumstances, did not reveal a lack of calm or loss of control.

It seems that the judge's repeated requests to the complainant to speak louder and the complainant's less than precise and concise answers resulted in the judge addressing the complainant differently. The complainant interpreted this as bias on the judge's part, which was not evidenced in the examination of the hearing and ruling. The judge's behaviour did not violate the *Judicial Code of Ethics*.

The Conseil de la magistrature concluded that the complaint was unfounded.



In his complaint, a complainant alleged that the judge of the Small Claims Division had cut him off. He felt that the judge did not have a good grasp of the case. He mentioned that the judge's attitude, behaviour, and facial expression gave him a bad impression and was convinced that the judge had already made up his mind about the case.

The hearing involved the complainant (plaintiff) and a roofer (defendant).

The complainant had had his roof reshingled. Because the shingles were defective, the supplier agreed to replace them.

The evidence showed that the complainant went to the defendant to order superior quality shingles. Superior quality shingles were installed and the difference was billed to the complainant.

The complainant refused to pay the bill, claiming that he had never authorized the installation of superior quality shingles.

The defendant maintained that the complainant and his wife had requested that superior quality shingles be installed. The defendant's secretary stated that she had confirmed this verbal agreement with the complainant the day before installation.

The judge did not rule in favour of the complainant. He considered the version of the defendant (plaintiff by counterclaim) to be more plausible and reasonable and ordered the complainant to pay \$512.78.

Playback of the court proceedings showed that the judge had indeed read the case over prior to the hearing, because he asked several questions requiring clarification of certain documents.

He also intervened on several occasions to ask for clarification or specify that he could not accept hearsay evidence.

The complainant stated that he had gone to the public library to consult the *Civil Code* and had read certain articles during the hearing. It was at this point that the judge intervened to tell him that he would deal with the law and asked the complainant to stick to the facts.

In his comments, the judge was not impolite. The complainant no doubt found this intervention unpleasant, but the judge acted within the framework of the law and his duties.

The judge calmly listened to the complainant on several occasions, even when his testimony dealt with uncontested issues.

The complainant criticized the judge for talking loudly. However, he had told the judge he had hearing problems and had asked the judge to repeat himself, which he did.

He also criticized the judge for not allowing him to reply. With regard to this particular point in the conduct of a hearing, the judge has absolute power and may, at his discretion, decide to render a decision if he deems the evidence to be complete and satisfactory, thereby acting within the framework of the law. The Conseil may not interfere in the exercise of this discretion.

Furthermore, when the judge made his ruling, the defendant interrupted him to add a comment. The judge refused to hear the comment, explaining that the proceedings were over.

The audio recording revealed that the proceedings had been conducted with impartiality.

The complainant was obviously dissatisfied with the ruling, but the Conseil de la magistrature can in no way interfere with the assessment of evidence or act as an appeal body to review the rulings of a judge.

The examination of the facts in this case led the Conseil de la magistrature to conclude that the judge did not violate any provisions of the *Judicial Code of Ethics*.

The Conseil de la magistrature concluded that the complaint was unfounded.

A citizen lodged a complaint with the Conseil against a judge with the Small Claims Division whom he accused of acting maliciously toward him, of not taking into account the medical certificate he had produced as evidence to justify his absence from the court, and implying that the certificate was fake. The complainant also claimed that the judge had accused him of not getting up that morning because he was drunk.

The hearing involved an application for revocation of judgment submitted by the complainant, who alleged that he had been unable to appear in court previously because of an allergic reaction to medication he had been taking for two or three days. He was in no condition to travel on the morning of the hearing for health reasons.

It was clear from the audio recording of the court proceedings that the judge had listened to all of the complainant's explanations and had admitted into evidence the medical certificate introduced by the complainant. The judge did not comment on the validity of the certificate and from his ruling we can conclude that he did take the certificate into account, since he noted that the complainant should have asked about the side effects of the medication in advance.

The judge never said or even implied that the complainant had failed to get up because he was drunk.

The tone used by the judge was courteous and polite at all times. He issued a judgment during the hearing and even produced a written version that same day. When the judge delivered the ruling, the complainant was clearly dissatisfied; he asked if he could appeal the decision and argued with the judge.

The Conseil de la magistrature cannot interfere with the assessment of evidence in any way or act as an appeal body to reverse a ruling handed down by a judge.

The Conseil de la magistrature concluded that the complaint was unfounded.

In a complaint to the Conseil, a citizen criticized a judge for his lack of courtesy and his aggressive reaction when the complainant answered a question with "negative" instead of "no." He maintained that the judge was "outraged" and ridiculed him for asking if he would receive a ruling, whereas the judge had told him "You will eventually be notified of the ruling by mail."

It was clear from the audio recording of the proceedings that the judge had presided over the proceedings in an appropriate manner, helping the parties present the facts and getting documents entered as evidence into the case file.

He allowed the parties to speak in turn and even proposed the hearing be suspended to give them an opportunity to discuss the matter and potentially settle their dispute. The parties agreed, but the effort was unsuccessful.

The judge reserved judgment on the case and informed the parties that they would eventually receive a ruling via mail.

This comment provoked a reaction from the complainant, who was concerned that he would not receive the decision, but a discussion between the complainant, the judge, and the court clerk made it clear that he would receive the ruling via mail.

Everyone parted ways saying "Have a nice day."

All in all, the judge was patient in conducting the proceedings, although he did ask the complainant for a clear answer to one question.

At that point and when the question arose regarding how the ruling would be sent, the judge's tone of voice was louder, but not "aggressive" or "outraged."

The judge oversaw the conduct of the proceedings and provided assistance to each of the parties equitably. All speakers were heard.

The playback of the proceedings and the examination of the facts indicated that the judge did not violate any of the provisions of the Code of Ethics to which he is subject. Although he did use a more direct tone once or twice, the judge was never disrespectful to the complainant.

The Conseil de la magistrature concluded that the complaint was unfounded.

A complainant accused a judge of rendering a ruling that was not based on the facts of the case and of making a comment regarding members of a professional body that was allegedly in violation of the Code of Ethics.

Regarding the first accusation, it appears that after having listened attentively to the two parties, the judge issued a ruling and ordered the defendant to pay the amount claimed, explaining at length that his decision was based on the fact that the matter involved a latent defect for which the defendant was responsible.

The Conseil reiterates that a judge's deliberations and final ruling are matters left to the judge's discretion, and not a matter of judicial ethics.

As for the second aspect of the complaint, the audio recording of the proceedings revealed that the judge had in fact made comments regarding a notary.

The judge implied that the notary had not completed his job, but the remark was in no way aimed at all members of the notarial profession.

The Conseil de la magistrature believes it unwise for a judge to make comments in the courtroom that add nothing to the proceedings. The judge's remarks regarding notaries were disparaging and inappropriate under the circumstances.

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.

In a complaint to the Conseil, a citizen accused a judge of certain behaviour and actions that he deemed inappropriate. He indicated that the judge had acted with bias and literally muzzled him during his testimony. He also claimed that the judge had made offensive and immoral comments about the plaintiff.

It was clear from the audio recording of the proceedings that, as plaintiff, the complainant had opened his argument by reading a text prepared for his testimony. The judge interrupted to ask that he instead give evidence on each of his claims and to question him on certain documents submitted in support of his petition.

Then two witnesses for the defence briefly answered the judge's questions pertaining to some evidence that was clearly relevant to the case.

In his reply, the complainant drew the judge's attention to a final documentary exhibit introduced as evidence.

The judge then verbally gave the reasons for the judgment, in which he rejected the petition and ordered the complainant to pay all legal costs.

The audio recording of the proceedings revealed that the hearing had been conducted normally and that all witnesses were able to speak freely. The judge was patient and courteous with each of the witnesses. He spoke calmly and showed no signs of bias.

In the reasons for his judgment, the judge clearly indicated that the claimant had been unable to prove his claim.

The judge noted that out of frustration, the claimant had blown the story out of proportion, producing more than 37 supporting documents and obliging several witnesses for the defence to travel to take part in the proceedings.

Without being aggressive, the judge added that the Small Claims Division is not to be used for those purposes.

Before rejecting the petition and ordering the claimant to pay all legal costs, the judge stated that none of the claims were justified and that it had just been a delaying measure.

These remarks by the judge—highly relevant given the evidence—undoubtedly helped spark the complaint.

But nothing in this case authorizes the Conseil de la magistrature to conclude that the judge committed a breach of ethics in the exercise of his authority in this case.

The Conseil de la magistrature concluded that the complaint was unfounded.

In a complaint lodged with the Conseil, a citizen accused a judge with the Small Claims Division of having been impolite and aggressive and of having ridiculed him during a hearing.

The complainant was acting as the authorized representative of the plaintiff.

The judge had to set the complainant straight on more than one occasion during the hearing. He intervened in the proceedings a few times, managing the case as set forth in the *Code of Civil Procedure of Québec*.

The audio recording of the proceedings revealed that, while the judge's tone may have been direct and firm on certain occasions, it was only when he was compelled to remind the complainant of the rules of evidence.

After listening to the recording, the Conseil found that the hearing had proceeded in a relatively calm manner and the judge had given all the witnesses a chance to be heard and to explain their position, while avoiding repetition. He even interrupted certain witnesses to ask for clarification.

The exchanges between the judge, the parties, and the witnesses were generally pleasant, with the exception of a few situations in which the judge firmly suggested moving on to something else because the complainant was insisting on facts or evidence that the judge could not take into consideration.

In his complaint to the Conseil, the complainant requested that a judge listen to the audio recording again in order to authorize the case to be heard before a different judge. This implies that he expected the ruling would not be in his favour, an opinion borne out upon reading his complaint.

This is not a matter for the Conseil. It is not for the Conseil to determine whether a judge should accept certain evidence. Judges act independently and at their sole discretion.

In addition, it bears mentioning that the judge sitting in the Small Claims Division has significant responsibility in terms of case management.

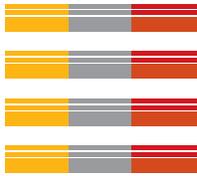
In any event, the Conseil de la magistrature cannot interfere with the assessment of evidence in any way or act as an appeal body to reverse rulings that have been handed down.

Although the judge's tone may have been firm at times, the Conseil did not find his behaviour to be objectionable or in violation of the rules of the *Judicial Code of Ethics*.

In his remarks, the judge maintained his composure and did not lose control.

After examining the facts and the documentary evidence in the case file, the Conseil found that the judge did not violate any provisions of the *Judicial Code of Ethics*.

The Conseil de la magistrature concluded that the complaint is unfounded.



A man filed a complaint with the Conseil accusing a judge of being impatient with him, refusing to listen to an audio recording, and botching the questioning of one of his witnesses.

He added that the ruling contained inaccuracies and that inconsistencies in the testimonies of the opposing party's witnesses were never mentioned.

The audio recording of the proceedings did not reveal any remarks or behaviours that would imply impatience on the part of the judge with respect to the complainant. Quite the contrary, the judge listened attentively and politely to the complainant during his direct testimony, which lasted 60 minutes, and his reply, which lasted eight minutes. The judge occasionally redirected the testimony toward the relevant facts of the case, as is appropriate.

As for the complainant's other accusations related to the evidence, they concerned the decision-making authority of the judge, which cannot be construed as an ethical matter.

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 to reverse rulings handed down by a judge.

The Conseil de la magistrature concluded that the complaint was unfounded.

A complainant accused a judge of showing impatience several times during a hearing and of preventing the complainant from referring to the summary of facts he had prepared for submission. He added that the judge had questioned him as if he were a good-for-nothing and that he felt bullied and defeated by the judge's impatience.

The audio recording of the proceedings revealed that, at the beginning of the hearing, the complainant had asked to submit a document. The judge told him that, instead of submitting the document, he should answer the questions he would be asked. Nevertheless the complainant referred to his written argument more than once during the hearing.

When he answered the judge's questions, the complainant occasionally insisted, in good faith, that he should be allowed to submit his document to better explain the purpose of his claim to the judge. The judge told him that he should stick to testifying and only submit documents to support his claim if there were grounds to do so. The judge then questioned the complainant so that he could explain his claim verbally.

After hearing the witnesses, the judge stated that he was reserving judgment on the case. At that time, the complainant asked the judge if he could make certain representations, which the judge allowed him to do before closing the case.

The judge was not impolite to the claimant, the defendant, or the witnesses. Just because a judge gets more authoritative when it comes to managing the proceedings does not mean he is being hurried, impolite, or impatient. At one point, the judge mentioned that it was getting late, but did not prevent the parties from answering his questions for the proper conduct of the inquiry.

The audio recording did not support the conclusion that the judge had acted with bias, been impolite to the complainant, or behaved in an overly rushed or impatient manner.

The accusations made by the complainant were unfounded. As a result, the Conseil concluded that the judge did not violate any of the provisions of the *Judicial Code of Ethics* and found that the complaint was unfounded.

COMPLAINTS AGAINST JUDGES ASSIGNED TO THE CIVIL DIVISION OF THE COURT OF QUÉBEC

A citizen accused a judge of having exerted inappropriate influence to facilitate his appointment to an administrative position with the Court of Québec. The judge in question has since retired.

Firstly, the Conseil has stated that a complaint does not have to take a particular form. The simple act of a citizen challenging the comments or behaviour of a judge constitutes grounds for a preliminary inquiry into the facts. The complaint does not have to specify the exact nature of the alleged breach as set forth in the *Judicial Code of Ethics*. In this case, the contents of the complaint were sufficient. Secondly, the Conseil found that there was no reason to suspend its inquiry until the public inquiry commission had completed its work, especially since the Conseil played no role in that work. Yet nothing prevented the Conseil from using the work of this inquiry commission—including any testimony given—for its own purposes.

Thirdly, even if the judge has since retired, the Conseil still had jurisdiction to investigate the complaint. It was all the more appropriate to do so in this case given the novelty of the situation and the fact that it could contribute to the development of ethics law. Other factors to be taken into account included the specific nature of the case and its potential to be used for purposes of education and prevention within the judiciary; the need to restore public trust in the independence, impartiality, and integrity of the judiciary; and the importance of guaranteeing the sound administration of justice.

With regard to the substance of the case, it appears that at the time of the alleged facts, there was a certain degree of turmoil fuelled by the fact that a new Minister of Justice was coming into office and the position the judge aspired to was about to become vacant. There was no procedure in place for selecting a candidate for the position. The judge did not meet with the Minister of Justice; he contacted an acquaintance who was active in politics and who he believed was in a position to pass his application on to the minister.

In the absence of a more official process, the judge's behaviour in informing his acquaintance of his interest in the position was certainly unwise, but it cannot be construed as a breach of ethics. A more insistent approach, something beyond a simple expression of interest in the administrative judgeship, could constitute a breach of the *Judicial Code of Ethics*, and particularly the duty of restraint contained therein. However, in this case, it is difficult to conclude that such insistence occurred, or to even believe that it could have had any influence whatsoever over the judge's appointment to the desired position.

While it is true that the then Minister of Justice was under a certain amount of pressure, there is no evidence to conclude that the judge's approach was sufficiently insistent or influential that the outcome of the appointment process that followed would have been different without his intervention.

The Conseil de la magistrature concluded that the complaint was unfounded.

In a complaint to the Conseil, a citizen accused a judge with the Civil Division of having been impolite and aggressive and of having ridiculed his lawyer during a trial.

At the very beginning of the hearing, the judge asked the complainant's lawyer why he was not wearing his robe. The lawyer informed him that his robe was damaged, but that it was in his car and he could go get it. The judge replied that the lawyer's response was "less than professional."

The judge asked the lawyers to present the case, but tensions quickly escalated between the attorneys. Immediately the judge warned them firmly that their behaviour was unacceptable and informed them that they were not in a preschool.

During the testimony, the judge had to rule on 21 objections from both the plaintiff's and the defendant's lawyers, some of which were sustained and some of which were overruled.

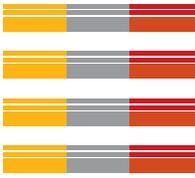
Given the verbal outbursts from the lawyers, the judge had to be authoritative from the beginning, speaking to them in a firm yet polite tone of voice. The judge was respectful to the lawyers and parties throughout the hearing. He was never aggressive or rude to the complainant's lawyer, nor did he ridicule him.

The judge presided over the trial in such a way that he could not be accused of any breach of ethics, since it is not unethical for a judge to make justified remarks delivered in a polite tone.

In addition, the judge could not be accused of a breach of ethics regarding the objections made by the complainant's lawyer, since the judge ruled on these objections firmly but respectfully during the trial.

Clearly the complainant was dissatisfied with the judge's ruling. However, the Conseil de la magistrature cannot interfere with the assessment of evidence in any way or act as an appeal body to reverse rulings handed down by a judge.

The Conseil de la magistrature concluded that the complaint was unfounded.



In a letter sent to the Conseil, a complainant claimed that on several occasions a judge became impatient for no reason and made his dissatisfaction and anger clear by gritting his teeth and using a threatening tone to the person he was speaking to. The complainant accused the judge of having been aggressive and rude to his lawyer and witness and of trying to ridicule them and put them off balance.

He added that from the beginning of the hearing, the judge's lack of composure led the complainant to believe that the outcome was inevitable and that it was going to be a trying day given the tense atmosphere. The complainant's key witness refused to return to testify because he felt he had been scorned and ridiculed by the judge during his first testimony.

The audio recording of the proceedings revealed that at the outset, and before the lawyers even addressed him, the judge had firmly informed all participants that they were to speak directly to him, failing which he might not get the full picture.

The lawyers then proceeded to make various clarifications on amendments, the submission of additional supporting documents, and certain approvals regarding the submission of supporting documents. The judge made a remark to the effect that the supporting documents were not in order and that the lawyers should have put their case files together correctly since that is what their clients were paying them to do.

Then the judge heard the witnesses.

On several occasions, the witness who the complainant alleged had been intimidated by the judge responded to questions in an evasive, vague, or negative manner. The judge interrupted rather quickly to tell him "If you know something, say it, otherwise say that you don't know."

During the cross-examination, the witness again strayed off topic in his responses and the judge interrupted once again, telling him that the lawyer was asking specific questions and asking him to answer all of those questions.

Nothing like this occurred during the examination of the complainant, but on several occasions, the judge asked him—in a direct but utterly polite manner—to clarify certain things.

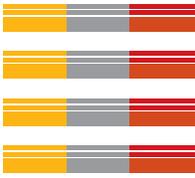
During the complainant's examination and cross-examination, the judge also asked the lawyers a few questions to get clarification on certain documents or facts; he was firm and to the point, but utterly polite.

During the examination of the witnesses for the defence, the judge also asked a few questions and, using wording similar to what he used for the complainant's witness, also reminded one of the witnesses, "If you know the answer, say it. If you don't know the answer, say so."

The judge never crossed the line in exercising the authority needed to manage the proceedings and get clear or acceptable responses from the witnesses.

An examination of the facts of this case led the Conseil de la magistrature to conclude that the judge did not violate any provisions of the *Judicial Code of Ethics*.

The Conseil de la magistrature concluded that the complaint was unfounded.



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

In a letter sent to the Conseil, a complainant denounced a judge for his behaviour during hearings. He alleged that the judge had made threatening comments that undermined his obligation to be impartial, objective, courteous, and composed, as well as his duty of restraint. He took umbrage at his uninformed and disrespectful comments and his lack of patience. He accused the judge of not paying attention to his impressions and concerns and of obstructing his testimony and attempting to ridicule him and downplay the importance of his testimony.

These events allegedly occurred during several hearings involving the review of an order limiting the complainant's contact with his underage daughter.

The audio recording of the proceedings did not support the conclusion that the judge obstructed the hearing in any way whatsoever. Similarly, the recording did not corroborate the complainant's allegations. Rather it showed that the judge remained impartial with respect to all parties.

Contrary to the complainant's allegations, the judge did not speak to him in an overly familiar manner and was open to hearing his version of the facts. By all evidence, the judge appeared to be preoccupied with the interests of the child, given the unfavourable depiction of some of the father's personality traits as outlined in numerous reports that had been made available to the judge.

The judge also believed it appropriate to share the inferences he had drawn from the complainant's about-face when he personally decided to remove himself from his daughter's life for two years. In matters such as these, the Conseil cannot play the role of an appeal court in examining whether the judge had grounds to draw such inferences and if so, whether they justified his conclusion.

In addition, the judge did not fail in his duty of restraint and courtesy during the hearing of the motion to recuse filed by the complainant. Just before concluding the hearing by rejecting the motion but still transferring the case to the coordinating judge, the judge stressed that it was not enough that justice be done, but that it also had to appear to be done. Contrary to the complainant's accusation, the Conseil does not believe it can be presumed that the judge was attempting to avoid reprimand by the Conseil by taking these actions.

The Conseil de la magistrature concluded that the complaint was unfounded.

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

A citizen alleged that in December 2009, a judge had commented on the fact that he was not being represented by a lawyer. The complainant added that when he made another court appearance for the case in January 2010, the judge allegedly addressed him using only his last name. The complainant criticized the judge for his lack of restraint and courtesy.

The audio recording of the proceedings revealed that the judge did mention that the complainant was appearing before him without an attorney for the second time. However, there was nothing in the judge's tone or word choice to indicate that his comment had been intended as a reproach.

As for the second part of the complaint, the audio recording again showed that courtesy had been the rule and not the exception. The judge even tried to be accommodating, making sure the date of the next hearing would be convenient for the complainant. However, it is true that when the judge questioned the complainant, he used only his last name and dropped the title "Mister."

This exception aside, the proceedings and hearing were managed efficiently and in a courteous and respectful manner. There is nothing in this case indicating a breach of ethics for which the judge should be reprimanded.

The Conseil de la magistrature concluded that the complaint was unfounded.

A complainant maintained that during her first trial, the judge had accused her of lying several times and had allegedly told her that she looked like a liar. She felt the judge had been rude to her. She also alleged that the judge had disparaged the photographic evidence submitted by the complainant and made fun of the photograph as he showed it to the lawyers.

She also claimed that she had not received a fair trial because she was an anglophone and her vehicle was registered in Ontario. As proof, she stated that the judge had behaved completely differently with the French-speaking Crown Prosecutor.

At no point in the audio recording of the proceedings did the judge make any accusations regarding the complainant's character, let alone call her a liar or tell her she looked like a liar.

The recording also offered no indication that the judge had disparaged—either alone or with others present—the evidence submitted by the complainant during the two hearings.

There was nothing in the judge's remarks to suggest negative bias toward the complainant or that could constitute uncivil or rude behaviour. The judge did not mention the language chosen by the complainant to plead her case and even told her that the registration of her car was irrelevant under the circumstances.

The two hearings proceeded without any breach of the Code of Ethics and the complainant's digressions were appropriately contained by the judge.

The judge gave each of the parties sufficient opportunity and time to present their arguments. The prosecutor's witness was heard and the complainant was able to finish her arguments after the prosecutor's representations.

The judge spoke slowly in somewhat broken English, but he took care to ensure that he was well understood.

In summary, after examining the facts, the Conseil concluded that the judge did not violate any of the provisions of the *Judicial Code of Ethics*.

The Conseil de la magistrature concluded that the complaint was unfounded.

In a letter to the Conseil, a woman criticized a judge for not having considered the request for postponement she had filed at the time of the verdict in order to make submissions on the sentence. She also accused him of bias and of making inappropriate comments.

The audio recording of the court proceedings revealed that the judge had been respectful and polite. The judge allowed the complainant and her lawyer to speak regarding the request to postpone sentencing. The complainant would have liked the judge to request a pre-sentence report, but it is not the role of the Conseil to intervene in matters left to a judge's discretion. Without expressly rejecting the request for postponement, the judge announced the sentence after the lawyers made their representations.

The complainant interrupted during sentencing to make certain modifications, primarily regarding the start date of the intermittent jail sentence.

The judge never made the remarks the complainant alleged were made during sentencing. The complainant also claimed that the judge had been very aggressive in his non-verbal communication. On this point, the audio recording indicated that the judge had remained calm and did not appear to have behaved aggressively. Obviously it was impossible to make a determination on the judge's non-verbal communication.

Finally, the accusation of bias appears to be unfounded. In fact, the judge even suggested certain avenues the complainant might pursue to follow up on her requests. The judge listened attentively to the complainant and rendered his decision by exercising his judicial discretion.

The complainant may not have been happy about the ruling, but the Conseil de la magistrature cannot interfere with the assessment of evidence in any way or act as an appeal body to reverse a ruling.

The examination of the facts and documentary evidence in this case led the Conseil de la magistrature to conclude that the judge did not violate any provisions of the *Judicial Code of Ethics*.

The Conseil de la magistrature concluded that the complaint was unfounded.

A complainant alleged that a judge had been aggressive from the very start of a hearing and had seemed irritated that the defendants did not have legal representation. He allegedly belittled them, saying "I'm not going to teach you how to be a lawyer in 15 minutes."

The complainant also alleged that the judge had dozed off during the presentation of evidence. Finally, the complainant claimed the judge had rendered a decision without retaining any of the pieces of evidence introduced by the complainant.

The audio recording of the proceedings revealed that the judge had spoken in a calm and composed tone at all times. After the judge had delivered his ruling, the complainant asked to speak and a brief exchange followed.

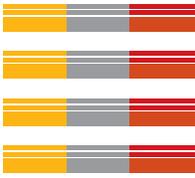
At the beginning of the session, he explained to all parties who were without legal representation that it was important they know their rights before the trial, saying "Legal training can't be summed up in 5 minutes." He also warned them that he would not be able to help them and that if they needed more time, they could ask him for it.

He was not aggressive and did not seem irritated in the slightest. On the contrary, his remarks were appropriate given his duty to instruct the defendants in court proceedings.

Obviously it was impossible to determine from the audio recording of the proceedings whether or not the judge dozed off during the complainant's trial. Although the judge disregarded one of the complainant's pieces of evidence, he took so many of his arguments into account in his ruling that he could not have been considered inattentive during the trial.

In addition, it is not only a matter of judicial discretion, but also of judicial duty to accept or reject pieces of evidence submitted by one of the parties to the case. The fact that a judge does not accept any of the pieces of evidence submitted by one of the parties does not constitute a breach of ethics.

The Conseil de la magistrature concluded that the complaint was unfounded.



An individual filed two complaints with the Conseil approximately 14 months after the close of a preliminary inquiry concerning him. There were two parts to the first complaint:

- a) The judge had presided over a trial involving the complainant ten years before, during which they had exchanged sharp words. The complainant maintained that the judge should have withdrawn from the preliminary inquiry.
- b) The complainant claimed, without actually citing it, that the judge had made a comment implying that he "didn't stand a chance."

In the second complaint, the complainant claimed that he had been left in his cell on several occasions when he should have been in the courtroom.

As the audio recording showed, the preliminary inquiry took place over a period of approximately 16 months, beginning in October 2008 and ending in January 2010. The inquiry included six appearances before the judge.

The case was heard in October 2008 and January 2010. All the other appearances were to select dates for continuation of the inquiry. Hearings were postponed on several occasions because two of the three lawyers retained by the complainant withdrew from the case.

The complainant, who felt that the comments made by the judge during his appearance ten years earlier could have been prejudicial to him, did not submit a motion to recuse.

Just because an earlier court appearance involving a judge and an accused takes place—whether words are exchanged or not—does not mean the judge should recuse himself from any future proceedings involving the same individual. A judge may hear an accused more than once in different cases, given his ability to separate the situations, and in the interests of the sound administration of justice.

The complainant alleged that the judge had made remarks that led him to believe that he had already made up his mind about the case, against the complainant. However, after listening carefully to the audio recordings of the proceedings, the Conseil was unable to ascertain any comments that could be construed as being inappropriate or showing signs of bias.

The judge could not be held responsible for the fact that the complainant was detained at the courthouse and not brought before the Court for his scheduled hearing, because by all accounts, the judge was unaware of the situation. There was nothing to indicate the judge played any role in this matter whatsoever.

The Conseil de la magistrature concluded that the complaint was unfounded.

COMPLAINTS AGAINST JUDGES ASSIGNED TO THE MUNICIPAL COURT

In a letter to the Conseil, a complainant maintained that a municipal judge had not allowed him to finish his argument and had allegedly committed errors of law. The complainant had been contesting a ticket he had been given for use of a cell phone while driving.

The audio recording of the proceedings revealed that the judge had given the complainant the opportunity to present his version of the facts, even asking him if he had anything to add, to which the complainant responded no.

The judge's and complainant's interpretations of the law governing the use of cell phones while driving and the impact of the ruling are not a matter of judicial ethics. The role of the Conseil was limited to investigating whether the judge had prevented the complainant from completing his defence, as the complainant had claimed.

The complaint was unfounded, since there was nothing in the alleged facts that could be construed as a breach of the provisions of the Code of Ethics.

In a letter to the Conseil, the complainants accused a municipal judge of being aggressive and disrespectful during a hearing pertaining to a citation issued for parking in front of a sidewalk ramp for the handicapped.

The audio recording of the proceedings revealed that the complainants had based their defence on the claim that there were no signs and that the street markings did not clearly indicate that it was a handicapped space where parking was prohibited. After examining the evidence, the judge did not uphold this position and made his decision based on two photographs introduced by the complainant.

The judge did interrupt the complainants on two occasions during the hearing—once regarding the relevance of the fact that snow could be seen in a photo whereas the event had occurred in August, and a second time to clarify when the photographs introduced by the complainant had been taken. The judge’s tone was authoritative, but never irritable or rude. He did not lose his temper.

After examining the facts, the Conseil concluded that the judge did not violate any provisions of the Code of Ethics.

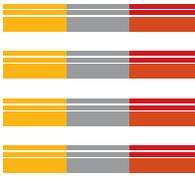
A complainant maintained that a municipal judge discriminated against him by refusing to hear him for religious reasons. During the hearing, the complainant had been wearing a baseball hat backwards. The judge had informed the complainant that wearing a baseball hat was not prescribed by any religion and that he would not hear his case unless he removed the hat.

The audio recording revealed that the judge had maintained a neutral and respectful tone with the complainant. It is the responsibility of the judge to ensure that the complainant’s attire in the courtroom follows certain rules without infringing on the complainant’s basic rights.

By refusing to proceed with the complainant’s case, the judge applied article 27 of the Rules of the Municipal Courts, which stipulates that “Every person appearing before the court shall be suitably attired.”

Given the circumstances, an analysis of this case led the Conseil to conclude that the judge did not violate any provision of the Code of Ethics.

The Conseil de la magistrature concluded that the complaint was unfounded.



In a letter to the Conseil, a citizen criticized a municipal judge for his lack of fairness and condescending attitude. The complainant further claimed that the judge had been derisive and had condescendingly and disrespectfully denigrated everything the complainant said.

The audio recording of the proceedings revealed that it took less than three minutes for the presentation and examination of police evidence, the swearing in and testimony of the complainant, the rendering of the decision, and the delivery of the guilty verdict.

Given the brevity of the hearing, the complainant was asked to quickly present his testimony. Using photographs he tried to explain that he had been unable to see the road sign because two posters had been blocking it and because it was snowing heavily.

As he examined the photos, the judge questioned the number of signs, but referred back to the police report, which indicated there had been two. He intervened personally without allowing the lawyer for the prosecution to act. When he read the note indicating the signs had been cleaned by the police officers, he was surprised, which made the complainant burst out laughing. But this same reaction from the judge and the complainant did not last long and even prompted the judge to point out that the complainant's assertion that he had not seen the sign did not constitute an appropriate defence.

Twice the judge asked the complainant if he had any other witnesses to be heard. When he got no response, he began delivering his ruling. The complainant then tried to interrupt, but the judge cut him off, pointing out that he was already in the process of delivering a ruling.

The judge's ruling took a few seconds and the complainant was found guilty. The judge then asked the complainant if he wanted extra time to pay his fine. When the complainant did not respond, the judge granted him 30 days.

As he was leaving, the complainant was grumbling from the back of the courtroom. This did not escape the notice of the judge, who responded right away.

Despite the hasty nature of the hearing, the judge could not be accused of being disrespectful or ill-tempered. He was polite. The complainant's frustration seemed to stem from the perception that, because of the short duration of the hearing and the judge's repeated interventions, the complainant had not been treated fairly and objectively.

The judge could have given the complainant a better explanation of his reasons for ruling against him. The brevity of the hearing and the repeated interventions by the judge made the complainant feel the judge had behaved questionably under the circumstances.

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.

In a complaint to the Conseil, a complainant maintained that a municipal judge had behaved aggressively toward him during a trial. According to the complainant, the judge had used a menacing and intimidating tone. He added that the judge had yelled at people even when they were speaking to him calmly.

The audio recording of the proceedings revealed that the judge had not used an intimidating or threatening tone during the hearing. When the complainant expressed interest in getting a judgment revoked, the judge assisted him by telling him potential grounds for revocation.

The judge did not yell at people as alleged by the complainant. It should be noted however that the judge did have a serious tone of voice. Contrary to the complainant's claims, the judge acted objectively and impartially.

The playback of the proceedings and the examination of the facts indicated that the judge did not violate any of the provisions of the Code of Ethics to which he is subject.

The Conseil de la magistrature concluded that the complaint was unfounded.

A citizen filed a complaint against a municipal judge. The complainant accused the judge of bias and prejudice, of failing to fulfill his duty to provide help and assistance, of being negligent and careless in conducting the trial, of putting himself in a situation involving a serious conflict of interest, and of illegally failing to give a reasoned decision.

The audio recording of the proceedings revealed that the judge tried to help the complainant on numerous occasions to no avail. The judge was forced to yield in response to the complainant's insistence on explaining the distinction between a motorcycle and a scooter and, more broadly, the use of scooters in town. The judge told the complainant that he understood, but the complainant continued to expound on his argument. After 13 minutes, the judge began rendering an oral decision from the bench. The complainant interrupted the judge to comment, but the judge cut him off and resumed pronouncing his ruling. The complainant continued to argue even after the decision had been issued. The judge interrupted to tell him that he had rendered his decision.

The judge remained calm and courteous at all times. He tried to help the complainant present his arguments, but had to give up when he realized the complainant was refusing his assistance, as was his right.

The Conseil de la magistrature concluded that the complaint was unfounded.

The Conseil had examined a complaint filed by a woman and decided that the facts she reported were a matter for appeal. After notifying the complainant, the Conseil received an observation from the complainant that, if proven, could impact its decision. As a result, the Conseil requested that this new evidence be collected and that a report be made to the Conseil.

The process of examining complaints being an administrative function, the Conseil has full authority to reexamine a complaint when new facts are brought to light.

Abstractly speaking and without reaching conclusions in advance, a judge who acknowledges that there is no proof of guilt but convicts someone anyway has committed a breach of ethics. The Conseil still thought it relevant to reexamine the evidence gathered in the light of this alleged conduct.

After analysis, the reexamination of all the evidence did not support the complainant's claims. The elements added by the complainant in her observation were not borne out by the evidence that was examined.

It is true that when the complainant interrupted the judge as judgment was being rendered to declare that there was no photograph to illustrate the statements made by the witnesses for the prosecution, the judge acquiesced. It is also true that when he spoke during the hearing, he referred to the "preponderance of evidence" standard.

Nevertheless, the judge did nothing to suggest, either directly or indirectly, that he did not intend to respect applicable rules of law. He had found that despite contradictions, the evidence as it existed was enough to allow him to make the decision he did. The second review added nothing to the first and had no effect whatsoever on the Conseil's findings of fact and of law.

After reexamining the evidence, the Conseil found that there was no new evidence that would justify reversal of the original decision.

As a result, the Conseil de la magistrature referred the complainant to the original decision.

In a complaint filed with the Conseil, a complainant accused a judge of bias. He also criticized the judge's lack of courtesy, claiming that during the trial, the judge paid very little attention to the actual case but repeatedly mentioned that he had known the father of the accused.

The municipal judge had presided over the trial of the plaintiffs' neighbour, who was charged with having disturbed the peace on private property in violation of a municipal bylaw. According to the complainant's allegations, the neighbour had been accused of removing snow from his property late in the night and thereby preventing his neighbours from sleeping.

As the complainant clearly indicated in his testimony, this disturbance was not an isolated event because on several occasions, the accused had taken other action that had an impact on their neighbourly relations.

It was the complainant who had to corroborate the facts presented in the offence report submitted by the lawyer for the prosecution. In answering the prosecutor's questions, the complainant emphasized his neighbour's repeated bad behaviour.

The judge rarely intervened.

The accused testified without legal assistance. He used photographs to help better explain the nature of his land and the location where the snow was removed, which was a few feet from the plaintiffs' residence.

At the end of testimony, the judge addressed the complainant to explain the purpose of the municipal bylaw at issue, stressing that historically, there had been a golden rule (as he called it) to keep the peace between neighbours, stipulating that noise must cease after 11:00 p.m.

The complainant, who was age 62, was brought in to the historical explanation presented by the judge, who made a reference to the complainant's grey hair.

Although he acquitted the defendant, the judge took pains to make recommendations to him regarding the importance of respecting the 11:00 p.m. cut-off.

Playback of the audio recording of the proceedings showed that the issue of the grey hair was merely an observation made by the judge to the effect that the complainant, the judge himself, and other people in the courtroom were all about the same age, i.e., an age at which people get grey hair. These comments were made without malice to support the judge's explanations pertaining to the history of the bylaw and ensure it was well understood.

The complainants' accusation of bias was supported by the fact that the judge twice mentioned that he had known the father of the accused.

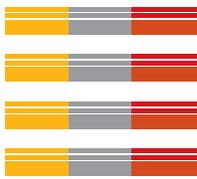
The first time was at the beginning of the accused's testimony. The judge interrupted, questioning whether he should remove himself from the case because he had realized that the accused was the son of an acquaintance. He announced that he would reserve his decision on the issue.

It was not until the end of the trial, when he was summing up the reasons for his ruling and making his recommendations to the accused that he again mentioned that he had known his father, who he said had been ill-natured, as he presumed the son to be.

Did the substance of these revelations constitute grounds for recusal of the judge? In this specific context, the answer to that question exceeds the jurisdiction of the Conseil de la magistrature, which cannot act to appeal or reverse a ruling.

Was there a breach of the appearance of impartiality as set forth in the provisions of the Code of Ethics? The Conseil does not believe so.

The context of the entire trial, as revealed in the playback of the audio recording of the proceedings, showed that the past relationship between the judge and the father of the accused had been raised by the judge during the testimony of the accused as a matter of course. It can only be concluded that he did not see it as undermining his impartiality since at the end of testimony, upon delivering his ruling, he referred to the relationship again when speaking to the accused about his future behaviour.



As implied, the care the judge took to explain the reasoning behind the bylaw was an unbiased and objective attempt, if not to reconcile the neighbours, then to at least help them understand the limits on their activities, and specifically those related to time of day. The fact that the judge asked the accused to always behave in a way that takes into account the time of day should also be taken within this context.

In this situation, the Conseil found no reason to believe the judge had behaved in such a way that his objectivity should be called into question.

This conclusion is supported by the new facts brought to light in a letter from one of the plaintiffs indicating that she had once been the judge's client and that his wife had been a co-worker. These facts were not raised at the time of the trial, which was what led the Conseil to believe that the judge's objectivity was not being challenged by the plaintiffs.

An examination of the facts led the Conseil to conclude that the judge did not violate any provisions of the Code of Ethics for Municipal Judges.

The Conseil de la magistrature concluded that the complaint was unfounded.

A complainant accused a judge of not being impartial, not listening to him, rejecting his application for revocation, and treating him like a foreigner who did not know the law.

The complainant asserted that he had been present during the role call, but that he had left the courtroom because the judge who was hearing the case had told him that his case was postponed until a later date. To his great surprise, a ruling was issued against him later that same day.

Three months later, the complainant returned to court to submit an application for revocation of the judgment rendered in his absence.

After a lively exchange between the complainant and the judge, the judge refused to approve the application to have the earlier judgment revoked without expenses. This was one of the reasons the complainant filed a complaint against the judge.

The decision to reject an application for revocation falls within the judge's discretion and does not constitute a breach of ethics in and of itself.

As for the second aspect of the complaint, playback of the audio recording of the proceedings revealed that the judge had given the complainant an opportunity to present his version of the facts. That said, the judge did cut off the complainant rather abruptly on several occasions to get him to answer his questions directly.

Referring to the minutes of the hearing, the judge repeatedly asked the complainant why he had left the courtroom before the ruling and the complainant repeatedly explained that he had thought his case had been postponed.

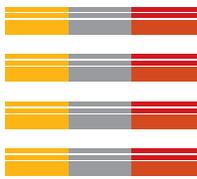
The entire trial was taken up by exchanges on this issue, to the point that the complainant repeated his argument as the judge was announcing his decision. This was to no avail, since the judge decided to finish what he was saying.

The accusation of bias could not be upheld, nor the claims regarding the comments that could be heard. The discussions centred entirely on whether or not the default ruling had been legitimate.

Finally, in his interpretation of the way in which the judge reached his verdict, the complainant felt he had been treated like a foreigner who did not know Québec law. Playback of the audio recording of the proceedings did not support this perception. The judge had merely been trying to clarify how trials were conducted in all courtrooms in the province of Québec since the complainant had been in more than one in this case. The judge never insinuated that the complainant was from somewhere else.

The complaint against the judge was unfounded because there was nothing in the alleged facts that could be construed as being a breach of the provisions of the Code of Ethics.

The Conseil de la magistrature concluded that the complaint was unfounded.



In his initial correspondence with the Conseil, a complainant alleged that the judge had refused to give him permission to present his arguments against a motion to postpone introduced by the plaintiff in his case. For these reasons, he maintained that it would be impossible to get a fair trial and asked that another judge be assigned to his case.

In response to his letter, the Secretary informed the complainant that the Conseil could not get involved in court cases or order a judge to recuse himself.

Three days later, the complainant wrote to the Conseil again and filed a formal complaint, alleging that the judge's conduct during the hearing lacked the calmness, impartiality, and objectivity that a judge ought to have. He added that he could not imagine that the next hearing would be fair, since the judge had prohibited him from calling witnesses, refused to listen to him, and heard witnesses in the absence of the defence counsel. According to the complainant, the judge had showed nothing but irritation with him.

Playback of the audio recording of the proceedings revealed that the judge had been polite and objective. The judge clearly explained the rules to the complainant and postponed the case until the next available date. After the prosecutor presented the charges and reasons for the motion to postpone, the judge mentioned that there was a presumption of good faith.

As for a decision on cancelling the subpoena, the judge listened to the parties and rendered his decision while exercising his judicial discretion.

The complainant was clearly dissatisfied with these decisions, but the Conseil de la magistrature cannot interfere with the assessment of evidence in any way or act as an appeal body to reverse a ruling handed down by a judge.

After examining the facts of the case, the Conseil found that the judge did not violate any provisions of the Judicial Code of Ethics.

The Conseil de la magistrature concluded that the complaint was unfounded.

An 81-year-old man and his 84-year-old wife, who was the only witness in the case, accused a judge of having made them wait several hours before beginning their trial. The complainant also denounced the judge for comments he had made during the hearing. According to the complainant, the judge had been rude and arrogant and did not seem to have listened to him.

The audio recording of the proceedings revealed that the hearing had proceeded calmly and was conducted appropriately. The judge allowed the complainant and his wife to be heard and to explain the reasons for their dispute.

The remarks made by the judge regarding the complainant's wife were not intended to be hurtful. However, they did have the effect of unsettling him unnecessarily at the beginning of his testimony. It would have been preferable if the judge had taken the time to ensure that the complainant understood and to allow him to resume his testimony once he was more composed.

The Conseil reiterates that it is unwise for a judge to make comments in the courtroom that add nothing to the proceedings. The judge's remarks regarding the complainant were inappropriate.

However, given the evidence, the Conseil did not find that the judge had behaved in a way that could be construed as being a breach of the rules of the *Judicial Code of Ethics*.

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.

In a letter to the Conseil, a complainant shared certain observations he had made during the trial of the case preceding his own, both of which had been presided over by the same judge. The complainant also made various criticisms about the hearing of his own case. He claimed that the judge had tried to rush the hearings, had criticized him for not having a lawyer, and had not believed him.

The audio recording of the proceedings revealed that throughout the proceedings, the judge never said anything about needing to “make up for” lost time and that, in response to certain blunders by the complainant, the judge reminded him that it was useful to have the assistance of a lawyer, while adding that his comments were not intended as criticism in any way of the complainant’s decision to represent himself.

It is true that in his ruling, the judge told the complainant that he did not believe his version of the facts, but he clearly explained the reasoning behind this conclusion.

After examination of the complaint and playback of the proceedings, the Conseil was able to confirm that the judge’s behaviour in this case was in keeping with his obligations under the code of ethics.

The complainant’s request to have the Conseil intervene regarding the time period he had been granted to pay the fine and fees resulting from the ruling had to be rejected since the Conseil does not have jurisdiction over these matters.

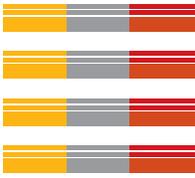
An examination of the facts led the Conseil to conclude that the judge did not violate any provisions of the *Judicial Code of Ethics*.

The Conseil de la magistrature concluded that the complaint was unfounded.

4.4.2 INQUIRY STAGE (FORMATION OF AN INQUIRY COMMITTEE)

After examining a complaint, the Conseil may decide it warrants an inquiry. To conduct this inquiry, the Conseil forms a five-member inquiry committee. The committee summons the judge and the complainant in question and notifies the Minister of Justice. The inquiry committee hears the parties, their lawyers, and their respective witnesses. Its hearings are public.

In 2010-2011, no complaint warranted the formation of an inquiry committee by the Conseil.



CHAPTER 5

PROCESSING OF COMPLAINTS IN 2010-2011

This section describes the actions taken in matters of judicial ethics, using tables and figures to help the reader grasp how the complaint review process works.

SUMMARY

Between April 1, 2010, and March 31, 2011, the Conseil de la magistrature received 103 complaints. A further 13 complaints, received in 2009-2010, were not processed and resolved until 2010-2011. Upon examination, none of these 13 complaints were deemed to be founded.

Table 1: How Complaints Were Handled

The following table breaks down results from the processing of the 103 complaints received in 2010-2011. It should be noted that examination of 9 complaints was still under way as of March 31, 2011.

Complaints deemed unfounded upon receipt	Complaints deemed unfounded after examination	Complaints not warranting inquiry	Other (cases closed during processing)	Complaints investigated	Complaints being processed as of March 31, 2011	TOTAL
70	22	2	0	0	9	103

Complaints referred to the Conseil this year came from 109 complainants (35 women and 74 men). Of these 109 complainants, only 9 were not parties to the dispute.

Furthermore, 85 of the 109 complainants (78%) did not have legal representation before the court.

Table 2: Complaints over the Past Three Years

	2008-2009	2009-2010	2010-2011
Number of complaints received	91	102	103
Number of complaints processed	101	112	116

Table 3: Courts and Tribunals Subject to Complaint

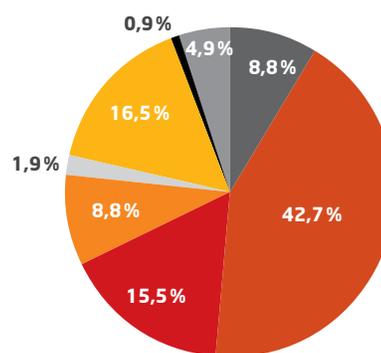
The following table shows the courts and tribunals whose judges were the subjects of complaints.

Court or tribunal	Complaints received	Complaints deemed unfounded	Complaints deemed unfounded after examination	Other complaints not warranting inquiry	Complaints investigated	Complaints under examination
Civil Division (excluding Small Claims Division)	9	6	2	—	—	1
Small Claims Division	44	28	10	1	—	5
Criminal and Penal Division	17	15	1	—	—	1
Youth Division	9	8	1	—	—	—
Presiding justices of the peace	2		2	—	—	—
Municipal courts	16	9	5	1	—	1
Human Rights Tribunal	0	—	—	—	—	—
Professions Tribunal	1	1	—	—	—	—
Other (events occurring outside of judiciary functions)	5	3	1	—	—	1
TOTAL	103	70	22	2	0	9

Figure 1

This figure displays complaint jurisdictions by percentage.

Courts and tribunals ¹	Percentage
Civil Division (excluding Small Claims Division)	8,8%
Small Claims Division	42,7%
Criminal and Penal Division	16,5%
Youth Division	8,8%
Presiding justices of the peace	1,9%
Municipal courts	15,5%
Professions Tribunal	0,9%
Other	4,9%



¹The Human Rights Tribunal is not shown in this figure because it was not the subject of any complaints in 2010-2011..

Table 4: Origin of Complaints

Let's take a closer look at where the 109 complaints received by the Conseil originated. Origin is determined by the 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.

Region of Origin	Number of Complainants
Bas-Saint-Laurent	3
Saguenay - Lac-Saint-Jean	1
Capitale nationale	10
Mauricie	9
Estrie	6
Montréal	25
Outaouais	1
Chaudière-Appalaches	1
Laval	7
Lanaudière	9
Laurentides	12
Montérégie	18
Gaspésie - Îles de la Madeleine	2
Centre-du-Québec	5
TOTAL	109

Table 5: Summary of Complaints

The Conseil de la magistrature was created in 1978, which means it has been receiving and processing complaints for 31 years. The following table provides a summary of the decisions reached by the Conseil over this period.

		RESULTS AFTER EXAMINATION				
Number of complaints received	Complaints deemed unfounded upon receipt	Complaints deemed unfounded after examination	Other complaints not warranting inquiry	Other	Complaints under examination	Complaints investigated
1 819	1 117	525	45	27	9	103

RESULTS AFTER INQUIRY				
Complaints deemed unfounded after inquiry	Complaints resulting in a reprimand	Complaints resulting in a recommendation to remove a judge	Other	Complaints under inquiry
35	45	4	11	1

These figures do not include complaints currently being processed, but in general, we can see that

- 94.7% of complaints were deemed unfounded upon initial review
- 51.6% of the 96 complaints resulted in sanctions after inquiry
- With both stages combined,
 - 97.3% of complaints were deemed unfounded, did not warrant inquiry, or became moot
 - 2.7% of complaints resulted in sanctions
- 35.5% of complaints required the collection of additional information
- 64.6% of complaints were ruled upon during the first meeting of the Conseil (i.e., at the examination stage)

Appendix 1

MEMBERS AND STAFF OF THE CONSEIL DE LA MAGISTRATURE AS AT MARCH 31, 2011

MEMBERS OF THE CONSEIL DE LA MAGISTRATURE

Honourable Elizabeth Corte, Chief Judge of the Court of Québec, Chair*

Honourable Mario Tremblay, Senior Associate Chief Judge of the Court of Québec, Vice-Chairman*

Honourable Claude C. Boulanger, Associate Chief Judge of the Court of Québec

Honourable Pierre E. Audet, Associate Chief Judge of the Court of Québec

Honourable André Perreault, Associate Chief Judge of the Court of Québec, responsible for municipal courts

Honourable Maurice Galarneau, Associate Chief Judge of the Court of Québec

Honourable Louise Provost, President of the Professions Tribunal

Honourable Hubert Couture, Judge of the Court of Québec*

Honourable Daniel Lavoie, Judge of the Court of Québec

Honourable Jean Herbert, Municipal Judge*

Mr. Claude Rochon, Lawyer–Stein, Monast

Mrs. Odette Jobin-Laberge, Lawyer–Lavery, de Billy*

Mr. Cyriaque Sumu, Consultant

Mr. Robert L. Véronneau, Consultant

STAFF OF THE CONSEIL DE LA MAGISTRATURE

Mr. André Ouimet, Lawyer, Secretary of the Council

Mrs. Michelle Blanchet, Secretary

Mrs. Dominique Bouchard, Administrative Assistant

Mrs. Liliane Gouge, Desk Officer

* These people are also members of the Executive Committee.

Appendix 2

EXCERPTS FROM THE COURTS OF JUSTICE ACT (R.S.Q., c. T-16)

CHAPTER I

THE CONSEIL DE LA MAGISTRATURE

DIVISION I

ESTABLISHMENT

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

1978, c. 19, s. 33.

Composition du Conseil. 248. The council shall be composed of 15 members, namely:

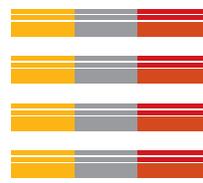
- a) the chief judge of the Court of Québec who shall be the chairman of the council;
- b) the senior associate chief judge of the Court of Québec;
- c) the four associate chief judges of the Court of Québec;
- d) president judge of a municipal court;
- d.1) one judge chosen among the persons exercising the functions of president of the Human Rights Tribunal, or chairman of the Professions Tribunal;
- e) two judges chosen among the judges of the Court of Québec and appointed upon the recommendation of the Conférence des juges 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;
- g) two advocates appointed upon the recommendation of the Barreau du Québec;
- h) two persons who are neither judges nor advocates.

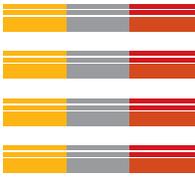
1978, c. 19, s. 33; 1986, c. 48, s. 4; 1986, c. 61, s. 47; 1987, c. 50, s. 8; 1988, c. 21, s. 53; 1991, c. 70, s. 4; 1995, c. 42, s. 42; 1998, c. 30, s. 40; 2002, c. 21, s. 48; 2001, c. 26, s. 172.

Appointment of members. 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.

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

Term of office.	<p>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.</p> <hr/> <p>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.</p>
Remuneration and expenses.	<p>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.</p>
Indemnity.	<p>The judges are entitled to the indemnity provided for in section 119.</p> <hr/> <p>1978, c. 19, s. 33; 1988, c. 21, s. 55.</p>
Quorum.	<p>251. Eight members of the council, including the chairman or vice-chairman, are a quorum.</p> <hr/> <p>1978, c. 19, s. 33; 1986, c. 48, s. 5.</p>
Meetings.	<p>252. The council meets as often as necessary, when convened by the chairman.</p>
Sittings in camera.	<p>It may sit in camera and hold its sittings at any place in Québec.</p>
Head office.	<p>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.</p> <hr/> <p>1978, c. 19, s. 33; 1996, c. 2, s. 985.</p>
Internal management.	<p>253. The council may make bylaws for its internal management or to establish committees and determine their functions.</p> <hr/> <p>1978, c. 19, s. 33.</p>
Minutes.	<p>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.</p> <hr/> <p>1978, c. 19, s. 33.</p>
Secretary.	<p>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.</p>
Leave	<p>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.</p> <hr/> <p>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..</p>



- 
- Functions.** **255.1.** The secretary of the council shall exercise the functions of the secretary on an exclusive basis, under the authority of the chairman.
- Oath** 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.
- Expiry of term.** **255.2.** At the expiry of the five-year term of office, the secretary shall remain in office until replaced or re-appointed.
- 1989, c. 45, s. 7; 1997, c. 76, s. 2.
- Appointment.** **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.

DIVISION II

FUNCTIONS OF THE COUNCIL

- Functions.** **256.** The functions of the council are:
- a) to organize, in accordance with Chapter II of this Part, refresher programmes 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 PROGRAMMES FOR JUDGES

- Programmes.** **257.** The council shall establish information, training or refresher programmes for the 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.
- Preparation.** **258.** The council shall determine the needs, prepare the programmes and fix the terms and conditions of application; it may, for that purpose, act in cooperation in particular with the Conférence des juges du Québec, the Conférence des juges municipaux du Québec, the association representing presiding justices of the peace, 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.
- Authorization for expenditures.** **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.
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- 1978, c. 19, s. 33.

CHAPTER III

JUDICIAL ETHICS

DIVISION I

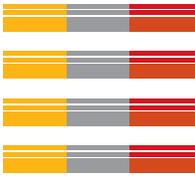
GENERAL PROVISION

- Applicability.** **260.** This chapter applies to a judge appointed under this act.
- Applicability.** 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.

DIVISION II

CODE OF ETHICS

- Code of ethics.** **261.** The council shall, by regulation, adopt a judicial code of ethics.
- Meeting of the judges.** However, it must previously call a meeting of the judges to whom the code of ethics applies to consult them on the draft regulation.
- Approval. Coming into force.** Un règlement adopté en vertu du présent article est publié dans la Gazette officielle du Québec au moins trente jours avant d'être soumis à l'approbation du gouvernement. S'il est ainsi approuvé, il entre en vigueur à la date de sa publication dans la Gazette officielle du Québec ou à une date ultérieure qui y est fixée.
-
- 1978, c. 19, s. 33.
- Contents.** **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).
- Special provisions.** 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

- Object of complaints.** **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.
- Contents.** **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.

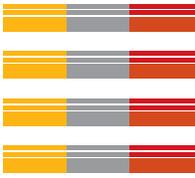
1978, c. 19, s. 33.
- Necessary information.** **265.** The council shall examine the complaint; it may, for that purpose, require from any person such information as it may deem necessary and examine the relevant record, even if the record is confidential under the Youth Protection Act (chapter P-34.1).
- Conflict.** 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.
- Copy to judge.** **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..
- Complaint not justified.** **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 therefore.

1978, c. 19, s. 33.
- Inquiry.** **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 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

- Committee.** **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.
- Quorum.** Three persons are a quorum of the committee.

1978, c. 19, s. 33.
- Composition.** **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.
- Composition.** 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.

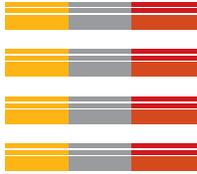
1991, c. 70, s. 5.
- Oath or solemn declaration.** **269.2.** Any person who has previously been a member of the council and who is appointed to sit on a committee must, before taking up his functions, make the oath contained in Schedule III, before the chief judge or the senior associate chief judge of the Court of Québec.

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

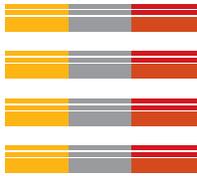
1991, c. 70, s. 5.
- Remuneration and indemnities.** **269.4.** A person to whom either of section 269.2 and 269.3 applies is entitled for the time he is a member of a committee to no remuneration other than the remuneration and indemnities council members are entitled to receive under section 250.

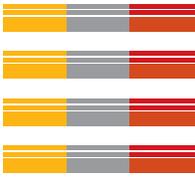
1991, c. 70, s. 5.
- Presiding justice of the peace.** **269.5.** When it establishes a committee to conduct an inquiry into a complaint made against a presiding justice of the peace, the council must designate at least one person who is a presiding justice of the peace to sit on the committee..
- Oath.** Before taking up committee functions, that person must make the oath contained in Schedule III, before the chief judge or the senior associate chief judge of the Court of Québec.
- Indemnity.** The person so designated is entitled for the time the person is a member of a committee to no indemnity other than the indemnity a council member who is a judge is entitled to receive under section 250.

2004, c. 12, s. 14.



Meetings.	270. The committee meets as often as necessary, when convened by its chairman. <hr/> 1978, c. 19, s. 33.
Copy of complaint, or request.	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.
Calling by the committee.	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. <hr/> 1978, c. 19, s. 33; 1988, c. 21, s. 61; 1990, c. 44, s. 24; 2004, c.12, s.15.
Hearing.	272. The committee hears the parties, their attorneys and their witnesses.
Facts and testimonies.	It may inquire into the relevant facts and call any person apt to testify on such facts.
Examination.	The witnesses may be examined or cross-examined by the parties. <hr/> 1978, c. 19, s. 33.
Powers and immunity.	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. <hr/> 1978, c. 19, s. 33; 1992, c. 61, s. 621.
Prohibition.	273.1. An advocate who is a judge of a Municipal Court may not act as a prosecutor for the application of this chapter. <hr/> 1980, c. 11, s. 100.
Recusation of a member of the committee.	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 234 and 235 of the Code of Civil Procedure (chapter C-25).
Obligation to declare.	Furthermore, a member of the committee who is aware of a ground of recusation to which he is liable is bound to declare it. <hr/> 1978, c. 19, s. 33.
Rules of procedures or practice.	275. The committee may make rules of procedure or rules of practice for the conduct of an inquiry.
Orders of procedures.	If necessary, the committee or one of its members makes the orders of procedure, based on the Code of Civil Procedure (chapter C-25), that are necessary for the carrying out of its duties. <hr/> 1978, c. 19, s. 33.
Suspension of a judge.	276. The council may suspend a judge for the duration of an inquiry on him. <hr/> 1978, c. 19, s. 33.



- 
- Report of inquiry and recommendations.** **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.
- Complaint not justified.** **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.
- Complaint justified.** **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 a motion with the Court of Appeal in accordance with section 95 or section 167.
- Suspension.** 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.
- Motion to Court of Appeal.** **280.** If the Minister of Justice and Attorney General, in accordance with section 95 or section 167, files a motion 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.
- Services of an advocate.** **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

- Amounts required.** **282.** The amounts required for the application of this part are taken out of the consolidated revenue fund.
-
- 1978, c. 19, s. 33.

PART VIII

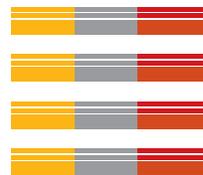
FINAL PROVISIONS

- Minister responsible.** **282.1.** The Minister of Justice is responsible for the administration of this Act.
-
- 1988, c. 21, s. 64.

OTHER DISPOSITIONS FROM THE COURTS OF JUSTICE ACT

- Disability.** **93.1.** A judge suffering from a permanent physical or mental disability which, in the opinion of the Government, prevents the judge from effectively performing the duties. Unless the judge resumes judicial duties under the second paragraph, the judge is deemed to have ceased to hold office on the day preceding the day on which the judge satisfies any of the requirements set out in section 224.3, 228 or 246.3, as the case may be, for eligibility for a pension.
- Resumption of judicial duties.** If the judge recovers, the Government may permit the judge to resume judicial duties at the same court, even if all the posts in that court are already filled.
- Disability.** The permanent disability is established, after inquiry, by the Conseil de la magistrature, at the request of the Minister of Justice. Termination of permanent disability is established in the same manner.
-
- 1990, c. 44, s. 4; 2001, c. 8, s. 3; 2005, c. 41, s. 1.
- Disability.** **168.** A presiding justice of the peace who is suffering from permanent physical or mental disability which, in the opinion of the Government, prevents the justice of the peace from effectively performing the duties of the office shall be relieved from duties. Unless the justice of the peace resumes duties under the second paragraph, the justice of the peace is deemed to have ceased to hold office on the day preceding the day on which the justice of the peace satisfies the requirements for eligibility for his or her pension.
- Resumption of duties.** If the justice of the peace recovers, the Government may permit him or her to resume duties.
- Inquiry.** Permanent disability is established, at the request of the Minister of Justice, after inquiry by the Conseil de la magistrature. Termination of permanent disability is established in the same manner.
-
- R.S. 1964, c. 20, s. 178; 1992, c. 61, s. 617; 2004, c. 12, s. 1.

- Removal.** **95.** The Government may remove a judge only upon request of the Court of Appeal made after inquiry at the request of the Minister of Justice.
R.S. 1964, c. 20, s. 86; 1988, c. 21, s. 30.
- Dismissal.** **167.** The Government may dismiss a presiding justice of the peace only upon a report of the Court of Appeal made after inquiry at the request of the Minister of Justice.
R.S. 1964, c. 20, s. 177; 1992, c. 61, s. 617; 2004, c. 12, s. 1.
- Modification to a notice of appointment.** **108.** Any modification to the notice of appointment of a judge concerning his place of residence shall be decided by the Government on the recommendation of the chief judge. The Government may make such a decision only if the period prescribed in section 112 for filing an appeal is expired or, where an appeal is filed, if the recommendation of the chief judge is confirmed.
R.S. 1964, c. 20, s. 100; 1965 (1st sess.), c. 17, s. 16; 1982, c. 17, s. 76; 1987, c. 50, s. 5; 1988, c. 21, s. 30; 1995, c. 42, s. 26.
- Assignment to another division.** **111.** The chief judge may, where the administration of justice so requires and after consultation with the associate chief judges concerned, assign a judge to another division after the judge concerned has been given the opportunity to present his views in that respect.
R.S. 1964, c. 20, s. 103; 1965 (1st sess.), c. 16, s. 21; 1965 (1st sess.), c. 17, s. 18; 1978, c. 19, s. 15; 1988, c. 21, s. 30; 1995, c. 42, s. 29.
- Notice of decision.** **112.** The chief judge who makes a recommendation under section 108 or a decision respecting the permanent assignment of a judge to another division under section 111 shall notify the judge concerned. The latter may, within fifteen days, appeal to the Conseil de la magistrature which may confirm or quash the recommendation or the decision of the chief judge.
R.S. 1964, c. 20, s. 104; 1974, c. 11, s. 30; 1977, c. 20, s. 138; 1978, c. 19, s. 16; 1986, c. 95, s. 334; 1988, c. 21, s. 30.
- Exclusive office.** **129.** Subject to the provisions of this subdivision, the office of judge shall be exclusive.
- Incompatibility.** The office of judge is incompatible, in particular, with the office of director or manager of a legal person or any other constituted body, or with the conduct, even indirect, of commercial activities.
R.S. 1964, c. 20, s. 121; 1965 (1st sess.), c. 17, s. 2; 1978, c. 19, s. 25; 1988, c. 21, s. 30.
- Exclusivity.** **171.** Presiding justices of the peace shall devote their time exclusively to duties of the office.
- Incompatibility.** The office of presiding justice of the peace is incompatible, in particular, with the office of director or manager of a legal person or any other constituted body, or with the conduct, even indirect, of commercial activities.
R.S. 1964, c. 20, s. 181; 1990, c. 4, s. 888; 2004, c. 12, s. 1.



Appendix 3

EXCERPTS FROM THE ACT RESPECTING MUNICIPAL COURTS (c. C-72.01)

Rules of conduct. 45. A municipal judge, in addition to complying with the standards of conduct and fulfilling the duties imposed by the code of ethics adopted pursuant to section 261 of the Courts of Justice Act (chapter T-16), shall observe the following rules:

- 1) He shall not, even indirectly, enter into a contract with a municipality within the territory in which the municipal court has jurisdiction, except in the cases provided for in section 305 of the Act respecting elections and referendums in municipalities (chapter E-2.2), adapted as required, nor shall he advise any person negotiating such a contract;
- 2) He shall not, even indirectly, agree to represent or act against a municipality or a member of the municipal council, an employee other than an employee within the meaning of the Labour Code (chapter C-27) or a police officer of a municipality within the territory in which the municipal court has jurisdiction;
- 3) He shall not hear a case pertaining to a contract described in paragraph 1 to which an advocate with whom he practices as an advocate is a party or a case in which such an advocate is representing or acting against a municipality or person contemplated in paragraph 2;
- 4) He shall not hear a case involving a question similar to one involved in another case in which he represents one of the parties;
- 5) He shall, with respect to every case referred to him, make and file in the record a declaration stating not only the grounds of recusation to which he is aware he is liable and which are set out in article 234 of the Code of Civil Procedure (chapter C-25), but also any grounds indirectly connected with him and arising either from the fact that he is representing one of the parties or from the activities of a person with whom he practices as an advocate.

1989, c. 52, s. 45.

Functions. 45.1. Every judge exercising his or her functions in a municipal court to which a president judge has been appointed must exercise such functions on an exclusive basis.

Applicability. The second paragraph of section 129 of the Courts of Justice Act (chapter T-16) applies to the exercise of such functions.

2002, c. 21, s. 14.

Appendix 4

CODES OF ETHICS

CODE OF ETHICS FOR JUDGES

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.

CODE OF ETHICS FOR PART-TIME MUNICIPAL JUDGES

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.
7. The judge should refrain from any activity which is not compatible with his functions of municipal judge.
8. In public, the judge should act in a reserved, serene and courteous manner.
9. The judge should uphold the integrity and defend the independence of the judiciary, in the best interest of justice and society.

Appendix 5

INTERNAL BYLAWS OF THE CONSEIL DE LA MAGISTRATURE

DIVISION I

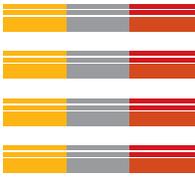
GENERAL PROVISIONS

1. 1. The following definitions shall apply in these bylaws:
 - 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 bylaws;
 - 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

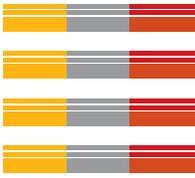
COUNCIL MEETINGS

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.

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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;
 - 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 bylaws 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 bylaws of the Council shall be effective at the time of their adoption by the Council and shall replace any other internal bylaws previously adopted by the Council.

Effective: 15-12-99

Appendix 6

DESCRIPTION OF THE COURTS AND TRIBUNALS WHOSE JUDGES ARE UNDER COUNCIL JURISDICTION

COURT OF QUÉBEC

Although the *Courts of Justice Act* stipulates that the Court of Québec is to number no more than 270 judges. On March 31, 2011, including 33 deputy judges chosen from among retired judges. They have been authorized by the government to continue exercising, for a set period, the judicial duties assigned to them by the chief judge.

The administration of the Court is entrusted to the chief judge, the senior associate chief judge, and the four associate chief judges: one for the Civil Division, one for the Criminal and Penal Division, one for the Youth Division, and another who is responsible for municipal courts. In addition, the chief judge designates from among the judges of the Court and with the approval of the government, 10 coordinating judges to assist him or her in the various regions, and, when circumstances warrant, a maximum of eight associate coordinating judges.

CIVIL DIVISION

The judges who sit in the Civil Division hear cases where the amount involved in the litigation is less than \$70,000, except with respect to applications for support falling under the jurisdiction of the Superior Court and matters reserved for the Federal Court of Canada. They also have jurisdiction over applications for the rescinding or cancellation of contracts or the reduction of obligations when the amount involved in the litigation is less than \$70,000 as well as over applications for cancellation of lease when the amounts claimed for rent and damages total less than \$70,000.

The Civil Division also handles applications for the collection of municipal or school taxes or for a review of property assessment rolls. It can also hear petitions concerning usurpation, detention, or illegal exercise of a function in a municipality or school board, as stipulated in the *Code of Civil Procedure*.

In administrative matters, the Civil Division also has jurisdiction to hear appeals of decisions rendered by various administrative tribunals, such as Commission d'accès à l'information, Régie du logement, the Administrative Tribunal of Québec, Comité de déontologie policière du Québec, and ethics committees established under the *Act respecting the distribution of financial products and services and the Real Estate Brokerage Act*. This appeal jurisdiction also applies to certain decisions rendered by the Québec Minister of Revenue with respect to provincial taxation. Since May 2007, this jurisdiction has been exercised by 30 judges appointed to a new division known as the Administrative and Appeal Division. The judges are from all regions and act in this capacity under the responsibility of a judge responsible for the court.

SMALL CLAIMS DIVISION

When sitting in the Small Claims Division of the Civil Division, judges hear any claims not exceeding \$7,000 submitted by individuals or by companies or associations that, during the 12-month period preceding the application, had no more than five people under their direction. The same applies to any application concerning the rescinding, termination, or cancellation of a contract when neither the value of the contract nor the amount claimed exceeds \$7,000. Judgments cannot be appealed.

Procedure in the Small Claims Division is simple and informal. The claimant cannot be represented by a lawyer, unless authorized to do so because of the complexity of the case. It is the judge who directs debate, examines the witnesses, and hears the parties.

Unfamiliarity with this aspect of the proceedings on the part of claimants sometimes leads to perceptions of favoritism, leading the other party to file a complaint with the Council for breach of the *Judicial Code of Ethics*.

YOUTH DIVISION

The *Courts of Justice Act* establishes the jurisdiction of the Court's judges with respect to youth matters.

The judges therefore have the authority to exercise the powers and functions of the youth court, in accordance with the *Youth Criminal Justice Act*. In this regard, the judges preside over trials of 12 to 18-year-olds accused of an offence upon committing a violation of the *Criminal Code* or a federal or provincial criminal or penal statute.

The judges also have jurisdiction over proceedings initiated under the Code of Penal Procedure, with regard to offences relating to public welfare committed by defendants between 14 and 18 years of age. The Court judges have exclusive jurisdiction when the accused adolescent is not able to be released or if he or she was placed in the custody of the director of youth protection, if the adolescent so requests, or if it is in his or her interest to do so. In certain circumstances, the judges also preside over the preliminary inquiry.

Moreover, the judges have jurisdiction over youth protection, pursuant to the *Youth Protection Act*. These judges therefore hear cases concerning children whose safety or development is—or may be declared to be—at risk. Once the risk situation has been established to the Court's satisfaction, the judge orders one or more protection measures to be carried out, as provided for in the *Youth Protection Act*, in order to put a stop to this situation.

The judges also hear all cases of adoption, including those involving international adoption.

CRIMINAL & PENAL DIVISION

Judges who sit in the Criminal and Penal Division have jurisdiction over proceedings brought under various federal and provincial statutes.

Examples of federal statutes include the *Criminal Code* and the *Controlled Drugs and Substances Act*. In this regard, judges sit alone without a jury and can hear cases involving multiple criminal charges. In fact, they hear all criminal cases except for those heard by a court consisting of a judge and a jury.

Under federal laws, these judges can also hear cases for summary offences and act during preliminary proceedings.

As for provincial laws, the judges concerned act under the *Code of Penal Procedure* and preside over cases involving almost all laws passed by the National Assembly, such as the *Highway Safety Code*, the *Income Security Act*, the *Environmental Quality Act*, and the *Consumer Protection Act*.

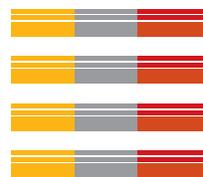
PRESIDING JUSTICES OF THE PEACE

As at March 31, 2011, there were 33 presiding justices of the peace throughout Québec.

The functions of the presiding justices of the peace are to 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 Québec and federal laws to which the *Code of Penal Procedure* applies.

These judges also preside at appearances, order remands in custody, and issue orders, including arrest warrants and other types of authorizations pertaining to searches, frisks, seizures, access to premises, and other means of investigation under the *Criminal Code* as well as under other federal and provincial laws over which justices of the peace have jurisdiction.

Lastly, these judges also grant certain authorizations in matters of youth protection.



PROFESSIONS TRIBUNAL

As at March 31, 2011, the Professions Tribunal consisted of 11 Court of Québec judges designated by the chief judge, including a chair and a vice chair. With the exception of the chair, these judges perform their duties concurrently with those of the Court of Québec.

The Professions Tribunal primarily hears appeals of decisions rendered by the governing bodies, by the disciplinary committees of the various professional orders, and by the administrative committees of some of these orders.

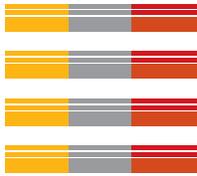
HUMAN RIGHTS TRIBUNAL

The Human Rights Tribunal is a specialized judicial tribunal independent from the Court of Québec. It is made up of at least seven members, including the president and the assessors, named by the government. After the chief judge of the Court of Québec is consulted, the president is chosen from among the judges of this court who possess considerable experience, expertise, sensitivity and interest with respect to human rights and freedoms. The other members of the Tribunal are also chosen on the basis of these criteria.

As at March 31, 2011, not including the president, the Tribunal was composed of three judges and eight assessors selected according to a procedure established by government regulation. The three judges perform their duties concurrently with those of the Court of Québec.

Under the Québec *Charter of Human Rights and Freedoms*, the Tribunal is competent to hear cases involving discrimination and harassment based on one of the grounds prohibited by section 10 of the Charter, namely, race, gender, a handicap or the use of means to offset the handicap, sexual orientation, religion, etc. The Tribunal may also hear cases involving the exploitation of elderly or handicapped individuals and cases involving affirmative action programs.

Commission des droits de la personne et des droits de la jeunesse may bring a suit before this Tribunal on behalf of a victim of discrimination, harassment or exploitation. It thus acts upon request for the benefit of the complainant, whom it represents before the Tribunal. If the Commission decides not to bring the matter before the Tribunal despite evidence sufficient to do so, the complainant may himself or herself, at his or her own costs, bring a suit before the Tribunal.



MUNICIPAL COURTS

Municipal courts and their judges come under the authority of the associate chief judge of the Court of Québec, who is responsible for municipal courts. Under the authority of the chief judge of the Court of Québec, this judge performs the functions of the chief judge with respect to municipal courts.

There are 87 municipal courts in Québec serving 882 municipalities. These courts are governed by the *Act respecting municipal courts*.

Each municipal court is composed of at least one judge. The government may appoint several judges to the same court to ensure that it functions properly.

When the court is composed of a number of judges, the government designates, from among them, the judge in charge of the court. However, in courts where judges perform their duties on a full-time and exclusive basis, as is the case in Laval, Montréal and Québec City, the government appoints, from among them, a president judge when it considers that this is warranted by the volume of judicial work. It may also appoint an associate president judge to assist the president judge in performing his or her tasks.

As at March 31, 2011, in addition to the associate chief judge, these courts were composed of 77 judges, including one president judge in the municipal courts of Laval, Montréal, and Québec City, one associate president judge in the Montréal municipal court, and one judge responsible for the Gatineau and Longueuil municipal courts.

In penal matters, municipal courts have jurisdiction notably with regard to ruling on statutory violations of municipal by-laws and hearing cases initiated under the *Code of Penal Procedure*, the *Highway Safety Code*, and various provincial and federal laws. These courts also exercise, in certain cases—i.e., when an agreement to this effect has been reached with the Minister of Justice and Attorney General—their jurisdiction in accordance with Part XXVII of the *Criminal Code* concerning summary convictions.

In civil matters, municipal courts have jurisdiction notably over tax collection, permits and licenses, as well as actions involving an amount less than \$30,000 related to the leasing by a municipality of movables and immovables, other than residential property.

