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ACTIVITY REPORT  
2016 | 2018







This publication was written and produced by the  
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ISBN: 978-2-550-83390-1 (PDF)

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I am pleased to present to you the first activity report published by the Conseil de la magistrature du Québec since I was appointed President<sup>1</sup> in October 2016. This new responsibility has made me realize how little is known about the Conseil de la magistrature despite its important mission, which includes various functions.

The most well-known are organizing refresher programs for judges, adopting a judicial code of ethics, and examining complaints about judges' behavior.<sup>2</sup> At first glance, you might think that these are distinct functions, but that simply isn't the case. They're complementary. Development is about maintaining professional competencies. As part of its judicial ethics function, the Conseil aims to improve or correct the behaviour of judges.

The Conseil receives complaints and examines them so it can recommend or organize training courses to ensure that judges are not only legal experts, but also individuals who are respectful of litigants and aware of the social context that surrounds litigations and the environment in which they perform their duties. Training courses therefore cover a wide variety of social issues and phenomena, including those that may expose individuals or categories of individuals to discrimination. Professional development should also help judges develop, in keeping with their role, the many skills necessary to carry out their

## A WORD FROM THE PRESIDENT

duties while respecting litigants, their arguments, and the professional code of ethics. For example, judges should always strive to be good communicators, teachers, arbitrators, moderators, and managers, in addition to being humble, patient, analytical, open-minded, and courageous — on top of being legal experts!

The first two components of the Conseil's mandate, professional development and ethics, complement each other and help the Conseil achieve its primary objective of maintaining the public's trust in the courts and ensuring that the judiciary meets the public's high expectations.

Let's take a look now at the Conseil's other three functions that are not well known.<sup>3</sup>

One is to promote the efficiency and uniformization of procedure before the courts. The Conseil carried out this responsibility when it intervened

1. This report covers the Conseil's activities up to March 31, 2018.  
2. Section 256 (a) (b) and (c) of the *Courts of Justice Act*.  
3. Section 256 (d) (e) and (f) of the *Courts of Justice Act*.

in the reference concerning the constitutional validity of the jurisdictional competence granted to the Court of Québec following the challenge initiated by the Chief Justices of the Superior Court of Québec.

If asked, the Conseil can also provide the Minister of Justice with its opinion on the administration of justice in Québec. The Conseil is prepared to make its expertise available to public decision-makers.

The Conseil's last function is to cooperate with any organization that performs similar functions to its own outside Québec. It is for this reason that the Conseil is a member of Réseau francophone des conseils de la magistrature judiciaire.<sup>4</sup> The Conseil is actively involved in this network, which was founded in Québec and is still headquartered there.

Every citizen has the right to an impartial and independent judge. This fundamental right is even more important in disputes between citizens and the State. Jurisdictional bodies such as the Conseil, whose mandate is to intervene with the judiciary, must also benefit from institutional independence to carry out their missions. The Conseil is pleased that this requirement — which is essential to the very independence, integrity, and impartiality of any judicial institution operating within a society governed by the rule of law — has been met.

I would like to conclude by acknowledging the men and women who have worked on the Conseil. Because of you, I am optimistic about the future of this organization that is crucial to Québec's judicial system.

Thank you to those of you who have left their mark and paved the way for us to maintain the degree of rigour, quality, and expertise that has characterized the Conseil since its inception forty years ago.

Thank you to the Conseil members whose terms of office have ended since the publication of the last activity report. I am grateful to those individuals who, under the steady hand of Elizabeth Corte, enabled the Conseil to operate in an environment undergoing technological and legislative change.

For example, thanks to the Conseil, all judges appointed in Québec now have online access to legislation, case law, and doctrine on all accessible devices, including computers, tablets, and smartphones. The Conseil also dealt with the new challenges faced by judges as a result of major amendments to the *Code of Civil Procedure* and the Supreme Court's decision in the Jordan case.

Thank you to judges Corte, Tremblay, Perreault, Boulanger, Lavergne, Roy, Hébert, Minc, and Audet!

This report will introduce the new members of the Conseil, whose expertise is recognized by their peers. With the support of more experienced members of the team, I know they will help the Conseil grow.

In the course of my duties, I have also noticed the quality of the support staff who ensure the Conseil runs smoothly on a daily basis. In closing, I would like to thank each of these individuals for their unwavering contribution.



**LUCIE RONDEAU**  
President

4. [www.rfcmj.com](http://www.rfcmj.com)





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

Functions

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

1.	Organize professional development programs for judges
2.	Adopt a judicial code of ethics
3.	Receive and examine any complaint lodged against a judge under its jurisdiction
4.	Promote the efficiency and standardization of procedure before the courts
5.	Receive suggestions, recommendations, and requests made regarding the administration of justice, study them, and make the appropriate recommendations to the Minister of Justice
6.	Cooperate with all bodies pursuing similar aims outside Québec
7.	Review appeals lodged by judges following decisions or recommendations by the chief judge with regard to their place of residence or their permanent assignment to another division

Two of the functions set out in the act are particularly important and constitute the majority of the Conseil’s activities:

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

The Conseil carries out these functions with regard to the more than 400 judges appointed

by the province who sit on the Court of Québec, including justices of the peace, and on the Professions Tribunal, the Human Rights Tribunal, and municipal courts.

Members

Section 248 of the <i>Courts of Justice Act</i> establishes the 16 members of the Conseil as follows:	
The chief judge of the Court of Québec, who also serves as president of the Conseil	Two judges chosen from among the judges of the Court of Québec and appointed upon the recommendation of the Conférence des juges du Québec
The senior associate chief judge of the Court of Québec	One judge chosen from among municipal court judges and appointed upon the recommendation of the Conférence des juges municipaux du Québec
Four associate chief judges of the Court of Québec	One judge chosen from among presiding justices of the peace and appointed upon the recommendation of the Conférence des juges de paix magistrats du Québec
A presiding judge of a municipal court	Two lawyers appointed upon the recommendation of the Barreau du Québec
One judge chosen from among the president of the Human Rights Tribunal or the chair of the Professions Tribunal	Two citizens who are neither judges nor lawyers

The vice president is elected by Conseil members. Currently the senior associate chief judge of the Court of Québec holds this position.

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

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

This was the Conseil membership as of March 31, 2018:

- **Madame Lucie Rondeau**  
Chair of the Conseil de la magistrature and Chief Judge of the Court of Québec
- **Monsieur Scott Hughes**  
Vice Chair of the Conseil and Senior Associate Chief Judge of the Court of Québec
- **Monsieur Henri Richard**  
Associate Chief Judge of the Civil Division of the Court of Québec
- **Monsieur Robert Proulx**  
Associate Chief Judge of the Youth Division of the Court of Québec
- **Madame Danielle Côté<sup>5</sup>**  
Associate Chief Judge of the Criminal and Penal Division of the Court of Québec
- **Madame Claudie Bélanger**  
Associate Chief Judge of the Court of Québec in Charge of Municipal Courts

5. Replaced by the Honourable Chantale Pelletier on June 16, 2018.

- **Madame Ann-Marie Jones**  
Chair of the Tribunal des droits de la personne
- **Monsieur Bernard Mandeville**  
Presiding judge of the Municipal Court of Montréal
- **Monsieur Claude Leblond**  
Judge of the Court of Québec
- **Monsieur Georges Massol**  
Judge of the Court of Québec
- **Monsieur François Gravel**  
Judge in charge of the Municipal Court of Gatineau<sup>6</sup>
- **Monsieur Jean-Georges Laliberté**  
Presiding justice of the peace
- **Maître Odette Jobin-Laberge, Ad. E.**
- **Maître Claude Rochon**  
Avocat
- **Monsieur Cyriaque Sumu**  
Member representing the public
- **Madame Jocelyne Lecavalier**  
Member representing the public

Conseil members generally meet once every five weeks to examine complaints, discuss professional development, and resolve governance issues.

## Committees

### Executive Committee

The Conseil may adopt by-laws to facilitate the management of its internal affairs or to establish committees and determine their duties. It adopted an internal management by-law to govern the administration and day-to-day operations of the Conseil. The by-law has been reproduced in Appendix II on page 65.

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

Members of the Executive Committee as at March 31, 2018:

- **Madame la juge Lucie Rondeau**  
Chair
- **Monsieur le juge Scott Hughes**  
Vice Chair
- **Monsieur le juge Georges Massol**
- **Monsieur le juge François Gravel**
- **Maître Claude Rochon**

The duties of the Executive Committee are as follows:

- Examine issues brought before it, execute the mandates entrusted to it by the Conseil, and then report back to the Conseil

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6. The Honourable François Gravel retired on October 31, 2018.

- At the request of the Conseil president, examine certain issues in order to present recommendations to the Conseil
- Examine and make decisions on administrative matters between Conseil meetings, and submit decisions by the Executive Committee for approval at the next Conseil meeting

### Legal Documentation Committee

One of the functions of the Conseil de la magistrature is to offer professional development programs to judges. Parallel to this function is the responsibility to provide judges with the legal documentation they need to perform their duties.

The Conseil has been allocated an overall budget to carry out this task. The Conseil has made a large number of case law and statute banks available to judges, which can be accessed online through BiblioMagis. The Conseil encourages judges to use the documentation available online. The situation therefore must be analyzed to make sure that as much of the government’s professional development budget as possible is used on training and professional development activities for judges organized by the courts and tribunals. A working committee has been set up to review the situation, identify the various problems, and recommend solutions to the Conseil if it deems necessary. Committee members include:

- The Conseil secretary
- A judge of the Court of Québec
- A judge of a municipal court
- A presiding justice of the peace
- The coordinator of the research department of the Court of Québec
- A representative of the Conseil secretariat

# The Conseil de la magistrature Secretariat

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Because Conseil members do not serve full time, the Conseil has a permanent Secretariat. It is staffed by four full-time employees in addition to the secretary.

The chair appoints the secretary of the Conseil for a five-year term. The secretary is selected from among lawyers who have been registered with the Barreau du Québec for at least 10 years and are members of the public service. The government determines the secretary’s salary, benefits, and other working conditions. Once appointed, the secretary ceases to be subject to the *Public Service Act*. The appointee is no longer considered a civil servant and is on leave from the public service without pay for the duration of his or her term as secretary of the Conseil de la magistrature du Québec. The secretary performs the duties of the position on an exclusive basis, reporting to the Conseil president. At the end of the term, the secretary remains in office until replaced or reappointed.

Currently, the Conseil secretary is supported by four employees. Secretariat employees are civil servants appointed and remunerated under the *Public Service Act*. Staffers include an information officer, a senior secretary, a Secretariat officer, and an office clerk.

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

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

The Secretariat also meets certain needs for judges under the Conseil’s jurisdiction. For example, it oversees professional development, administers budgets, and provides them with the legal documentation they need to fulfil their duties.

Since Secretariat staff supports the Conseil’s activities, members must be able to rely on a hard-working, professional, and competent team.

The Secretariat team also handles major initiatives. These are briefly described in the sections that follow.

## Budget

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

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

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

### Judicial ethics budget

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

### Conseil operations budget

Like the judicial ethics budget, the Conseil de la magistrature operating budget comes from Québec’s consolidated revenue fund. As in past years, the Conseil Secretariat paid special attention to the expenditures incurred for fiscal 2016–2017 and 2017–2018.

Aside from the salaries of Secretariat employees, operating expenses in 2016–2017 totalled \$436,109.10, distributed as follows:

<b>\$176,155.32</b> for judicial ethics	<b>\$259,953.78</b> for Conseil operations
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Operating expenses in 2017–2018 totalled \$873,714.62, distributed as follows:

<b>\$177,212.72</b> for judicial ethics	<b>\$696,501.19</b> for Conseil operations <small>Note that 63% of this amount (\$438,050.78) was spent on legal fees for the reference concerning the constitutional validity of the jurisdictional competence granted to the Court of Québec following the challenge initiated by the Chief Justices of the Superior Court of Québec.</small>
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### Budget allocation for professional development for judges

The professional development budget serves to meet the needs of judges in matters of legal documentation and professional development. Part of this budget goes toward the purchase of legal documentation, while the rest is earmarked for refresher and professional development courses for the 415 judges under the Conseil’s jurisdiction.

The budget is determined by government decree. As of March 31, 2018, the budget was \$1,355,500.00. Of this amount, the Conseil spent \$558,400.00 to purchase legal documents in paper and electronic formats. This subject is detailed in Section 3 of this report.

The following table lists the amounts allocated to each court and tribunal under Conseil jurisdiction for training in fiscal 2016–2017 and 2017–2018:

	Fiscal year	
	2016-2017	2017-2018
Court of Québec	\$543,792	\$486,452
Presiding justices of the peace	\$76,800	\$63,900
Human Rights Tribunal	\$6,900	\$7,000
Professions Tribunal	\$5,500	\$5,500
Municipal Courts	\$144,205	\$129,400

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

## Highlights

### 2016 Judges Conference

Every year, the Conseil de la magistrature organizes a conference for Québec's judiciary. Organizing and hosting this event is a huge undertaking for secretariat personnel. From accommodation and meal planning to audio-visual, registration and reception logistics, the challenges are many, and Conseil staff went out of their way again to ensure the event's success.

The judges conference was held in Montréal from November 2 to 4, 2016. Over the years, the conference has become a must for judges under the Conseil's jurisdiction and 2016 was no exception. The 2016 conference theme, "Le Salon du juge branché", was a big hit with attendees.



## 2017 Judges Conference

The Judges Conference is different every year, and 2017 was no exception. The theme “La parole est aux juges” gave all judges under the Conseil’s jurisdiction an opportunity to contribute to discussions on topics relevant to their field.

Topics included the process for appointing managing judges, the organization of work, unification of the provincial judiciary, and the relationship between the judiciary and other powers.

The exercise was a great success. Nearly 300 judges responded to a survey with over 3,500 comments. Plenty of food for thought!

Before initiating the discussions, working teams identified concerns expressed by the judges and suggested avenues for reflection.

The chief judges, including chief judge and Conseil president Lucie Rondeau and senior associate chief judge Scott Hughes, noted the main trends and pledged to take into account the results of these two days of work. Rondeau and Hughes served as co-chairs of the organizing committee and were the ones who initiated the discussions.



## The Élizabeth Corte Scholarship

At the November 2016 Judges Conference, the Conseil announced the creation of the Élizabeth Corte Scholarship. The Conseil de la magistrature paid an emotional tribute to the woman who put everything she had into the Conseil during her seven years at its helm. The Conseil also talked about Judge Corte’s extensive involvement in and commitment to ethical issues in judicial practice and projects to improve citizens’ access to law and justice.

The Élizabeth Corte Scholarship will be awarded to students writing or submitting a master’s or PhD thesis or conducting a post-doctoral fellowship in law on a subject related to judicial ethics or access to justice, since these themes can be approached from many different perspectives.

Students enrolled in graduate studies at a Québec law school or at the University of Ottawa’s Faculty of Law are encouraged to submit their applications to a selection committee.

The Élizabeth Corte Scholarship is funded by the Conseil de la magistrature du Québec, the Centre de recherche de droit public at Université de Montréal’s Faculty of Law, the Barreau du Québec, and the Chambre des notaires du Québec.

## The Conseil’s Involvement in the ADAJ Project

The Conseil de la magistrature contributes to the work of the Access to Law and Justice research project, led by the Université de Montréal’s Centre de recherche en droit public. This large-scale initiative includes over 20 projects and involves partners from all areas of the legal community. The Conseil de la magistrature contributes to work on “self-representation and the citizen litigant” and highlights the challenges judges face when they must support unrepresented citizens while maintaining their impartiality, a key requirement of performing their duties.



Conseil Promotion

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

Réseau francophone des conseils de la magistrature judiciaire (RFCMJ)

The RFCMJ was created in 2014 as part of an initiative by the Conseil de la magistrature du Québec. The 18 current members are located in Africa, North America, Europe, and the Middle East.

Formed under Part III of the *Companies Act*, the network’s head office and its general secretariat are located in Québec City.



The network’s objectives are set out in the statutes adopted in Gatineau:

- Encourage study and research on issues and practices related to council missions and share the results with other members
- Implement cooperative actions based on training activities, hands-on internships, information sharing, and studies that pool expertise and experience
- Establish a hub where members can share expertise and experiences to help adopt and promote uniform national and international standards
- Collect, store, and disseminate information on the councils and their work, and contribute to the information and consultation network developed by the Peace, Democracy, and Human Rights Directorate of the International Organisation of La Francophonie
- Provide a forum for reflection where judicial councils can discuss current judicial issues and challenges
- Work with other francophone organizations and associations
- Identify common principles and standards

Since its inception, the network has created a website ([www.rfcmj.com](http://www.rfcmj.com)), produced newsletters, and organized conferences and training sessions for its members. In November 2017, Senegal’s Conseil supérieur de la magistrature hosted network members at a conference on the theme “L’indépendance de la magistrature et les technologies se conjuguent au futur”. The conference was a great success thanks to the compelling discussion topics and the training day for attendees. The recorder’s report is available on the RFCMJ website.

At the end of the proceedings, members adopted the following proposal:

“It is expected that the Réseau francophone des conseils de la magistrature judiciaire (RFCMJ) will consider that the use of social media by judges cannot in principle be prohibited.

It is expected that this freedom of principle will not free them from their ethical obligations, in particular those of dignity, reserve, impartiality, and integrity.

The RFCMJ also decided:

- To set up a working group dedicated to technology and judicial independence
- That the working group can consult members and bring in experts
- That it will dedicate one day of training at its 2018 conference to go over the report
- That recommendations will be submitted at the next general meeting
- That the general assembly will adopt a document outlining recommendations

Members undertake to share the recommendations with their national judicial institutions.”

A working group is in the process of drafting and submitting a report to be reviewed at the next conference, which will be held in Brussels at the invitation of the Belgian High Council of Justice.

The RFCMJ is an institutional partner of the International Organisation of La Francophonie (<https://www.francophonie.org>). As such, it receives grants to help it achieve its objectives. In addition, the network’s president and secretary general are invited to contribute to the work of the Journées des réseaux institutionnels de la Francophonie. In June 2016, the secretary general was invited as a guest speaker.

### Orientation for New Judges

Every year, the Court of Québec and municipal courts induct new judges into their ranks. Between April 1, 2016, and March 31, 2018, the provincial Cabinet appointed 60 new judges and 15 new justices of the peace to the Court of Québec.

In addition, 18 new municipal judges were appointed, including nine judges exclusively at the municipal court of Montréal, three at the municipal court of Québec City, and one at the municipal court of Laval. The Cabinet also appointed six new part-time municipal judges at the meeting, including one to the municipal court of the Montcalm RCM, one to the municipal court of Saguenay, one to the municipal court of Waterloo, one to the municipal court of Sainte-Adèle, one to the municipal court of Rivière-du-Loup, and one to the municipal court of Salaberry-de-Valleyfield.

Shortly after being appointed, all new judges under the Conseil’s jurisdiction meet with the Conseil secretary. They spend half a day learning about the Conseil’s role and functions. During this meeting, the new judges familiarize themselves with the new rules of ethics that now govern their behaviour.

# 3

## Documentation, Training, and Continuing Education for Judges

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### Legal Documentation

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

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

For a number of years, the Conseil has been making every effort to improve access to online databases.

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

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

To provide oversight, the Conseil requires that the courts and tribunals submit an annual professional development plan and file a fiscal year-end report on the activities conducted during the year. After reviewing the programs offered, the Conseil allocates a budget to each court and tribunal based on expressed needs recognized by the Conseil. Thus, each court or tribunal manages the amounts allocated for professional development activities for judges, with the exception of sums earmarked for the Conseil's annual conference, English language courses for judges, and a training session on criminal matters for newly appointed judges.

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

It should be noted that the programs developed by the courts and tribunals are made possible not only through the budget allocated by the Conseil, but also through the considerable and incalculable contribution of the many judges who generously

devote time and energy to developing and delivering educational training programs. While they are too numerous to name here, the Conseil thanks them for their commendable dedication and availability.

Professional development program for judges of the Court of Québec

The Court of Québec has jurisdiction over civil, criminal, and penal matters as well as youth matters. Its judges also sit on administrative matters and in appeal in cases provided for by law. The court is divided into three divisions: the Civil Division, which includes the Regular Division, the Administrative and Appeal Division, and the Small Claims Division; the Criminal and Penal Division; and the Youth Division.

Court of Québec judges attended numerous professional development activities. Fifteen two- to four-day seminars were held on a wide variety of topics:

- |   |                                       |
|---|---------------------------------------|
| ■ Youth days                            | ■ Mentor judges                       |
| ■ Fundamental rights                    | ■ Criminal law days                   |
| ■ Special case management               | ■ Civil law days                      |
| ■ Social realities                      | ■ Judgment writing                    |
| ■ Tax law                               | ■ Computer science                    |
| ■ Settlement conferences in civil cases | ■ Introduction to youth law           |
| ■ Settlement conferences in youth cases | ■ Communication and courtroom conduct |
|   | ■ Ethics                              |

In addition to these topics, activities included regional training, basic training for new judges, and external conferences.

Presiding justices of the peace

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

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

- |                                |                         |
|--------------------------------|-------------------------|
| ■ Fundamental rights           | ■ Mentor judge training |
| ■ Social realities             | ■ Computer seminar      |
| ■ Basic training of new judges |                         |

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

Members of the Human Rights Tribunal

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

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

- Members’ 2016 summit on sexual and gender minorities and the right to equality and 2017 summit on converging views on discrimination against women, equality in law, and existing inequalities
- Legal writing seminar

Members of the Professions Tribunal

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

Professions Tribunal members attended a number of professional development activities.

- The annual joint-action day took place in December 2016 and 2017.
- The Tribunal’s annual conference was held in April 2016 and 2017. It was an ideal opportunity for members to share ideas and reflect on the changing rules of professional law.

Municipal judges of Québec

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

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

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

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

Judges attended seminars on various topics:

- Penal law seminar
- Symposium
- Study days
- Social realities seminar
- Criminal law seminar
- Oral judgment seminar
- Judgment writing seminar
- Seminar on conduct of trial

## Other Training and Professional Development Activities

### Specialized training on criminal issues

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

### English language courses

Since 2004, the Conseil has been responsible for organizing English language courses provided to judges under its jurisdiction, with the exception of one program organized by the Office of the Commissioner for Federal Judicial Affairs Canada.

### Application of the policy

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

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

As part of the program, judges can take advantage of semi-private lessons. When they register for the program, they agree to receive eight hours of instruction per month over a ten-month period.

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

The Office of the Commissioner for Federal Judicial Affairs organizes English-language immersion sessions. The sessions are offered to federally and provincially appointed judges and are held outside Québec. The Office of the Commissioner for Federal Judicial Affairs determines the number of judges from Québec who can attend each session. Each year, three or four judges are given the opportunity to attend the immersion sessions.

# 4

## Judicial Ethics

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

### Judicial Ethics Support Committee

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

On the recommendation of a working group composed of representatives from the Conseil de la magistrature, the Conférence des juges de la Cour du Québec, and the Conférence des juges municipaux, a committee was formed to support judges in ethical matters.

The primary purpose of the Advisory Committee on Ethics and Professional Conduct is to respond to requests for opinions and guidance from judges. The committee is composed of three judges. Each year, it reports the number of opinions provided and the main subjects discussed. The committee's work is strictly confidential.

### Codes of Judicial Ethics

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

The Code of Ethics for Judges  
applies to the greatest number of judges.  
It contains the following ten articles:

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

The *Code of Ethics for Part-Time Municipal Judges* does not include Article 9 above, because it does not apply to judges who perform their duties on a part-time basis.

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

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

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

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

Complaints Handling Process

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



must be made in writing to the Conseil’s secretary and state the facts relating to the judge’s alleged misconduct and any other relevant circumstances.

Upon receipt of the complaint, the secretary sends a receipt confirmation 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 recording of the court proceedings. The complainant and the judge are systematically informed of these steps. Once they are completed, the assigned person reports to the Conseil.

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

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

Thirty days before beginning the inquiry, the inquiry committee summons the judge in question and the complainant in writing. It also notifies the Minister of Justice. The Minister or the Minister’s representative may intervene during the inquiry. At this stage, the Conseil may retain the services of a lawyer or specialist to assist the committee in its inquiry. The judge in question may also retain the services of a lawyer.

The inquiry committee hears the parties, their lawyers, and their respective witnesses. It may summon any person qualified to testify about the facts. Witnesses may be examined and cross-examined by the parties. The function of an inquiry committee is purely to conduct an investigation in search of the truth. Its primary goal is to ensure compliance with judicial ethics 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 may suspend the judge for the duration of the inquiry. Such a suspension, which is not a sanction, is intended solely to protect the credibility of the justice system.

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

If, on the other hand, the inquiry report determines that the complaint is founded, the Conseil, following the recommendations of the report, reprimands the judge or recommends that the Minister of Justice and Attorney General petition the Court of Appeal to conduct an inquiry. If the inquiry committee makes the latter recommendation, the Conseil suspends the judge. In this case, the Conseil only has the power to make a recommendation. 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.

# Complaints Handling Process

## Receipt of the complaint by the Conseil Secretariat

- Acknowledgement of receipt
- Copy of the complaint sent to the judge
- Receipt of judge's comments
- Submission of the complaint to Conseil members

## Review to the complaint

- Full session
- In camera

## Unfounded complaint

- Notice to complainant
- Notice to judge
- Case closed

## Complaint requiring investigation

- Designation of one person by the Conseil
- Collection of additional information
- Notification of the complainant
- Notification of the judge

## Examination of the complaint

- Full session
- In camera

## Unfounded complaint

- Notice to complainant
- Notice to judge
- Case closed

## Complaint whose nature and scope do not justify an inquiry (art. 267)

- Notice to complainant
- Notice to judge
- Case closed

## Complaint warranting an inquiry and formation of an inquiry committee

- The Conseil appoints the members of the inquiry committee
- The Conseil decides to retain the services of a lawyer to assist the committee
- A copy of the complaint is sent to the judge
- The judge and complainant are summoned within 30 days
- The Minister of Justice is notified of the inquiry and the hearing
- The Conseil holds a session as needed to decide whether or not to suspend the judge for the duration of the inquiry
- Inquiry committee sessions are held (public)
- Report by the committee

## Presentation to the Conseil of the inquiry report and its recommendations

## Unfounded complaint

- Notice to complainant
- Notice to judge
- Notice to Minister of Justice
- Case closed

## Reprimand

- Notice to complainant
- Notice to judge
- Notice to Minister of Justice
- Case closed

## Destitution

- The Conseil recommends that the Minister of Justice petition the Court of Appeal
- Automatic suspension of the judge for 30 jours
- Inquiry file forwarded to the Minister of Justice

## Minister of Justice petitions the Court of Appeal

## Report by the Court of Appeal

## Decision by the Government

For a better understanding, see the “Complaints Handling Process”, flowchart on the next page for a step-by-step illustration of how complaints are dealt with.

Decisions by the Conseil

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

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 recording of court proceedings usually provides sufficient insight for the Conseil to reach a conclusion. In our summaries, names of judges and complainants have been redacted, i.e., omitted to ensure confidentiality of personal information.

2016-2017

Complaints against judges assigned to the Civil Division of the Court of Québec, SMALL CLAIMS DIVISION

**2015-CMQC-102 • A complaint was made about a ruling against a travel agency for refusing to cancel a trip. The agency accused the judge in question of using discriminatory language during a conciliation session and ruling unfairly.**

In civil matters, the judge’s mission is threefold: to make decisions, manage cases, and reconcile the parties. In small claims recovery matters, in particular, judges need to try to reconcile the parties. Whichever mission they are performing, the *Code of Ethics for Judges* applies in its entirety. Judges must always: (i) perform the duties of their office with dignity and honour; (ii) be, and appear to be, impartial and objective; and (iii) act in a reserved, courteous, and serene manner in public. More specifically, whether during the hearing or the conciliation, judges should not use stereotypes in their speech. In this instance, saying “Chinese people are cunning” and insinuating that someone with a Chinese background is naturally predisposed to spending their money at the casino convey stereotypes that should be prohibited. These statements are disparaging, inappropriate, and unacceptable from a judge. However, the Conseil cannot intervene in the second part of the complaint, as it does not have the legal jurisdiction to review the basis of a decision.

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

**2015-CMQC-033 ● The complainant accused the judge essentially of treating him with contempt and disdain, asking inappropriate questions, and making biased comments about the position he was defending.**

Playback of the court recordings showed that the judge asked the complainant and his witness questions to understand their position on the inspector’s role and the scope of the prepurchase inspection received from the plaintiff. The recording also revealed that the judge used a calm, courteous, polite tone every time she addressed the complainant and the other witnesses. The complainant’s accusations were unfounded, because the judge’s statements were detailed and accompanied by clear explanations. These statements must be taken in the context of the hearing presided over by the judge, during which the inspectors continued to deny their responsibility. It is important not to confuse the tenor of the judge’s comments, the relevance of the questions, and an ethical breach. The judge’s role is to render justice within the framework of the law and, to do this, she can ask the complainant and the defendant’s witness questions she deems pertinent to help her make an informed ruling. The judge also adhered to the impartiality rule stated in Article 977 of the *Code of Civil Procedure*.

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

**2015-CMQC-109 ● The complainant accused the judge of being disrespectful to him and his expert witness and to have been prejudiced in favour of the other party.**

Playback of the court recordings showed that the judge listened to each party calmly, patiently, and with empathy. He questioned each party respectfully and gave them time to clarify their comments. The hearing was run impeccably.

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

**2015-CMQC-112 ● In the context of a lawsuit for services delivered but not paid, the complainant accused the judge of being arrogant and aggressive toward him and to have failed in his duty to be impartial.**

Playback of the court recordings revealed that the judge never raised his voice or spoke impolitely. It is true that he spent less time with the defence than the prosecution. However, that can be explained by the plaintiff’s difficulty expressing herself and the fact that the complainant had no personal knowledge of the events. He was acting as the authorized representative of his spouse and brothers-in-law and denied that a contract even existed, yet was obliged to acknowledge that the services had indeed been provided. In short, the complainant was dissatisfied with the ruling.

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

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**2015-CMQC-119 • The complainant accused the judge of mistreating her and her family members.**

Playback of the court recordings did not support her claims. It did not reveal any aggressive, violent, or angry attitude on the part of the judge toward either the complainant or the plaintiff in the case. On the contrary, the judge listened patiently throughout the hearing. She addressed the complainant politely and respectfully, asking her to wait outside the courtroom. She had to call the plaintiff to order in a tone that was firm but still polite, without raising her voice. When she asked a member of the audience who was slumped in their chair to sit up straight, the judge did so courteously, to maintain decorum in the courtroom. She was unaware that the person had health issues. Clearly the complainant was dissatisfied that the case was rejected. But the Conseil cannot interfere with the assessment of evidence in any way or act as an appeal body.

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

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**2015-CMQC-127 • The complainant accused the judge of making her decision before the end of the hearing, cutting him off, and speaking in English when he barely understands the language. He said that the judge did not make her decision based on the facts and arguments he submitted.**

Playback of the court recordings revealed that the judge always spoke calmly to the complainant and wanted to properly understand the details of his claim. She did not seem to give less weight to his testimony and nothing gives reason to believe that she made her decision before the end of the hearing. Given the close personal and professional ties that the parties claimed to have, the judge had no reason to believe that the complainant did not understand English. Moreover it is not within the Conseil's purview to handle the question raised in the complaint regarding the substance of the claim. The judge did not violate any provisions of the *Code of Ethics for Judges*.

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

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**2015-CMQC-124 • 2016-CMQC-001 • 2016-CMQC-003 • The complainants criticized the judge's delay in rendering his judgment. Once he was informed of the complaint by the Conseil secretary, the judge rectified the situation by issuing the judgments, more than 11 months after the deliberations in one case and more than 12 months after in the other two cases.**

The judge explained in a letter that since 2014 he has had to devote a lot of time to administrative tasks and became involved in a number of projects related to the new *Code of Civil Procedure* going into effect in 2015, which had an impact on his case management. He said he had taken the necessary measures to correct the situation and prevent it from happening again. The Conseil generally considers a delay in ruling alone to show a lack of diligence and to violate Article 6 of the *Code of Ethics for Judges*. However, when the judge at fault provides satisfactory reasons explaining his delay, the Conseil concludes that there was fault but the nature and severity of the complaint do not warrant an inquiry. In this instance, this is an experienced judge who is performing administrative duties. His explanations provide the context that led to such long delays, and his regrets and the measures taken to correct the situation to prevent it from happening again are the elements the Conseil must consider. An inquiry would not provide any new information, even though the judge's conduct was imperfect.

In conclusion, the Conseil decided that after examining the complaint and in accordance with Section 267 of the Courts of Justice Act, the judge was at fault but due to the circumstances described in the judge’s explanations, there was no need to open an inquiry.

**2016-CMQC-064 • The complainants accused the judge of ruling against them because they would not negotiate. They also said he constantly interrupted them when they tried to address the Court.**

Playback of the court recordings showed that the judge issued his ruling after listening to the witnesses, based on the evidence collected and applicable law. He conducted the examination without interrupting the parties and made no reference to the complainants’ refusal to enter into negotiations beforehand.

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

**2016-CMQC-066 • The complainant accused the judge of offensive conduct toward her during a trial. She said that the judge unfairly became angry with her and bombarded her with questions in a harsh tone, making her feel like she could not present her claims. She also complained about the content of the decision, which she thought was demeaning and not faithful to the evidence.**

Playback of the court recordings showed that the judge was very patient with both parties, who were not familiar with court procedures, taking the time to give them long explanations on the rules of operation, sharing and sorting items introduced as evidence to help them better follow the proceedings, and explaining her reasons each time for not accepting certain items as evidence. At no time did the judge show irritation or lack of consideration toward the complainant.

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

**2016-CMQC-004 • The complainant accused the judge of saying the amount in dispute was insignificant and they were wasting his time, expressing the opinion that she was suing the defendant for personal reasons, and not understanding the essence of the dispute.**

Playback of the court recordings revealed that the judge never said the amount in dispute was insignificant and should not have been the subject of a lawsuit. He also did not say that anyone was wasting his time. In reality, the judge paid complete attention to the explanations provided by the parties and their witnesses. He patiently guided the arguments to obtain all the information he needed, with courtesy and respect. He was never rude or condescending. It is true that he twice pointed out that the plaintiff might have personal motives. All evidence points to this being an attempt to help the parties resolve their differences. While those comments did not advance the discussions, they also did not lead to the conclusion that the judge was prejudiced toward anyone, lost his ability to give a fully objective hearing based on the evidence produced before him, or failed in his duty to be impartial. Finally, it is not within the Conseil’s purview to examine the merits of the decision.

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



**2015-CMQC-126** ● The complainant, who operates a hotel, accused the judge of using her title and the resources it confers to handle a personal matter. Specifically, he said she communicated with him using her professional email address and sent him a letter bearing the Court of Québec logo in the context of a dispute regarding amounts invoiced to her spouse.

It follows from articles 4, 6, 7, and 8 of the *Code of Ethics for Judges* that judges should avoid using their title and the logo of the Court where they preside to address a private dispute. However, several decisions have relaxed this principle, including J.D. and Judge, Court of Québec, Civil Division (C. Mag., 1993-06-09). In this instance, the transmission slip included the judge’s title and the logo of the Court of Québec. However, the letter was clearly intended for the dispute department of the company that issued the credit card used in the transaction. The letter itself did not include the Court letterhead or the judge’s contact information, and the judge signed it without adding her title or referring to it. In addition, while using an email service reserved for judges to handle personal business should be avoided or done extremely rarely, the judge’s conduct in this instance would not be perceived by a reasonable, impartial, well-informed member of the community as failing to meet her obligations and would not undermine public trust of the judiciary. In such a context, the judge did not violate any provisions of the code.

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

**2015-CMQC-098** ● The complainant criticized the judge’s behaviour during a protection hearing for the complainant’s son, who subject to an interim protection order awarding custody was awarded to the mother and access rights to the father. In particular, she criticized the judge’s impatience with her for not being assisted by a lawyer and the judge’s casual treatment of the documents she intended to enter into evidence. The complainant also did not like the way the hearing ended because she did not get a chance to say goodbye to her son.

This was a case where emotions were running high because of the conflict between the father and mother and between the complainant and the social worker. The hearing was particularly difficult to manage because the complainant was stressed and nervous, and this must be considered when analyzing the many complaints against the judge. The judge was right to point out that it was impossible to review the documents the complainant filed the morning of the hearing because there were so many. The fact that intervenors prevented the complainant from seeing her son at the end of the hearing cannot be attributed to the judge. Playback of the court proceedings revealed that the judge did not make inappropriate comments in the presence of the child, did not engage in inappropriate behaviour, and was very patient as well as empathetic and kind on several occasions. It is also true that she did, on occasion, show a lack of serenity and use words and a tone that were not justified despite the complainant’s stubbornness and insistence. Throughout this difficult three-hour hearing, the judge largely kept her calm.

Given how difficult it was to manage the hearing, the Conseil found that, in accordance with Section 267 of the *Courts of Justice Act*, the nature and seriousness of the complaint did not warrant an inquiry.

**2016-CMQC-012 • In applying for interim measures to obtain supervised contact with her children, the complainant accused the judge of having an aggressive attitude and lacking impartiality.**

Playback of the court proceedings did not support any of the allegations made. The judge was patient, empathetic, and respectful towards the complainant. The complainant was clearly not satisfied with the decision, but the Conseil cannot intervene in the evaluation of evidence or act as an appeal body to review the rulings of a judge.

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

**2016-CMQC-069 • The complainant alleged that the judge’s interventionist, hostile, and contemptuous behaviour during the trial prevented him from testifying in peace.**

Playback of the court recordings showed that the judge intervened in all testimony and that her statements were made in a polite, calm, and respectful tone. In addition, Youth Division judges play a more active role in the cases they hear, a fact that is recognized under the *Annotated Youth Protection Act* (Louis Charette, Viviane Topalian, and Marie-Claude Boutin, *Loi sur la protection de la jeunesse annotée*, Montréal, SOQUIJ).

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

2016-2017

Complaints against judges assigned  
to the **CRIMINAL AND PENAL DIVISION** of the Court of Québec

**2016-CMQC-010 • The judge heard the evidence after the complainant, who was representing herself, submitted a letter of denunciation asking the defendant not to disturb the peace under Article 810 of the *Criminal Code*. The interpreter requested by the defendant was held up in another courtroom. The complainant clearly consented to the witnesses speaking in English and to testifying in that language. The complainant claimed that the judge continued to hear the case in English though it was not the complainant’s mother tongue, that she reluctantly issued an arrest warrant for the defendant (who was absent), that she acted impatiently, and that she raised her voice with the complainant.**

Playback of the court recordings showed that the complainant’s objections were unfounded. The judge took the time to evaluate the legal guidelines before issuing the arrest warrant. This is a matter of case management, which is at the judge’s full discretion. The complainant consented to the hearing being conducted in English and did not express discomfort with the case proceeding in English. The judge never raised her voice or showed any impatience towards the complainant. On the contrary, the judge assisted and supported the complainant in a fair and equitable manner. She spoke calmly and treated the complainant in the same way as the other witnesses.

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



**2015-CMQC-117** ● **The complainant claimed the judge refused to accept his evidence, provoked him, and sided with the prosecution.**

Playback of the court recordings showed that the judge gave the complainant, who was represented by a lawyer, the opportunity to present all of his evidence, except for one document that she considered irrelevant. At one point, she told the complainant firmly, without raising her voice, that he had no “control over how the cross-examination should be conducted”. There is no evidence to suggest that the judge abused her power. The complainant’s allegations against her are unfounded.

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

**2015-CMQC-123** ● **The complainant claimed the judge did not allow him to adequately defend himself against the offences brought against him under the Highway Safety Code.**

Playback of the court recordings revealed that the judge’s behaviour did not go so far as to constitute a breach of ethics.

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

**2016-CMQC-008** ● **The complainant asked the judge to postpone his case to a later date because he wanted to meet with the city attorney to reach a settlement and also because the judge in question had acted as his ex-wife’s attorney in their divorce case 15 years earlier. He specifically criticized the judge for following the city attorney’s instructions for hearing the case and claimed that the judge could not proceed with his case because the judge had been his ex-wife’s attorney.**

The complaint did not line up with the playback of the court recordings, which revealed that the complainant had a cavalier and aggressive attitude and that he voluntarily left the courtroom when the judge informed him that he would not postpone the hearing. The facts do not constitute a breach of ethics.

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

**2016-CMQC-035** ● The complainant brought an action before the Conseil de la magistrature concerning three disciplinary infractions the judge committed while he was still a lawyer. A hearing on the alleged conduct had already been held before the Disciplinary Council of the Barreau du Québec. At that time the judge pled guilty to two infractions, and the third was later withdrawn due to insufficient evidence. The fact that the acts predated the judge’s appointment to the municipal court did not compromise the Disciplinary Council’s jurisdiction.

By pleading guilty before the Barreau’s Disciplinary Council, the judge acknowledged that he had a conflict of interest and that he did not keep his client’s file for the period prescribed by law while he was a lawyer.

Articles 4 and 5 of the *Code of Ethics for Québec Municipal Judges* state that judges “should avoid any conflict of interest and refrain from placing themselves in a position where they cannot faithfully carry out their functions” and that they should “be, and be seen to be, impartial and objective”. However, with respect to the infractions already sanctioned by the Barreau du Québec’s Disciplinary Council, the Conseil de la magistrature determined that the nature and seriousness of the complaint did not justify an inquiry given the judge’s guilty plea, his cooperation with his professional order’s union, the regrets he expressed, and his statement that he had learned his lesson.

As for the third infraction, the judge is accused of sending a bill accompanied by a letter stating that the fees he was claiming from the client’s company could be deducted from the company’s taxes and recovered. Articles 2 and 9 of the *Code of Ethics for Québec Municipal Judges* state that judges should perform their duties with integrity, dignity, and honour and uphold the integrity and defend the independence of the judiciary, in the best interest of justice and society. Although this infraction was withdrawn at the hearing before the Disciplinary Council of the Barreau du Québec due to insufficient evidence, an inquiry is necessary to gather and analyze additional facts and determine whether the judge’s conduct constitutes a breach of ethics.

An inquiry committee was therefore formed.

**2016-CMQC-060** ● The complainant claimed that the judge was biased against him and intervened as an additional prosecutor at his hearing. He also criticized the judge, during another hearing, of siding with the prosecutor as to his credibility instead of accepting the complainant’s version of events and acquitting him.

Playback of the court recordings for the first hearing revealed that the judge asked the complainant a number of questions in a dry tone, without the prosecutor’s intervention, which turned the hearing into a question-and-answer session between the judge and the complainant. Only an inquiry will make it possible to determine if the judge violated the *Code of Ethics for Québec Municipal Judges*. As regards the second hearing, the complainant had the opportunity to explain his position to the judge. The judge did not believe him and found him guilty following the cross-examination by the prosecutor, who effectively called into question the complainant’s credibility. The judge did not breach any rules of ethics. That portion of the complaint is unfounded.

An inquiry committee was therefore formed.

**2016-CMQC-072** ● **The complainant alleged that the judge raised her voice during the trial and humiliated her with comments about her financial means and her ability to hire a lawyer.**

Playback of the court recordings showed that the judge never raised her voice or mistreated the complainant during the hearing. The reference to financial difficulties in the ruling was related to the evidence and cannot constitute an ethical breach.

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

2016-2017

Complaints against judges  
**OUTSIDE OF THEIR JUDICIAL FUNCTIONS**

**2015-CMQC-114** ● **2015-CMQC-116** ● **The complainant accused the judge of participating in questionable transactions to protect her spouse’s estate in the event he were fined as a result of criminal proceedings against him.**

These allegations were based on articles published in the press that were simply insinuations. In addition, the complaint did not contain any factual evidence that would lead to the conclusion that the transactions in question were unethical.

The Conseil de la magistrature concluded that the complaints were unfounded.

2017-2018

Complaints against judges assigned  
to the Civil Division of the Court of Québec,  
**SMALL CLAIMS DIVISION**

**2016-CMQC-083** ● **The complainant alleged that the judge called him “ignorant” in a first hearing and “yelled” at him to sit down in a second hearing, acting like a “despot terrorizing the staff and citizens”.**

Playback of the court recordings showed that none of the actions alleged by the complainant took place. During the first hearing, noting that the complaint was absent, the judge informed the complainant that he had to obtain written authorization to represent her, and calmly suggested he consult a lawyer with the free consultation service provided by the Barreau du Québec before resubmitting the case. In the second hearing, the judge remained calm for the entire session and never yelled at anyone at any time.

The Conseil concluded that the complaint was unfounded.

**2016-CMQC-074 • The complainant accused the judge of unethical behaviour committed during and after a hearing.**

The claims against the judge fall under the areas of case management, appeals, and decision filing rules. Playback of the court recordings revealed that the judge gave the parties clear instructions on how to present the evidence filed in court. He was forceful in explaining to the complainant that the burden of proof was on him.

The complainant may have felt vulnerable, but the judge’s conduct was appropriate in light of the large number of documents filed. The judge did not allow the complainant to read his prepared statement, but did allow him to refer to it during his testimony. That is a case management question. In addition, the judge listened to the opposing party’s counterclaim in French, even though the complainant was English-speaking, and made no attempt to mediate.

However, in the context of a defamation and harassment case, and faced with the complainant’s conviction that the opposing party had violated the law, not attempting mediation does not constitute an ethical failure; this also is a case management matter. Furthermore, it is inaccurate to say that the complainant did not have the opportunity to respond to or question the opposing party. Playback of the court recordings showed that he was given time to speak and he even produced documents during his response. As for the examinations, the judge had informed the parties at the beginning of the hearing that he would conduct the examinations.

Regarding the claim that the judge told the complainant, “You will submit a complaint about my conduct”, the situation should be taken in context. At the time of the hearing, the complainant had already filed a complaint with the Ordre des comptables professionnels agréés du Québec against the head of the opposing party, and with the Barreau union against the lawyer who was representing them. Given these circumstances, the judge told him, “The only person left is me”. The comment was not the most appropriate, but it was not an ethical breach.

The next part of the complaint involved the substance of the dispute and is therefore an appeal consideration. Using a firm, direct tone that was appropriate for the context, the judge explained to the complainant that it was not in his purview to declare resolutions adopted by his condo association to be void, and he therefore could not order the fees he paid to be reimbursed.

Finally, the complainant was upset that the judge did not respond to a letter he sent him after the judgment was filed expressing his dissatisfaction with the ruling and with how the evidence was handled during the hearing. However, a judge cannot discuss a past ruling because as soon as it is filed, he is *functus officio*. The absence of a response from the judge in no way constitutes an ethical breach.

The Conseil concluded that the complaint was unfounded.

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**2016-CMQC-085 • The complainant accused the judge of hurrying to finish the hearing of his case, looking for pretexts to find fault with him while providing ideas to the opposing party, and humiliating him by not listening when he tried to speak.**

The judge announced from the very start of the hearing that she intended to finish at a certain time, but nothing suggests that she acted in haste, hurried the parties, or showed any impatience during the hearing. In fact, she took time ask detailed questions of the complainant, who seemed reluctant to tell the whole story. When she realized he had already been refunded the amounts he was demanding of the opposing party, minus a small deposit, she told him that he had been “waited on hand and foot” and that he was acting “borderline in bad faith”. Nothing in her comments can be objectively interpreted as intended to ridicule the complainant. After stating her reasons, the judge rejected the complainant’s claim. At that time he asked to add something, which the judge refused, saying she had already made her judgment. In this situation the judge’s behaviour cannot be considered an ethical failure.

The Conseil concluded that the complaint was unfounded.

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**2016-CMQC-089 • The complainant accused the judge of violating articles 2, 5, and 8 of the *Code of Ethics for Judges* by treating her disrespectfully during a hearing.**

Articles 2, 5, and 8 of the *Code of Ethics for Judges* say that a judge should perform the duties of his office with integrity, dignity, and honour; should be, and be seen to be, impartial and objective; and should act in a reserved, serene, and courteous manner. Playback of the court recordings revealed that at times the judge guided the discussions and set limits to the cross-examination the complainant wanted to do, but without being disrespectful. He limited the cross-examination based on the issues under dispute, and because an investigation had already been conducted by the police about the events in question. In addition, the complainant had already been able to address the court during an extended pleading and a reply. In this instance, the judge was serving in the Small Claims Division, where procedures are more flexible, and geared toward cases where the parties are not represented by a lawyer. The corollary of this is that the judge plays a significant role in how the hearing unfolds and the administration of evidence. How he manages the case and engages with the parties are parameters of the particular system that governs the Small Claims Division. In this context, the judge’s behaviour, comments, and interventions did not constitute a violation of his ethical duties.

The Conseil concluded that the complaint was unfounded.

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**2016-CMQC-098 • The complainant criticized the judge’s attitude and tone during a hearing, and said he spoke for a long time, blaming her, in order to postpone the hearing even though the parties were ready to proceed.**

At the outset of the hearing the judge pointed out that the case would have to be postponed, because the contestation filed by the complainant did not state any fault or negligence and, in accordance with the *Code of Civil Procedure*, the reasons for a contestation must be specified, regardless of the evidence submitted. At that point, the judge noted that the evidence supporting the contestation in question had been produced belatedly and the plaintiff had not seen it. In addition, the amount of the claim had changed since the date

the appeal was introduced. Given these circumstances, the judge made a series of recommendations to the parties to ensure the procedures were followed for the next hearing. He took the time to set a timeline with the parties and identified their respective obligations at every step of the way. Before rescheduling the case, he made sure the new date worked for all parties involved and asked if the parties had any other questions or comments. The procedural requirement omissions caused significant prejudice, because the plaintiff would not have been able to take advantage of the information he was entitled to if no corrective measure were taken. The Conseil expects a judge in the Small Claims Division to consider the procedural requirements to best serve and assist parties and their witnesses; however, the procedural omissions in this case were not purely formal and would have adversely affected the plaintiff. In this context, postponing the hearing to allow the parties to correct the omissions is not an ethical failure.

The Conseil concluded that the complaint was unfounded.

**2017-CMQC-001 • The complainant accused the judge of making her decision about the case before he gave his testimony. He also complained that he was allowed to testify only after forcing the issue with the judge, who acted disinterested and indifferent to his comments and treated him disrespectfully.**

Playback of the court recordings revealed that the majority of the hearing was spent on the testimonies of the plaintiff and the defendant. The complainant served as the defendant’s real estate broker in the context of a sale. At the end of the defendant’s testimony, the judge asked whether the parties were willing to discuss the claim, encouraging them to reconcile. The judge made this suggestion due to several admissions on the part of the defendant and the regret she expressed for not having entered into negotiations with the plaintiff. That was when, at the defendant’s request, the judge allowed the complainant to describe the circumstances of the writing of a clause that was submitted for his interpretation. The judge then made some remarks about the complainant’s field of expertise and, when he interrupted her, she asked him to let her finish her thought; she also corrected him when he called her “Ma’am” and then “Judge”. The judge’s tone of voice and choice of words are incompatible with the alleged attitudes of indifference and disrespect. The fact that the judge drew a conclusion from the parties’ testimonies and the documents submitted for her review before the complainant gave his testimony does not constitute an ethical breach because he was allowed to be heard. It is worth remembering that the standard procedure in the Small Claims Division gives the presiding judge an active role and the power to allow the parties to reconcile their positions when the circumstances are favourable.

The Conseil concluded that the complaint was unfounded.

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**2016-CMQC-104** ● The complainant claimed that the judge's behaviour, attitude, and comments reflected disdain, unwillingness to listen, and lack of respect toward him. He said the judge told him that not agreeing to mediation would have an impact on his case's outcome. The judge also allegedly refused to examine the evidence he tried to produce, disrespectfully repeated what his burden of proof was, showed indulgence toward the other party, who was a lawyer, and told his spouse she could not speak.

The judge's intervention with the spouse was appropriate and done politely. As for the mediation complaint, the judge only addressed the absence of mediation between the parties after more than 35 minutes, when the complainant's spouse stated she wished that she and her spouse had tried to come to an agreement with the defendants. The judge made no connection between the absence of mediation and any impact on the case. Regarding the evidence, the judge simply told the complainant that proof of payment was better evidence. Finally, the judge made no mention of the defendant being a lawyer. Nonetheless, in the greater context of the case, the judge's manner during the exchanges cited, his tone, the way he expressed himself in those instances, and the message that sent warrant an inquiry committee to determine if the complaint is founded.

The Conseil decided to form an inquiry committee.

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**2017-CMQC-006** ● The complainant claimed the judge arrived at a hearing 40 minutes late without an apology or explanation and dozed off during most of the hearing.

Playback of the court recordings revealed that the judge was not asleep at any time. In fact, he was in constant conversation with the parties' representatives, listened attentively to the witnesses, and asked questions to clarify each person's explanations throughout the hearing. While it would have been preferable for the judge to apologize to those present for his late arrival, lack of graciousness is not an ethical violation.

The Conseil concluded that the complaint was unfounded.

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**2017-CMQC-017** ● The complainant accused the judge of being visibly exasperated and biting toward him during a hearing, praising an expert witness, clearly showing bias, and displaying favouritism toward the opposing party when leading the proceedings, depriving him of his right to make full answer and defence.

Playback of the court recordings revealed no basis for any of the allegations listed in the complaint. Throughout the hearing, the judge spoke in a tone of equanimity toward all parties and gave each party all the time they needed. At the outset he drew the complainant's attention to the fact that he knew the expert witness because he had used his services as a lawyer, and even suggested he take some time to think about the situation. As the complainant did not object, the judge continued the hearing according to standard procedures. During the complainant's testimony, he asked a number of questions to follow the thread of events and explanations. At each question the complainant answered, "Exactly", which shows that the exchanges between him and the judge were calm. Finally, the judge took care to ask the complainant if he had any other questions to ask before closing the discussions and stated that he was taking the case into deliberation. An examination of the facts revealed that he did not commit any ethical breach.

The Conseil concluded that the complaint was unfounded.

**2017-CMQC-018** • The complainant criticized the judge’s conduct, alleging that he did not listen to her during the hearing because he was sleeping and then jolted awake during her testimony. She also claimed he misadministered the evidence because he was confused about the documents produced. In addition she called into question a document that the opposing party submitted to the judge, of which she did not have a copy.

Throughout the hearing the judge spoke with the parties and witnesses, listened attentively to each, and asked questions as needed. Many exhibits were presented during the hearing, and identifying the passages to which the parties were referring proved difficult. It was in light of this that the opposing party submitted a document listing all the exhibits in question, to aid the judge’s understanding. Playback of the court recordings showed that the judge did not violate any provision of the *Code of Ethics for Judges*. In this situation the complainant was simply dissatisfied with the decision. But the Conseil de la magistrature has no authority to intervene in the assessment of evidence or act as an appeal body to reverse rulings handed down by a judge.

The Conseil concluded that the complaint was unfounded.

**2017-CMQC-035** • The complainant criticized the judge’s behaviour during a trial hearing. She claimed he ignored her several times when she raised her hand, did not attempt to understand what she was saying, and was disrespectful to her, raising his voice and pointing at her.

During the complainant’s opening statement, which lasted nine minutes, the judge reviewed the exhibits with her, asked her questions, and made sure she had the chance to say everything she wanted, all in a calm and peaceful manner. After the opposing party’s statement, the judge also provided the opportunity to make comments. During respectful exchanges on all sides, the judge was even interrupted by the complainant but allowed her to continue without taking offence. After the close of evidence, the judge addressed her directly, making a considerable effort to explain why he believed her to be wrong, referring to the exhibits submitted during her testimony. While it was not possible to see if the complainant raised her hand as she stated, Playback of the court recordings showed that the judge did not ignore her. He listened to her, asked questions, and made sure she had the opportunity to speak to her satisfaction. He never spoke loudly, raised his voice, or shouted.

The Conseil concluded that the complaint was unfounded.



**2017-CMQC-016 • The complainant accused the judge of deciding that her testimony was not needed during a hearing where she was the applicant.**

The only question submitted to the court was whether the minimum number of supervised contacts should be changed. The judge wondered about the need to hear the complainant on this question, as the merits of the request were already established. During the hearing he noted that there was a consensus that the supervised visits were going well. That was why the complainant was not asked to testify and the judge told her that it was pointless to correct a situation that no longer posed a problem. Given the circumstances, the judge did not violate the ethical code.

The Conseil concluded that the complaint was unfounded.

**2017-CMQC-026 • The complainant criticized the judge's conduct during a hearing, saying he did not listen to her, was impatient with her and her lawyer, allowed several instances of inappropriate behaviour by the opposing party, and was unsympathetic to a friend who felt faint during her testimony.**

Playback of the court recordings showed that during her testimony the complainant had plenty of time to explain her position to the judge. In addition, during the examinations and cross-examinations conducted by the counsels for each party, the judge never acted impatiently toward them. On the contrary, he listened attentively and called to order the opposing party's attorney to keep the discussions calm and allow the complainant to speak without pressure. Finally, when the complainant's friend was testifying, she became physically ill and the judge immediately suspended the hearing to allow her to leave the room and get help. Every time the judge spoke, he used a tone of equanimity and respect for all persons present in the courtroom.

The Conseil concluded that the complaint was unfounded.

**2016-CMQC-068 • The complainant accused the judge of saying, "You're not going to steal the princess" (or "my princess") while indicating a female lawyer present in the courtroom.**

Playback of the court recordings showed that the judge addressed an unidentified individual and said, "You're not allowed to rescue the princess here before me". A man's voice responded, saying, "Sorry?" and the judge repeated the same sentence. The actual words spoken, the response of the intended interlocutor, and the tone used by the judge made it clear that he was asking someone to stop using a cellphone in the courtroom. Taken in this specific context, the judge's words do not constitute an ethical breach.

The Conseil concluded that the complaint was unfounded.

**2016-CMQC-079** ● The complainant alleged that the judge, during the presentation of two motions to dismiss the case, sought to entrap a lawyer from his firm to show that she was lying to the court about the existence and presentation of a motion under the *Canadian Charter of Rights and Freedoms*, insinuated that he himself was lying to the court about his client’s health in order to obtain the postponement of a trial, and demonstrated bad faith toward him in his questioning.

The judge’s questions addressed the merits of the motions to ensure they were not dilatory measures that would unduly delay the trial, in accordance with his judicial obligations and the lessons from *R. v. Jordan*, which encourage participants in the justice system to work together to ensure speedy trials and establish sound case management procedures. The special scheduling session held by the judge several months in advance to schedule the trial was precisely in line with such efforts. The day before the trial, the complainant and a colleague from his firm presented an initial request to dismiss the case, saying that a motion under the charter had not been produced in the required timeframe due to an error by their firm. In the course of discussions about this motion, the complainant admitted he had only read the case several days earlier and had only managed to speak to his client two days earlier. He added that his client’s medical condition did not allow him to stand trial. In these circumstances, it was difficult for the judge to accept the dismissal request because the arguments set forth by the complainant did not square with the allegations in the motion. The day of the trial, the complainant presented a second motion to dismiss the case, this time accompanied by a sworn statement from a doctor. The judge was in his rights to question the appropriateness and authority of a general practitioner to rule on the accused’s “capacity” to stand trial before concluding that the only objective was to receive a postponement. The judge did not make any inappropriate or snide comments and did not put himself in a conflict of interest situation. The claims against him are without merit.

The Conseil concluded that the complaint was unfounded.

**2016-CMQC-081** ● The complainant accused the judge of not having issued a ruling more than 17 months after hearing his case regarding a private complaint.

While the time cited by the complainant was 17 months, slightly over 14 months had in fact elapsed between presentation of the private complaint before the judge and his decision. Either amount of time is too long for handling a complaint, although the law does not set a time limit for judges to rule on such a matter. Judges have a duty to render their judgments with diligence, as provided in Article 6 of the *Code of Ethics for Judges*. The judge in question is an experienced professional who has onerous administrative responsibilities, and he explained that during the period in question, he had to make certain choices and prioritize certain interventions. The Conseil believes the decision times were due to a temporary, unusual situation and an inquiry would not provide any new information, even though the judge did not make his decision expeditiously.

Since the judge provided satisfactory reasons, after examining the complaint the Conseil concluded that, in accordance with Section 267 of the *Courts of Justice Act*, the nature and gravity of the complaint did not warrant an inquiry.

**2017-CMQC-032 • The complainant accused the judge of using an exasperated tone during his testimony to reprimand him for having his hands in his pockets.**

Review of the facts showed that the judge reprimanded the complainant for having his hands in his pockets during his examination, twice and in the same terms, but she maintained a calm tone the entire time. The judge did not violate any provisions of the *Code of Ethics for Judges*.

The Conseil concluded that the complaint was unfounded.

**2017-CMQC-078 • The complainant, a courthouse employee, criticized the judge's behaviour during a trial hearing. She said he made contemptuous, humiliating, and threatening comments.**

Playback of the court recordings showed that the judge's tone and the threats made toward the complainant, in particular regarding the possibility of holding her in contempt of court because she did not respond adequately to his questions, raise questions of whether the judge was meeting his ethical obligations. Only an inquiry will determine if the judge violated articles 2, 8, and 10 of the *Code of Ethics for Judges*.

The Conseil decided to form an inquiry committee.

**2017-CMQC-091 • The complainant criticized the judge's behaviour during a trial hearing, saying she made comments showing frustration and bias.**

Playback of the court recordings revealed that the atmosphere was tense and difficult throughout the hearings. The highly contentious situation between the defence and the prosecution led the judge to intervene to try to encourage the attorneys to cooperate, and her interventions had very little effect. Despite the highly challenging situation, the judge maintained an appropriate attitude and used a tone compatible with her position of authority to facilitate proper management of the matter. The complainant also made various critiques of the judge's decisions. None of them had merit and there were no ethical breaches. The decisions fell under the discretionary power of the court.

The Conseil concluded that the complaint was unfounded.

**2016-CMQC-073 • The complainant accused the judge of mocking his demeanour and accent when delivering her judgment in a hearing where he was contesting a ticket.**

Playback of the court recordings showed that nothing in the judge’s comments revealed disrespect toward the complainant or mocking of his demeanour or accent. She listened attentively to the complainant’s arguments before making her judgment.

The Conseil concluded that the complaint was unfounded.

**2016-CMQC-090 • The complainant accused the judge of abusing his power, interrupting him, and not giving him the chance to speak, depriving him of his right to make full answer and defence.**

Playback of the court recordings revealed that the judge allowed the complainant to address the Court regarding a ticket he received for driving a vehicle without a signed registration certificate. Doubting the authenticity of the signature on the certificate presented by the complainant, the judge compared it with the signature on another piece of identification the complainant was carrying and saw that the two signatures were not identical. Before making his judgment, he asked the complainant if he had anything else to add, to which the complainant replied in the negative. The judge then declared the complainant guilty of the alleged offence, concluding that the signature on the registration certificate was not his. After the judgment was issued, the complainant contested the decision, but his dissatisfaction is a matter of appeal, not an ethical violation by the judge.

The Conseil concluded that the complaint was unfounded.

**2016-CMQC-103 • The complainant accused the judge of making unnecessary, moralizing comments and using offensive explanations in his oral judgment during several hearings, including one in which he was a party.**

Playback of the court recordings revealed that the judge spoke calmly, in a tone that showed serenity and respect, throughout the six hearings in question. In the complainant’s specific case, which related to illegally parking in an intersection, the judge explained the violation to the complainant, illustrating the different types of intersection that can pose a problem. Contrary to the claims in the complaint, the judge never referred to a “beginner’s mistake”, and his comments included no insinuation of “bad faith” on the part of the complainant.

The Conseil concluded that the complaint was unfounded.

**2017-CMQC-010 • The complainant accused the judge of not believing his or his witness’s version of the events during a hearing where he appeared as a defendant, and of receiving in his office a police officer who was called to testify.**

The judge maintained that he did not receive a visit from or speak with the police officer, as the configuration of the courthouse prevented contact between the public, witnesses, and the judge. The complainant also cited concerns related to the admissibility and analysis of evidence. These claims instead convey dissatisfaction with the judicial decisions handed down, which is outside the jurisdiction of the Conseil, whose purpose is to ensure the actions of members of the judiciary follow the rules of conduct and the obligations delineated in the *Code of Ethics for Judges*.

The Conseil concluded that the complaint was unfounded.

**2017-CMQC-022 • The complainant criticized the judge’s behaviour during a hearing. She alleged that the judge did not abide by the authorization she had received to go at the end of the roll to limit her stress caused by the presence of others in the room, did not assist her in presenting her defence, and neglected to call the opposing counsel to order when the attorney disrespected her both in speech and attitude. She also claimed the judge did not examine certain documents because she was in a hurry to finish the case quickly and as a result made a hasty judgment.**

Regarding the permission to go at the end of the roll, the complainant appears to have confused the request to go last, when there are fewer people in the room, with a request to testify in private, or in camera. The judge has a duty to follow the rule about hearings being public. In camera sessions can only be granted in certain circumstances at the discretion of the court. In fact, no members of the public were present in the room during the complainant’s testimony. As for the complaint that the judge did not assist her in presenting her defence, it is well established that in order to satisfy her obligation to be impartial and objective, even with respect to a citizen who is self-representing, a judge cannot and must not direct the parties, except to explain procedural matters and the rules of law. The complainant also said the judge neglected to call the opposing counsel to order when she was being disrespectful to the complainant. While some of the counsel’s remarks may have warranted more reflection and consideration, the judge’s lack of intervention does not constitute an ethical breach. Finally, regarding the judge neglecting to examine certain documents because she was in a hurry to finish the case, playback of the recording showed that the judge made sure the complainant understood sufficiently, painstakingly filed the documents presented, and repeated, as needed, the reasons for her decisions as she handled the evidence. The judge explained in detail, with neither haste nor precipitation, the reasons for her decision.

The Conseil concluded that the complaint was unfounded.

**2017-CMQC-024** ● The complainant alleged that the judge arrived late at the hearing, made derogatory comments toward a person who was accompanied by her child, was too interventionist, used a biting tone, convicted four defendants without expert evidence, convicted seven out of eight defendants, and ridiculed him, calling him paranoid.

The hearing began 20 minutes after the scheduled time, through no fault of the judge but due to the large number of witnesses who had to meet with the counsel for the prosecution. Regarding the person with her child, the judge told her she could have had someone watch the seven-year-old rather than make him sit through an evening hearing. As for the judge’s interventionist behaviour, playback of the recording revealed no biting tone had been used, and the judge’s manner showed instead that he was taking care to highlight the evidence. The allegation that the judge convicted four defendants without expert evidence is a matter for judicial review or appeal. The complainant cannot claim an ethical breach due to bias based on the number of convictions or acquittals. Finally, in the context of the complainant’s testimony that he is a very careful driver, the judge said that one must not be paranoid. His aim was only to put in perspective the complainant’s attempt to present his good reputation as evidence, and his comments were not intended to cause ridicule.

The Conseil concluded that the complaint was unfounded.

**2017-CMQC-047** ● The complainant criticized the judge’s behaviour and certain comments about his religion during a hearing. The judge refused to hear the complainant because he was wearing a rasta hat. The complainant explained that he was a practising Rastafari and refused to remove his hat for religious reasons. At that point the judge asked the complainant to provide proof that Rastafarianism was a religion. In a later hearing, the complainant presented documents supporting his claim.

The judge, after examining the documents submitted to him, agreed to hear the complainant while he was wearing his hat, but allegedly made derogatory comments about his religion. The comments made at that time were problematic; they reflect both the judge’s lack of understanding and his mockery of the situation. While the complainant was indeed heard and was not deprived of his rights, there is reason to open an inquiry to determine to what extent the judge violated articles 2 and 8 of the *Code of Ethics for Judges* through his behaviour.

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

**2017-CMQC-120** ● The complainant criticized the judge’s many interventions, his general attitude toward him and his lawyer, the tone he used, his comments, and his use of particular language during the trial hearing. The complaint concerned the entire process and the municipal employees involved in the judgment against the complainant.

During the hearings, the judge allegedly told the complainant he was making things up and spouting nonsense, adding that he did not believe his witnesses before they were even heard. Although the climate during the hearing was challenging at times due to the complainant’s behaviour, an inquiry will be necessary to determine to what extent the judge’s attitude

violated his duty of dignity, honour, and impartiality, and if he acted in a reserved, serene, and courteous manner to preserve public trust in the judiciary.

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

**Inquiry stage**

After examining a citizen’s complaint, the Conseil may decide it warrants an inquiry. If the complaint originates with the Minister of Justice, however, the Conseil is obligated to conduct an inquiry. To do so, the Conseil forms a five-member inquiry committee. The Conseil may also choose certain committee members from among former Conseil members. However, it must include at least three current Conseil members. The committee summons the judge and the complainant(s) in question. The hearings are public, and the Conseil must notify the Minister of Justice that the inquiry is being conducted. At the end of the inquiry, the committee submits a report to the Conseil, which accepts the accompanying recommendation. Inquiry reports are published on the Conseil de la magistrature’s website.

2016-2017

Inquiry reports for 2016-2017

**2015-CMQC-084 • 2015-CMQC-085 • 2015-CMQC-113 • The three complaints were filed with the Conseil de la magistrature about comments made by the Court of Québec judge during the sentencing hearing of an offender who admitted guilt on a charge of producing cannabis. The offender’s attorney had filed her client’s medical report and told the judge that the offender had intended to grow cannabis to self-medicate while awaiting legal authorization to use marijuana for medical purposes. The prosecution was asking for a 90-day detention and a probation order. The judge imposed a \$1 fine and a \$0.30 surcharge, plus one year of probation. Quite a few articles in the press reported his remarks, emphasizing the way he described the laws and system in place and his comments on the Harper and Trudeau governments, politicians in general, the judicial system, and its actors. On February 17 after the hearing, the Court of Appeal dismissed the application for leave to appeal the judge’s sentence, holding that, although another equally lenient sentence might have been appropriate, the sentence imposed was not unreasonable.**

Regarding the claim that the judge imposed a ridiculous sentence, since the Court of Appeal concluded the sentence was legal and appropriate, this claim was not upheld. The judge did not fail in his duty under Article 1 of the *Code of Ethics for Judges* to render justice within the framework of the law. Some open and strong criticism of public institutions must be tolerated, without this being seen as an unbridled right to flout the duty of restraint and courtesy. The judge did not fail in his duties of impartiality, objectivity, integrity, dignity, and honour in his position on the relevance of decriminalizing the possession of marijuana. Nor did he fail in these duties by the simple fact of commenting in vivid terms on the positions taken by doctors, the Collège des médecins du Québec or some of its members, and the legislative system against using marijuana to relieve pain. However, he did fail in these duties and those of reserve, serenity, and courtesy when, drawn onto the topic of political parties and their leaders, he fell into the trap of displaying a personal bias toward politicians in favouring one position over another. Moreover, he called doctors who were more open to prescribing marijuana “less ignorant” and “more responsible” than their colleagues. He must have known that the corollary of his statement was that all doctors hesitant to prescribe it were more ignorant and irresponsible. The judge failed to act with restraint, courtesy, dignity,

and honour when he asserted that society “is going to learn a thing or two about that, or at least the politicians will”. This suggested that society and politicians were silly not to have already decriminalized marijuana use. He did not perform the duties of his office with integrity, dignity, and honour, and he trespassed against his duties to be reserved, impartial, and objective by entering the political arena and taking sides not on a position, but rather on the responsibility of a prime minister, at the expense of a former prime minister and other party leaders who were less enthusiastic about decriminalization. The judge failed in his duty of restraint in calling the law ridiculous. The judge violated articles 2, 5, 8, and 10 of the *Code of Ethics for Judges*. As he was already retired at the time of the sentencing hearing and it was due to this affair that he resigned permanently from his position as assistant judge, the reprimand would not serve any commendable ethical purpose.

As a result, the committee closed the inquiry.

**2015-CMQC-072 • The complainant criticized comments the judge allegedly made during the sentencing hearing in a sexual assault case.**

The judge’s death several days before the hearing date put an end to the inquiry process.

**2015-CMCQ-043 • The complainant filed a complaint against the Municipal Court judge claiming he did not allow him to explain himself in a traffic violation case. In a statement filed by the attorney assisting the inquiry committee, the complainant stated that he did not consider the judge’s behaviour out of place or his tone impolite, that he did not expect the Conseil to conduct an inquiry based on his complaint, which he would abandon if possible, and that he would be satisfied if the judge acknowledged that he “had acted hastily” and “promised to be more attentive in the future in similar situations”. In the December 10, 2015, decision supporting an inquiry, the suspected failures in the judge’s conduct identified during Playback of the court recordings raised the question of the potential application of articles 2 (duties of integrity, dignity, and honour) and 8 (duty to be reserved, serene, and courteous) of the *Code of Ethics for Judges*. The judge explained that he had tried to refocus the debate on the key issue in dispute. He acknowledged that he could have taken a different tone in asking the complainant not to interrupt him. He regretted it and apologized if the complainant felt unheard.**

The subsequent statement by the complainant himself and playback of the four recordings related to the other cases greatly attenuate the allegations originally raised in the complaint. Using a peremptory tone to issue a three-word injunction to the complainant in a hearing that lasts 4 minutes and 37 seconds does not in itself constitute a breach of any of the obligations imposed by articles 2 and 8 of the Code. In any event the complainant did not feel offended by the judge’s tone during the hearing, as shown in his statement. His dissatisfaction lay elsewhere. It lay instead in the judge’s overall management of his case, in which the complainant said he was not given enough time to present his defence. The facts in no way showed that the judge behaved in any way as to interfere with the complainant’s right to make full answer and defence. Since the issue at hand was, in short, simply to determine whether the complainant had stopped his car in accordance with the *Highway Safety Code*, the offence appeared prima facie proven based on the statement of offence filed in the case, which stood in lieu of testimony of the issuing officer. At that point it was the complainant’s responsibility to explain himself. That was what the judge invited him



to do, at least twice, asking him what his defence was, and not without first ensuring that he fully understood where the offence in question took place and recognized the model of the car involved. Admittedly, it would have been desirable to suspend the hearing briefly to allow the complainant, who was not represented by a lawyer, to reassure himself by asking the office of the court to clarify the actual content of the documents presented to the judge. That said, not doing this did not deny the complainant justice. The judge was not guilty of any inappropriate behaviour that would impinge on the honour, dignity, or integrity of the judiciary.

As a result, the inquiry committee concluded that the complaint was unfounded.

**2015-CMQC-055** ● **The judge presided over the bail hearing of one of the complainants, who was involved in a car accident that killed three people, after which he ordered interim detention of the accused. The complainant alleged that the judge conducted a parallel investigation, requesting additional information from a police officer without notifying him or his lawyer. The note containing the requested information was submitted to the judges’ secretariat by the police officer, and the assistant to the judge in question left it on his desk because he had already departed. At that moment she had the final version of the interim release decision in her hands for final proofreading. When she returned to the office the next day, the assistant did not draw the judge’s attention to the note, and he signed the decision left on his desk the night before without making any changes. He then issued his judgment the morning of the same day. The issue here is to decide if the information the police officer communicated to the judge had an effect on his decision to order the interim detention of the complainant, preventing him from rendering justice within the framework of the law, and if the judge failed in his duty of impartiality and objectivity, if he neglected to perform the duties of his office with integrity, dignity, and honour, and if he placed himself in a position where he could not faithfully carry out his functions.**

Asking the police officer to confirm a piece of information related to the inquiry — which could have repercussions on the complainant’s interim release — alone constitutes an ethical failure in that the judge did not perform the duties of his office with integrity, dignity, and honour, placing himself in a position where he could not faithfully carry out his functions. However, taking into consideration the judge’s testimony and his assistant’s sworn statement that the judge did not read the information from the police officer, we cannot conclude that it had an impact on his decision, which was therefore issued within the framework of the law. As the judge had not reported his request for information from the police officer to the parties, the complainant had reason to question the appearance of justice. The judge should not have made such request to the officer. He could not faithfully carry out his functions in issuing his decision, and that action violated his duty of impartiality and objectivity. The inquiry committee concluded that the complaint was founded. Since this was an isolated incident, the judge recognized he ought not to have made such a request of the police officer, and the request had no impact on his decision, we recommend reprimanding the judge.

**2015-CMQC-099** ● The complainant filed a complaint against the judge regarding an altercation that took place on December 8, 2015, in the Montréal courthouse parking lot. After the judiciary’s Christmas dinner, the judge got into her vehicle in the parking garage and had to stop when the garage door would not open. Four vehicles were stopped on the exit ramp of the lot for about ten minutes. Exasperated, the judge stepped out of her car three times to express her displeasure. She allegedly raised her arms in the air and insulted the complainant, who was the patrol officer, calling him an “idiot” and “dense”.

Per Article 8 of the *Code of Ethics for Judges*, a judge should act in a reserved, serene, and courteous manner in public. In this instance the judge clearly displayed unfortunate and distressing conduct. Her reprehensible behaviour was significant enough to constitute an ethical breach. Even if the parking lot where the events took place is not accessible to the public, that in no way makes the incident private and therefore outside the scope of Article 8 of the Code. The word “public” used in this provision in no way requires the presence of a large audience. The evidence also revealed that many people witnessed the judge’s behaviour and comments. It was not a strictly private event. To ensure public trust in the institution, a judge’s behaviour must meet the highest standards both in the Court and outside the walls of the judiciary. Every judge represents the institution, and wrongdoing by any one of them reflects on the judiciary as a whole. While the judge’s professional career has been blameless and she apologized, her conduct in this incident was nevertheless not only wrong but repeatedly so. This violates the dignity of the judiciary, an essential foundation for maintaining public trust.

As a result, the inquiry committee concluded that the complaint was founded. It recommended that the Conseil de la magistrature reprimand the judge.

**2015-CMQC-105** ● The complainant accused the judge of refusing to hear his damages claim case against a neighbour. He complained about the judge’s behaviour, the nature of his comments, and the harsh tone he used toward him. At the opening of the session, before even hearing the evidence, the judge stressed multiple times the need to settle through mediation since it was possible that the complainant would be unable to meet his burden and receive full compensation for his claim. As the parties wanted to proceed to trial, the judge urged them to request a postponement to complete the evidence on file, despite the fact that they could add to the evidence in question during the hearing. After examining the complaint, the Conseil formed an inquiry committee. The judge claimed that the law required him to reconcile the parties and it was part of his duty to attempt to do so since that was the spirit of the new *Code of Civil Procedure*.

Majority report: The *Code of Civil Procedure* indicates that judges should try to reconcile the parties if the circumstances permit. This should not be done at the expense of parties that wish to be heard. In the committee’s opinion, the judge’s interpretation of his “power” or “duty” of reconciliation, to the point of arguing with the parties and citing deficiencies in the evidence, his insistence on postponing the case in the absence of conciliation, and his harsh tone toward the complainant constitute violations of articles 1, 6, and 8 of the *Code of Ethics for Judges*, which indicate that the judge must render justice within the framework of the law and perform the duties of his office diligently and act in a reserved, serene, and courteous manner in public. As the judge has already received a reprimand in a similar case, the committee is of

the opinion that his behaviour was not a matter of inattention or an accident; rather, it reflects his view of his position and represents a serious repeat offence. The judge remains convinced that his behaviour was justified based on the *Code of Civil Procedure*. In light of this, a new reprimand is likely to have no more effect on his behaviour than the last one. The committee’s recommendation for removal is not intended to punish the judge in question but to protect the integrity of the judiciary as a whole. The committee concluded that the complaint was founded and recommended the judge’s removal.

One dissent on the sanction: Despite the judge’s flagrant violations of his ethical obligations and those in articles 1 and 6 of the Code of Ethics for Judges, a second repeat offence does not warrant the most severe sanction, removal. It is to be hoped that the judge will mend his ways in the future and reconsider his “understanding” of the law’s intention to promote amicable settlement of disputes.

One dissent on the sanction: Given the principles established in *R. v. Lacasse* (2015 SCC 64), the measure to be applied in response to deviant behaviour must take into account the particular circumstances of the event and all the relevant facts established by the evidence in order to meet the criteria of proportionality and individualization. It is clear that the judge misunderstands his role, suppressing his adjudication responsibilities and trying to reconcile the parties through overinsistence and inappropriate comments. In this regard, the imposition of a sanction should therefore send a message of disapproval of the misconduct with the goal of deterrence and setting an example, to avoid the repetition of actions that violate the dignity of the institution and the judiciary as a whole. In exceptionally serious situations, removal can be used if there is a deep conviction that the judge in question cannot in any way continue to carry out his functions and the irremovability principle does not apply to him. However, the judge’s ethical failures do not fall in this category, and removal is not a fair, just, and proportional sanction. Consequently, a reprimand is recommended.

**2016-CMQC-035** • The complainant, in his capacity as Associate Chief Judge of the Court of Québec responsible for the Municipal Courts, claimed that the judge failed to act with integrity, dignity, and honour and to uphold the integrity and defend the independence of the judiciary. The alleged act took place while the judge was acting as a lawyer representing an individual facing criminal charges. The complainant claimed that the judge sent a bill for “various professional services rendered” to his client’s company, together with a letter stating that the company could deduct this expense for tax purposes and recover the sales taxes charged. The judge claimed that there was a link between the services rendered to his former client and the client’s company. He claimed that he followed his client’s instructions to send the bill and did not look into the matter further because his knowledge of taxation is limited. However, the evidence shows that the judge, who was working as a lawyer at the time, was hired to represent a client facing assault charges.

It is possible that a lawyer who deals almost exclusively with criminal matters may not have a thorough knowledge of taxation. However, all lawyers know or should know that there are consequences to issuing an invoice on behalf of a company when they have rendered legal services to a person facing assault charges. If the lawyer was unaware of this, he should have at least asked questions or looked into the limits of what he was about to do. It was his duty of competence, diligence, and care. The judge should have known that the professional fees he charged could not be used as a tax deduction for the benefit of his client’s company. Articles 2 and 9 of the *Code of Ethics for Québec Municipal Judges* state that judges should perform their duties with integrity, dignity, and honour and uphold the integrity and defend the independence of the judiciary, in the best interest of justice and society. The privileged role of judges require them to embody truth, integrity, and transparency in order to maintain public trust in the judicial institution. The public is entitled to expect that the behaviour of lawyers who become judges will be beyond reproach and that the qualities underlying their office will not be incompatible with the acts they performed as a lawyer. These attributes must have been present before the judge was appointed, provided the conduct reviewed by the committee is related to the judge’s ability to perform his judicial duties and to decide whether, as a result, such conduct could reasonably breach the public trust in the office holder. Through his actions, the judge violated his duty of integrity against the best interests of justice and society.

In conclusion, the inquiry committee concluded that the complaint was founded. It recommended that the Conseil de la magistrature reprimand the judge.

**2016-CMQC-060 • The complainant accused the judge of a lack of impartiality. He also criticized the judge’s conduct during a trial where the complainant was a defendant and the judge allegedly intervened 26 times during the complainant’s testimony, violating the provisions of articles 5 and 8 of the *Code of Ethics for Québec Municipal Judges*.**

The point of having applicable criteria for determining if there is a reasonable concern of bias is to ensure the existence and appearance of a fair decision-making process. Not only are judges obliged to act impartially, but they must also be seen to be acting impartially. Although the judge’s interventions do not mean that he is biased, the judge departed significantly from his role as a neutral and impartial decision-maker in terms of the nature and number of interventions, as well as the tone he used to express them. He cross-examined all the explanations the complainant provided, and his comments were critical rather than requests for clarification. Furthermore, he used an abrupt tone that made his exchanges with the complainant seem adversarial. The judge handed down his judgment without giving the parties the opportunity to make closing observations or arguments after hearing the evidence. He did not keep an “open mind” about the case he was ruling on. He did not show reserve and was clearly not impartial, in reality or in appearance. The judge’s conduct constituted a breach of articles 5 and 8 of the Code.

In conclusion, the inquiry committee concluded that the complaint was founded. It recommended that the Conseil de la magistrature reprimand the judge.



# 5

## Handling of Complaints

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

### Handling of Complaints in 2016–2017

#### Data summary

Between April 1, 2016, and March 31, 2017, the Conseil de la magistrature received 104 complaints. A further 21 complaints received the previous year were not processed and resolved until 2016–2017.

TABLE 1  
HOW COMPLAINTS WERE HANDLED

The following table breaks down results for the handling of complaints received in 2016–2017: Nineteen of these complaints were still being processed as of March 31, 2017.

Complaints deemed unfounded upon receipt	69
Complaints deemed unfounded after examination	12
Complaints not warranting inquiry (after examination) Sect. 267 of the Courts of Justice Act	2
Other (cases closed after inquiry)	0
Complaints investigated	2
Complaints being processed as of March 31, 2017	19
TOTAL	104

Of the 107 complainants who were parties to a dispute, 87 (81.3%) did not have legal representation before the court.

TABLE 2  
COURTS AND TRIBUNALS SUBJECT TO COMPLAINT

Courts and tribunals	Complaints received	Unfounded complaints	Complaints deemed unfounded after examination	Complaints not warranting inquiry (after examination)	Other (cases closed after inquiry)	Complaints investigated	Complaints under examination
Civil Division (excluding Small Claims Division)	5	4	---	---	---	---	1
Small Claims Division	47	30	6	2	---	---	9
Criminal and Penal Division	17	12	1	---	---	---	4
Presiding justices of the peace	3	3	---	---	---	---	---
Youth Division	13	10	3	---	---	---	---
Municipal Courts	16	9	2	---	---	1	4
Other (events occurring outside of judiciary functions)	3	1	---	---	---	1	1
TOTAL	104	69	12	2	---	2	19

This figure displays complaint jurisdictions.

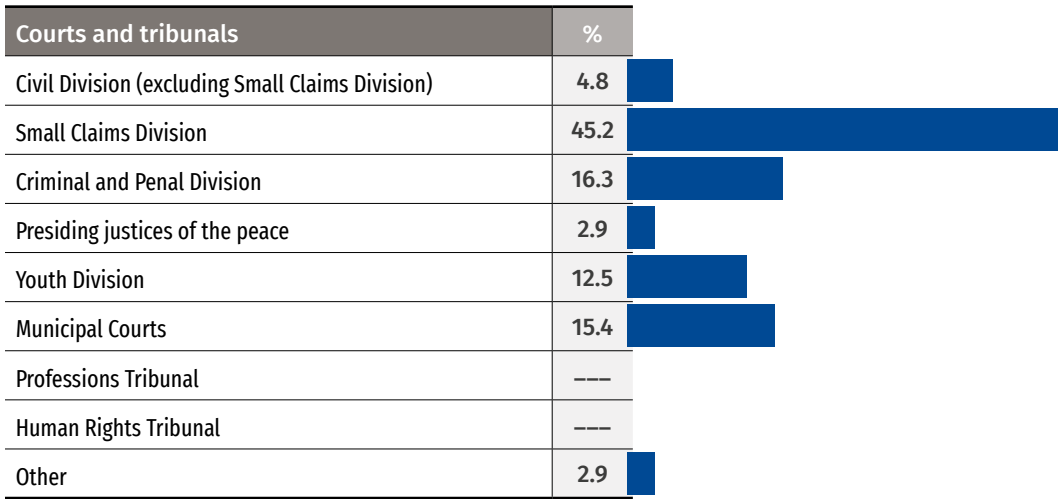




TABLE 3

ORIGIN OF COMPLAINTS

Let’s take a closer look at where the 107 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 complaints
Abitibi-Témiscamingue	0
Bas-Saint-Laurent	2
Capitale nationale	8
Centre-du-Québec	4
Chaudière-Appalaches	---
Côte-Nord	1
Estrie	7
Gaspésie – Îles-de-la-Madeleine	---
Lanaudière	6
Laurentides	8
Laval	4
Mauricie	7
Montréal	29
Monterégie	25
Outaouais	2
Saguenay – Lac-Saint-Jean	1
Outside of Québec	3
TOTAL	107

## Handling of Complaints in 2017–2018

### Data summary

Between April 1, 2017, and March 31, 2018, the Conseil de la magistrature received 146 complaints. A further 19 complaints received the previous year were not processed and resolved until 2017–2018.

**TABLE 4**  
**HOW COMPLAINTS WERE HANDLED**

The following table breaks down results for the handling of complaints received in 2017–2018: Twenty-one of these complaints were still being processed as of March 31, 2018.

Complaints deemed unfounded upon receipt	76
Complaints deemed unfounded after examination	28
Complaints not warranting inquiry (after examination) Sect. 267 of the Courts of Justice Act	---
Complaints investigated	21
Other (cases closed after inquiry)	---
Complaints being processed as of March 31, 2017	21
<b>TOTAL</b>	<b>146</b>

Of the 152 complainants who were parties to a dispute, 122 (80.2%) did not have legal representation before the court.

**TABLE 5**  
**COURTS AND TRIBUNALS SUBJECT TO COMPLAINT**

Courts and tribunals	Complaints received	Unfounded complaints	Complaints deemed unfounded after examination	Complaints not warranting inquiry (after examination)	Other (cases closed after inquiry)	Complaints investigated	Complaints under examination
Civil Division (excluding Small Claims Division)	8	6	1	---	---	---	1
Small Claims Division	48	32	9	---	---	---	7
Criminal and Penal Division	36	10	5	---	---	16	5
Presiding justices of the peace	3	---	3	---	---	---	---
Youth Division	10	6	3	---	---	---	1
Municipal Courts	37	20	7	---	---	3	7
Other (events occurring outside of judiciary functions)	4	2	---	---	---	2	---
<b>TOTAL</b>	<b>146</b>	<b>76</b>	<b>28</b>	<b>---</b>	<b>---</b>	<b>21</b>	<b>21</b>

This figure displays complaint jurisdictions.

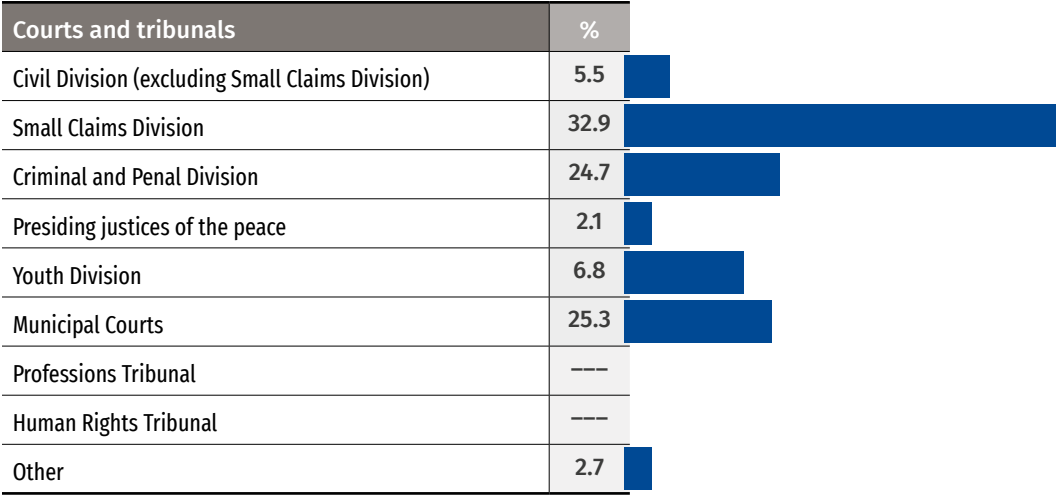


TABLE 6  
ORIGIN OF COMPLAINTS

Let’s take a closer look at where the 152 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 complaints
Abitibi-Témiscamingue	3
Bas-Saint-Laurent	2
Capitale nationale	26
Centre-du-Québec	1
Chaudière-Appalaches	3
Côte-Nord	1
Estrie	6
Gaspésie – Îles-de-la-Madeleine	---
Lanaudière	13
Laurentides	16
Laval	6
Mauricie	3
Montréal	40
Monterégie	19
Outaouais	4
Saguenay – Lac-Saint-Jean	3
Outside of Québec	6
TOTAL	152

TABLE 7  
COMPLAINTS OVER THE PAST THREE YEARS

	2015-2016	2016-2017	2017-2018
Number of complaints received	134	104	146
Number of complaints processed	110	85	125

TABLE 8  
AVERAGE TIME TO PROCESS COMPLAINTS AT THE EXAMINATION STAGE

Average time between the date the Conseil’s secretariat receives the complaint and the date the Conseil’s decision is sent to the complainant and the judge.

	2015-2016		2016-2017		2017-2018*	
	Timeframe (days)	Number of complaints	Timeframe (days)	Number of complaints	Timeframe (days)	Number of complaints
Complaints that don't require further information	30	97	35	75	49	92
Complaints that require further information	117	37	110	29	110	33
ALL CASES	66	134	59	104	63	125

\* Of the 146 complaints received in 2018–2019, 21 complaints are under examination. This is an overview.

AVERAGE TIME TO PROCESS COMPLAINTS AT THE EXAMINATION STAGE

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

Only cases whose inquiry report was submitted to the Conseil before March 31, 2018, are considered. As of March 31, 2018, no inquiry committee had completed its examination.

2015-2016		2016-2017		2017-2018	
Timeframe (months)	Number of inquiries	Timeframe (months)	Number of inquiries	Timeframe (months)	Number of inquiries
6	8	6	2	N/A	8

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

- Of the 76 cases that were not appealed in the courts, the average processing time was 7.5 months.
- Of the 13 cases that were appealed in the courts, the average processing time was 33.1 months.
- The average processing time for all the cases was 11.3 months.

TABLE 9

SUMMARY OF COMPLAINTS

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

Results of the examination stage	
Number of complaints received	2,634
Complaints deemed unfounded upon receipt	1,635
Complaints deemed unfounded after examination	708
Other complaints not warranting inquiry	67
Other	30
Complaints under examination	21
Complaints investigated	173
Results of the inquiry stage	
Complaints deemed unfounded after examination	39
Complaints resulting in a reprimand	58
Complaints resulting in a recommendation to remove a judge	5
Other	21
Complaints under inquiry	50

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

- At the examination stage, 93.4% of complaints were deemed unfounded, did not warrant inquiry, or became moot.
- At the inquiry stage, 51.2% of the complaints resulted in sanctions after inquiry.
- After both stages,
  - 97.5% of complaints were deemed unfounded, did not warrant inquiry, or became moot.
  - 2.5% of complaints resulted in sanctions.
- 34.4% of complaints required the collection of additional information.
- 64.5% of complaints were ruled upon during the first meeting of the Conseil (i.e., at the examination stage).



APPENDIX I  
EXCERPT FROM THE COURTS OF JUSTICE ACT

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

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

DIVISION I  
ESTABLISHMENT  
1978, c. 19, s. 33.

247. A body, hereinafter called the “council”, is established under the name of Conseil de la magistrature.  
1978, c. 19, s. 33.
248. The council shall be composed of 16 members, namely,
- a) the chief judge of the Court of Québec who shall be the chairman of the council;
  - b) the senior associate chief judge of the Court of Québec;
  - c) the four associate chief judges of the Court of Québec;
  - d) a president judge of a municipal court;
  - d.1) one judge chosen among the persons exercising the functions of president of the Human Rights Tribunal, or chairman of the Professions Tribunal;
  - d.2) (paragraph repealed);
  - e) two judges chosen among the judges of the Court of Québec and appointed upon the recommendation of the Conférence des juges de la Cour du Québec;
  - f) one judge chosen among the judges of the Municipal Courts and appointed upon the recommendation of the Conférence des juges municipaux du Québec;
  - f.1) one judge chosen among the presiding justices of the peace and appointed upon the recommendation of the Conférence des juges de paix magistrats du Québec;
  - g) two advocates appointed upon the recommendation of the Barreau du Québec;
  - h) two persons who are neither judges nor advocates.  
1978, c. 19, s. 33; 1986, c. 48, s. 4; 1986, c. 61, s. 47; 1987, c. 50, s. 8; 1988, c. 21, s. 53; 1991, c. 70, s. 4; 1995, c. 42, s. 42; 1998, c. 30, s. 40; 2002, c. 21, s. 48; 2001, c. 26, s. 172; 2015, c. 26, s. 40.

249. The Government shall appoint the members of the council contemplated in paragraphs d, d.1 and e to h of section 248. To sit on the council, those members shall make the oath contained in Schedule III before the chief judge or the senior associate chief judge of the Court of Québec.
- The vice-chairman of the council is elected by the council from among its members.
- The term of office of the members of the council appointed under the first paragraph is not more than three years; at the expiry of their term, these members remain in office until they are replaced or reappointed.  
1978, c. 19, s. 33; 1988, c. 21, s. 54; 1989, c. 45, s. 6; 1995, c. 42, s. 43; 1998, c. 30, s. 41; 1999, c. 40, s. 324.
250. The members of the council who are not judges are not entitled to any remuneration, except in such cases, on such conditions and to such extent as may be determined by the Government. They are, however, entitled to the reimbursement of expenses incurred in the performance of their duties, on the conditions and within the limits determined by the Government.
- The judges are entitled to the indemnity provided for in section 119.  
1978, c. 19, s. 33; 1988, c. 21, s. 55.
251. Nine members of the council, including the chairman or vice-chairman, are a quorum.  
1978, c. 19, s. 33; 1986, c. 48, s. 5; 2015, c. 26, s. 41.
252. The council meets as often as necessary, when convened by the chairman.
- It may sit incamera and hold its sittings at any place in Québec.
- The council has its head office in the territory of Ville de Québec or in the territory of Ville de Montréal, as the Government may decide.  
1978, c. 19, s. 33; 1996, c. 2, s. 985.
253. The council may make by-laws for its internal management or to establish committees and determine their functions.  
1978, c. 19, s. 33.
254. The minutes of the sittings of the council or of one of its committees are authentic if they are approved by the members of the council or of the committee, as the case may be; the same rule applies to documents or copies emanating from the council or forming part of its records if they are certified true by the chairman or the secretary.  
1978, c. 19, s. 33.

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

255.1. The secretary of the council shall exercise the functions of the secretary on an exclusive basis, under the authority of the chairman. The secretary shall, before taking office, make the oath set out in Schedule III, before the chief judge of the Court of Québec. 1989, c. 45, s. 7; 1997, c. 76, s. 2; 1999, c. 40, s. 324.

255.2. At the expiry of the five-year term of office, the secretary shall remain in office until replaced or reappointed. 1989, c. 45, s. 7; 1997, c. 76, s. 2.

255.3. The members of the personnel of the council, other than the secretary, shall be appointed in accordance with the Public Service Act (chapter F-3.1.1). 1989, c. 45, s. 7; 1997, c. 76, s. 2; 2000, c. 8, s. 242.

255.4. (Replaced). 1989, c. 45, s. 7; 1997, c. 76, s. 2.

DIVISION II  
FUNCTIONS OF THE COUNCIL  
1978, c. 19, s. 33.

256. The functions of the council are:
- a) to organize, in accordance with Chapter II of this Part, refresher programs for judges;
  - b) to adopt, in accordance with Chapter III of this Part, a judicial code of ethics;
  - c) to receive and examine any complaint lodged against a judge to whom Chapter III of this Part applies;
  - d) to promote the efficiency and uniformization of procedure before the courts;
  - e) to receive suggestions, recommendations and requests made to it regarding the administration of justice, to study them and to make the appropriate recommendations to the Minister of Justice;

- f) to cooperate, in accordance with the law, with any body pursuing similar purposes outside Québec, and
- g) to hear and decide appeals under section 112. 1978, c. 19, s. 33; 1988, c. 21, s. 56.

CHAPTER II  
REFRESHER PROGRAMS FOR JUDGES  
1978, c. 19, s. 33.

257. The council shall establish information, training or refresher programs for judges of the courts and presiding justices of the peace under the legislative authority of Québec and appointed by the Government. 1978, c. 19, s. 33; 2004, c. 12, s. 9.

258. The council shall determine the needs, prepare the programs and fix the terms and conditions of application; it may, for that purpose, act in cooperation in particular with the Conférence des juges de la Cour du Québec, the Conférence des juges municipaux à titre exclusif du Québec, the Conférence des juges municipaux du Québec, the Conférence des juges de paix magistrats du Québec, the Barreau du Québec, the law faculties and the Ministère de la Justice. 1978, c. 19, s. 33; 1987, c. 50, s. 9; 2004, c. 12, s. 10; 2015, c. 26, s. 42.

259. The Government determines the amounts over which expenditures by the council in the application of this chapter require the approval of the Minister of Justice. 1978, c. 19, s. 33.

CHAPTER III  
JUDICIAL ETHICS  
1978, c. 19, s. 33.

DIVISION I  
GENERAL PROVISION  
1978, c. 19, s. 33.

260. This chapter applies to a judge appointed under this Act. The provisions of this chapter applicable to judges also apply to the judges of the municipal courts and to presiding justices of the peace. 1978, c. 19, s. 33; 1980, c. 11, s. 98; 1995, c. 42, s. 44; 2004, c. 12, s. 11.



DIVISION II  
CODE OF ETHICS

1978, c. 19, s. 33.

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

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

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

1978, c. 19, s. 33.

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

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

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

DIVISION III  
EXAMINATION OF COMPLAINTS

1978, c. 19, s. 33.

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

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

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

1978, c. 19, s. 33.

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

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

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

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

1978, c. 19, s. 33.

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

1978, c. 19, s. 33.

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

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

DIVISION IV  
INQUIRY

1978, c. 19, s. 33.

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

Three persons are a quorum of the committee.

1978, c. 19, s. 33.

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

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

1991, c. 70, s. 5.

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

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

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

1991, c. 70, s. 5.

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

1991, c. 70, s. 5.

269.5. (Repealed).

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

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

1978, c. 19, s. 33.

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

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

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

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

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

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

1978, c. 19, s. 33.

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

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

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

1980, c. 11, s. 100.

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

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

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

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

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

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

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

1978, c. 19, s. 33.

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

1978, c. 19, s. 33.

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

1978, c. 19, s. 33.

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

a) reprimands the judge; or

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

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

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

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

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

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

1978, c. 19, s. 33.

## CHAPTER IV

### MISCELLANEOUS PROVISIONS

1978, c. 19, s. 33.

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

1978, c. 19, s. 33.

## APPENDIX II

### CONSEIL DE LA MAGISTRATURE RULES OF INTERNAL GOVERNANCE

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

#### DIVISION I

##### GENERAL PROVISIONS

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

#### DIVISION II

##### Functions and powers

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

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

5. The Vice-President, elected by the Council from among its members, shall assume the functions and responsibilities of the President of the Council in the event of the latter’s absence or inability to act.

6. Under the authority of the President, the Secretary of the Council shall carry out the general functions pertaining to his position and those that may be assigned to him by the President or by the Council.

More specifically, the functions of the Secretary shall be the following:

- a) assume, in matters of managing the resources of the Council, which have been devolved upon him according to all applicable Acts and by laws;
- b) prepare the meetings of the Council, draft the minutes of the meetings, and follow up on decisions made by the Council;
- c) act as the Secretary of the Executive Committee and other committees established by the Council;
- d) prepare an annual budget allocation plan for the Council’s training and continuing education programs;
- e) keep and maintain the records of the Council;
- f) prepare, for the benefit of the members, documents concerning points of interest for the Council;
- g) certify the minutes of the meetings of the Council or any of its committees, as well as any documents or copies emanating from the Council;
- h) at the request of the members of the Council, express his opinion on the different issues dealt with at the meetings of the Council;
- i) prepare an annual report on the issues to be brought before the Council.

#### DIVISION III

##### COUNCIL MEETINGS

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

10. Meetings of the Council shall be convened by a written notice from the Secretary at the request of the President.
- The President shall arrange for a special meeting to be convened at the written request of two members of the Council.
11. The Secretary shall forward to the members of the Council, at least three days before the meeting, a written notice of meeting which shall specify the date, time and place of the meeting. This notice of meeting shall be accompanied by an agenda.
- In the case of a special meeting, the notice of meeting may be given by telephone 24 hours before the meeting. During these meetings, discussions are based solely on the items on the agenda, unless members agree otherwise.
12. The Council may dispense with notice of meeting formalities if all members of the Council consent to it.
- A member may, before or after a meeting, waive the notice of meeting.
- The presence of a member at a meeting constitutes a waiver on his part to a notice of meeting.
13. The members of the Council may participate in a meeting by means that enable all participants to communicate verbally, notably by telephone.
14. The meetings of the Council shall be presided over by the President or, in his absence, the Vice-President.
15. The quorum of the Council shall consist of eight members, including either the President or the Vice-President.
- If a quorum is not present one half-hour after the time specified in the notice of meeting, the meeting shall be adjourned and a new notice of meeting must be issued. However, the President may extend the deadline before adjourning the meeting.
16. A meeting may, by a majority vote, be adjourned to another time or to a later date and a new notice of meeting shall not be required.
17. The decisions of the Council shall be made by a majority vote of the members present.
18. Votes shall be cast orally or by a show of hands unless the President or two members of the Council request a secret ballot.
19. In the absence of a secret ballot, the declaration by the President that a decision has been made unanimously or by a majority and the recording of this declaration in the minutes of the meeting shall constitute proof of the Council's decision, without the need to divulge the specific way in which members voted, except if a request is expressed to this effect by one of the members of the Council.

20. In case of a tie vote, the President, or the Vice-President in the absence of the President, shall have a deciding vote on any matter submitted to the Council regardless of whether the votes are cast orally, by a show of hands, or by secret ballot. The President or the Vice-President may or may not exercise his right to a deciding vote.
21. The decision to hold all or part of a meeting in camera shall be made by a majority of the members present.
22. The Council shall exercise its powers by means of decisions, except in matters that must be settled by way of a regulation, as prescribed under the Act.
- A decision signed by all of the members of the Council shall have the same value as a decision made during a Council meeting which was duly convened and held. This decision shall be recorded in the minutes of the meeting following the date on which it was signed.
23. The Secretary of the Council shall draft and sign the minutes of each meeting. The minutes shall contain a summary of the deliberations of the Council as well as the decisions made at each meeting.
24. Apart from the President of the Council, the Secretary may also certify the minutes, excerpts from the minutes and other documents and copies emanating from the Council or forming any part of its records.
25. In the event that the Secretary is not able to attend any of the meetings, the Council may designate a member of the Council or a member of the staff of the Council to draft the minutes. These minutes shall be signed by such person and by the Secretary of the Council.

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

1999.12.15

