



LE PROTECTEUR DU CITOYEN

Assemblée nationale  
Québec

2010-2011 ANNUAL REPORT



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Québec City  
September 2011

Mr. Jacques Chagnon  
President of the National Assembly  
Parliament Building  
Québec City (Québec) G1A 1A4

Mr. President:

In accordance with section 28 of the Public Protector Act, and section 38 of the Act respecting the Health and Social Services Ombudsman, I have the honour of submitting the 41<sup>st</sup> annual report of the Québec Ombudsman for fiscal year 2010-2011.

The annual report on the management of the Québec Ombudsman for the same period also forms part of this document, in accordance with section 35.1 of the Public Protector Act.

Yours respectfully,

A handwritten signature in black ink, reading "R. Saint-Germain". The signature is written in a cursive style with a large, stylized initial 'R'.

Raymonde Saint-Germain  
Québec Ombudsperson



## Message from the Québec Ombudsperson



Again this year, the Québec Ombudsman resolutely continued to see to it that the rights of all citizens were respected and that the service quality they legitimately expect from government departments and public agencies and the health and social services network was delivered.

This annual report details interventions on all fronts and, more importantly, the corrections made. The Québec Ombudsman's action continued to reflect its motto: *Remedy for one citizen—remedy for all citizens*. Whenever required, the Québec Ombudsman ensured that any harm brought to its attention would be permanently rectified and that, in the public interest, measures would be taken to prevent the recurrence of similar situations.

The management of Québec's public services entails numerous challenges: the importance of gearing joint action towards results, increased accountability requirements, issues related to workforce mobility, the pressure exerted on public finances, and the conspicuous trend towards rationalization efforts in various sectors. This search for efficiency is, of course, healthy in itself. Taxpayers want to know that the income and sales taxes they pay are put to the best possible use and that taxes are and will be optimally used for the common good: to get the best services possible at the best price.

### AVOIDING ADMINISTRATIVE INFLEXIBILITY

The Québec Ombudsman has, however, observed that these conditions produce adverse effects. In an environment where resources are tightly managed, we must know when and how to keep administrative rigour from becoming overly rigid, an observable trend in various sectors this year. Such was the case, in particular, for certain government departments and public agencies whose decisions have a financial impact, such as Revenu Québec, the Ministère de l'Emploi et de la Solidarité sociale, and the Commission administrative des régimes de retraite et d'assurances. In exceptional situations that called for flexibility and openness, we saw regulations enforced literally—almost robotically. In certain cases, when there were two legitimate interpretations of a directive, the one less beneficial to the individual was selected out of administrative convenience. When this occurs, the essential purpose of public service fades.

This trend obliges the Québec Ombudsman to insistently emphasize the fundamental notion of fairness that is central to its actions. Intervening with fairness means seeking to understand and abide by legislators' intent in every circumstance, adapting to non-standard situations, considering the damages suffered by individuals, and anticipating the impact on such individuals of any decisions rendered. It does not mean always making decisions that are favourable to individuals, but rather, handling exceptional situations with an abiding concern for the quality of service provided and respect for individual rights. Acting in this way demonstrates a true sense of public service.

## REDUCING DETRIMENTAL VAGUENESS

Although administrative inflexibility can often be seen through inappropriate application of prescribed rules, the absence of an official decision-making framework is just as likely to cause serious harm. This situation was observed—more acutely this year—within the health and social services network. Before the parliamentary Committee on Health and Social Services this past March, I had the opportunity to highlight my concerns related to what I call the “gradual erosion of the basket of services.” Given its importance, I would like to return to that topic here.

At the beginning, services within the universal health and social services plan were meant to be the most complete—even the most generous. In the current situation, the basic core—medically required services—remains solid. What surrounds it, though—notably the entire social services component—is incredibly vague, and that is problematic for citizens. In the absence of clear decisions on service provision standards (particularly the nature and level of services covered), public agencies and health and social service institutions must manage the imbalance between the theoretical basket of services and the resources that are available to the public. Given the difficulty in dealing with rising costs, peripheral services are reduced or de facto “deinsurance” occurs.

This situation is conducive to the development of multiple initiatives (some of which may leave something to be desired) to fill the voids, without any official announcement. The result is situations where there is a lack of transparency, where administrative costs are indirectly charged through incidental fees, and where confusion reigns about what is covered and what is not. New medical services formulas are developing, such as health cooperatives, without oversight. In the Québec Ombudsman’s opinion, the Ministère de la Santé et des Services sociaux is responsible for providing clear guidelines and control mechanisms in this area.

## STRENGTHENING TRANSPARENCY WITH REGARD TO COVERED SERVICES AND MEANS OF ACCESS

Transparency and respect for citizens requires informing them of the choices that have been made as to how services will be provided and covered. Having this information is not only desirable—it is a right. To this effect, section 4 of the *Act respecting health services and social services* states that “every person is entitled to be informed of the existence of the health and social services and resources available in his community and of the conditions governing access to such services and resources.” The stipulation is clear. It is important we be determined enough to ensure it is implemented.

In this area, we should not take a dogmatic approach that rejects any private contribution or other forms of providing health and social services. However, we must be conscious of the fact that those with private insurance or high incomes will be able to access services without being overly concerned about costs. Many others will hesitate or opt not to obtain services, to the detriment of their health. The deleterious impact of point-of-service fees has been solidly demonstrated in Québec and elsewhere.

These considerations bring the question of fairness to the forefront. Fair access to health and social services must be guaranteed first and foremost. Inequities—real or perceived—are the basis of a large number of complaints submitted to the Québec Ombudsman, as this report shows.

## EXPANDING THE NOTION OF PUBLIC SERVICE PERFORMANCE

Findings that arise from an examination of the Québec Ombudsman's interventions this year, both in the public service and the health and social services network, reinforce the need for an expanded notion of public service performance. Going beyond administrative—or even strictly budgetary—efficiency, we must also conceive of this performance as being connected to respect for rights, access to services, fair and equitable treatment, and diligence and service quality. Therein lies a real governance issue. When appropriately taken into consideration, these dimensions guarantee citizens will receive the real treatment they are entitled to expect from public services.

For its part, the Québec Ombudsman will continue to work tirelessly when it observes any failure to abide by these necessary requirements. On this topic, I would like to shine the spotlight on the ongoing work of my team of colleagues who, through their professionalism, their perseverance, and the calibre of their commitment, have allowed us to achieve the results detailed in this report, among others.



Raymonde Saint-Germain

Québec Ombudsperson



## Validation report from the internal auditor

Ms. Raymonde Saint-Germain  
Québec Ombudsperson

In accordance with the mandate entrusted to me, I have conducted an examination of the results, explanations, and information presented in the Québec Ombudsman's annual report for the fiscal year ending on March 31, 2011. The Québec Ombudsman's administrators are responsible for the accuracy, completeness and disclosure of the data.

I am responsible for evaluating the plausibility and consistency of the information, based on the work I have done.

This examination, which did not constitute an audit, was performed in accordance with the international standards of the Institute of Internal Auditors. It consisted of obtaining information and supporting documentation, using analytical procedures, documenting the operation of compilation mechanisms, revising calculations, and discussing the information provided. My efforts were focused on the "Results in Figures" section. For the other sections of the report, my work was limited to the figures provided.

Based on my examination, I conclude that the information contained in the Québec Ombudsman's *2010-2011 Annual Report* appears to be plausible and consistent in every important respect.



Jean Gamache, CA  
Québec City, July 2011



## Note to the Reader

### WITH A VIEW TO BETTER READABILITY OF THE REPORT:

- the masculine form is intended to be gender inclusive;
- the acronyms for certain agencies and institutions are used when they are familiar to the public and make the text clearer.

### INTEGRATION OF THE ANNUAL REPORTS OF THE QUÉBEC OMBUDSMAN

The *Public Protector Act* requires that the annual report and the annual management report of the Québec Ombudsman be tabled together in the National Assembly as integrated documents. This enables the Québec Ombudsman to report simultaneously in two separate documents on the outcome of its activities related to its mission as well as its internal management.

Given this special situation, and so that reporting is as comprehensive as possible and both documents can be read separately, some information may overlap.

### PROCESSING SERVICE REQUESTS

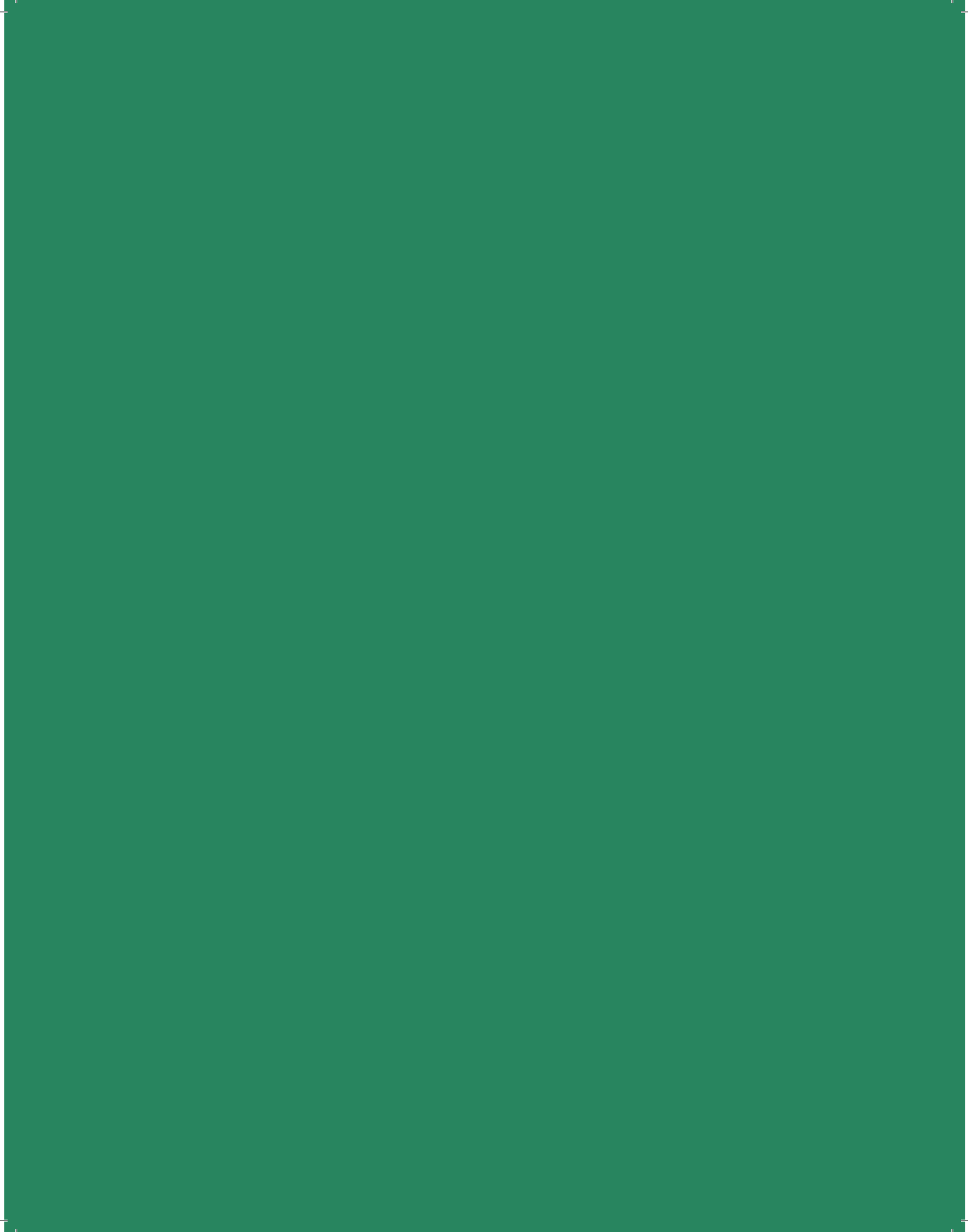
Different terms are required to describe each of the steps involved in service-request processing.

Individuals' service requests to the Québec Ombudsman may consist of a third-party *complaint* or *report* (only situations in the health and social services sector can be reported), a *request for assistance*, a *request for information*, or a *request referred to another organization* by the Québec Ombudsman, which can launch an investigation only if a report or complaint is made.

A complaint or report can be based on more than one ground for dissatisfaction. The Québec Ombudsman examines each of the grounds, which enables it to determine whether a complaint is substantiated. Substantiated complaints confirm the legitimacy of the citizen's position, while unsubstantiated complaints confirm that of the government department or public agency or the health and social services body concerned.

The final step entails informing the citizen of the Québec Ombudsman's conclusions by phone, letter, or any other means of communication. This officially closes the file. Some conclusions contain recommendations that are forwarded to the government department, public agency or health and social services body concerned. In such cases, the Québec Ombudsman follows up on the file until the situation has been rectified. Then, and only then, is the file deemed to be closed.

Readers must therefore bear in mind the distinction between "received" requests, compiled based on the number of requests, and "closed" requests, compiled based on the grounds for the complaint.





# THE QUÉBEC OMBUDSMAN

## Its status, mission, and mandate

The Québec Ombudsman is an institution independent of the Québec government. The institution has been under Raymonde Saint-Germain's leadership since April 2006. Ms. Saint-Germain was appointed by the National Assembly and is accountable to it.

The institution's mission is to ensure that the rights of individuals, businesses, and associations are respected in their relations with the public service. The Québec Ombudsman takes action every day to prevent and correct abuse, errors, negligence, disregard for rights, and inaction by public services.

The Québec Ombudsman has had the authority to intervene with government departments and most public agencies since the *Public Protector Act* was adopted in 1969 and has been responsible for implementing the *Act respecting the Health and Social Services Ombudsman* since April 2006. It generally acts as a second level of recourse in response to citizens' complaints. It may take direct action further to reports of errors or injustices and may also intervene of its own initiative with the health and social services institutions under its jurisdiction.

The Québec Ombudsman's mandate allows it to help improve the quality of services provided by these government departments, public agencies, or institutions. It also assists Members of the National Assembly in their role with the public.

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## Its action

The Québec Ombudsman has the power of recommendation. Its capacity to effect change is essentially based on its ability to influence and persuade. If, after making a recommendation, the Québec Ombudsman sees that appropriate corrective measures have not been taken in a timely fashion, it may notify the government. If it sees fit, it may also publicize the case in a special report or in its annual report to the National Assembly.

The Québec Ombudsman's actions have a collective impact when it intervenes in response to complaints or reports and corrects the problem for everyone concerned. Such actions are a true reflection of its motto, *Remedy for one citizen—remedy for all citizens*. It may also conduct systemic investigations into public service governance issues on its own initiative.

The Québec Ombudsman also takes preventive action. To correct detrimental situations and prevent them from recurring, it may call the attention of the National Assembly, government departments, public agencies, or health and social services institutions to the need for legislative, regulatory, or administrative reforms that it believes to be in the public interest. When it deems it appropriate, it proposes amendments in order to improve bills and draft regulations.

These actions are made possible through the delegation of certain of the Québec Ombudsperson's powers to staff members, who are then granted the title of "Québec Ombudsman delegates."

The Québec Ombudsman's action differs from—yet complements—that of the courts and frequently helps individuals avoid judicial or administrative redress procedures that are often long and onerous.

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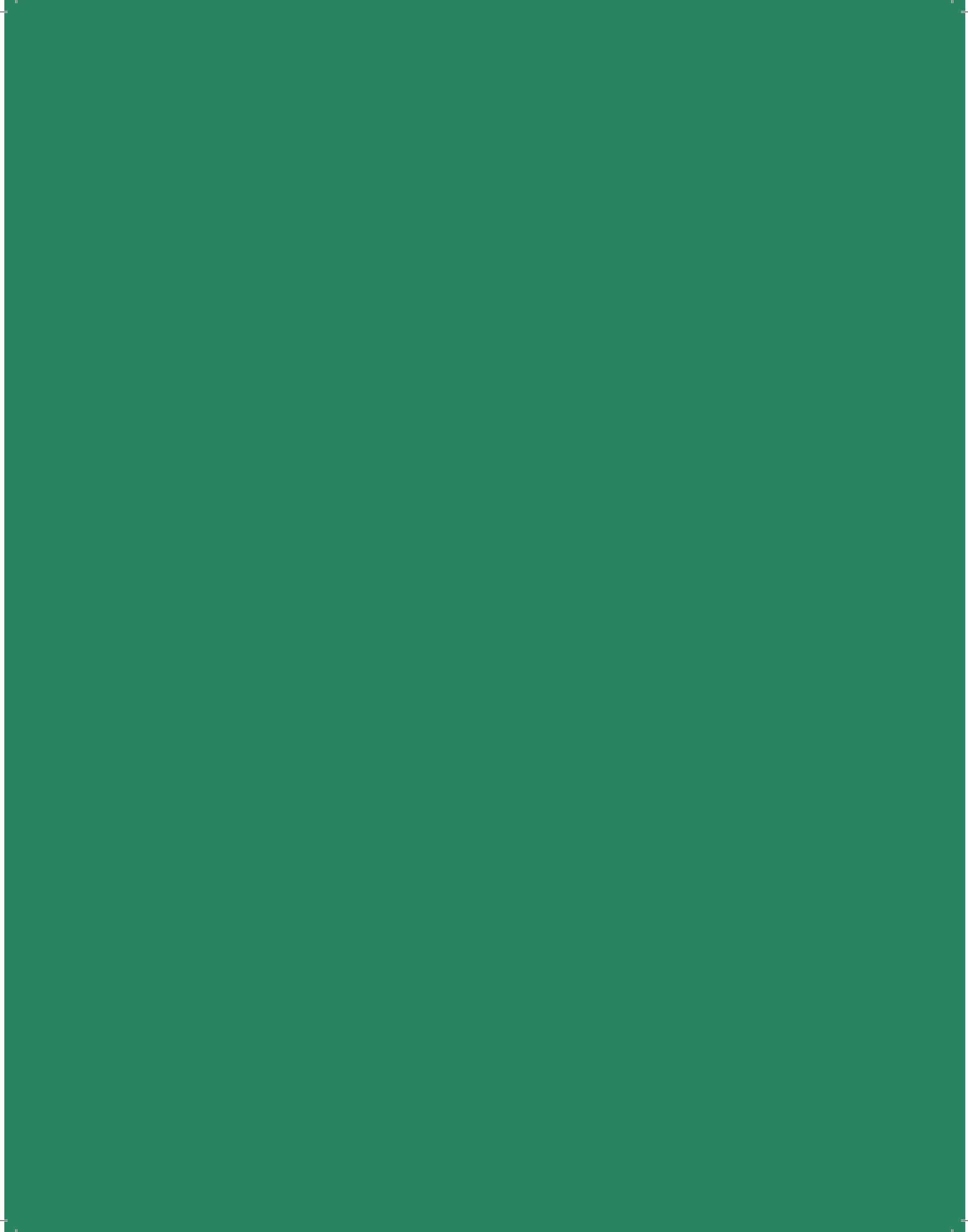
## Its values

The Québec Ombudsman's exercise of these functions and its role as mediator are based on the values of justice, fairness, respect, impartiality, and transparency. Its actions are guided by these values, and its employees are required to demonstrate integrity, rigour, and empathy.



The Québec Ombudsman's logo symbolizes the search for balance between competing rights. It is a variation on the classic scales of justice. The scales on the left-hand side of the logo evoke justice, while the "P" (for "Protecteur du citoyen") that replaces the right-hand scales refers to fairness.





# HIGHLIGHTS

## COMMISSAIRE À LA DÉONTOLOGIE POLICIÈRE

P. 25

This public agency runs counter to the general trend by displaying a disturbing lack of collaboration with regard to the Québec Ombudsman's mandate. When asked by the Québec Ombudsman to correct situations prejudicial to citizens, the agency maintains a closed attitude.

## MINISTÈRE DE L'EMPLOI ET DE LA SOLIDARITÉ SOCIALE

P. 37

The Department's administrative inflexibility in exercising its power to recover amounts owed to it condemns certain recipients to extreme poverty. The Department must not only be rigorous, but must also use discernment when imposing sanctions that could very well worsen the economic distress of the most vulnerable.

## MINISTÈRE DE LA JUSTICE

P. 42

In recent years, the Department has shown it is open to legislative amendments further to the Québec Ombudsman's recommendations concerning the support payment review process and the Directeur de l'état civil. However, in the real world, nothing is being done and the required reforms have been left dangling.

## MINISTÈRE DE LA SÉCURITÉ PUBLIQUE

P. 45

More than a year after tabling of the Québec Ombudsman's *Report on the Québec Investigative Procedure for Incidents Involving Police Officers*, the Ministère de la Sécurité publique has neither announced nor made any improvements.

## RÉGIE DU LOGEMENT

P. 52

A recurrent ground for complaints about the Régie is the unreasonable wait time for appearing before it and, consequently, obtaining a decision. The Québec Ombudsman also observed that recent files were docketed for a hearing before similar files that predated them by several months, to the detriment of administrative justice and procedural fairness.

## REVENU QUÉBEC

P. 55

The restrictive interpretation of the *Taxation Act*, regulations and bulletins by Revenu Québec causes taxpayers considerable harm.

#### TRIBUNAL ADMINISTRATIF DU QUÉBEC

P. 68

The **serious backlog** in processing road accident victims' files is due to the increase in automobile insurance cases submitted to the Tribunal. In many cases, the effect on citizens' quality of life is major.

#### MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX

P. 74

Cuts that do not take users' health or welfare into account are being made to in-home care for vulnerable persons, who tend to be isolated. The Québec Ombudsman is concerned about implementation of the *Vieillir chez soi* policy announced by the Department in March 2011.

#### MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX

P. 74 and 90

The Department must fulfil its commitments to **finalize certification of private seniors' residences** and drop in on residences to ensure that the appropriate security and quality exist.

#### MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX

P. 80

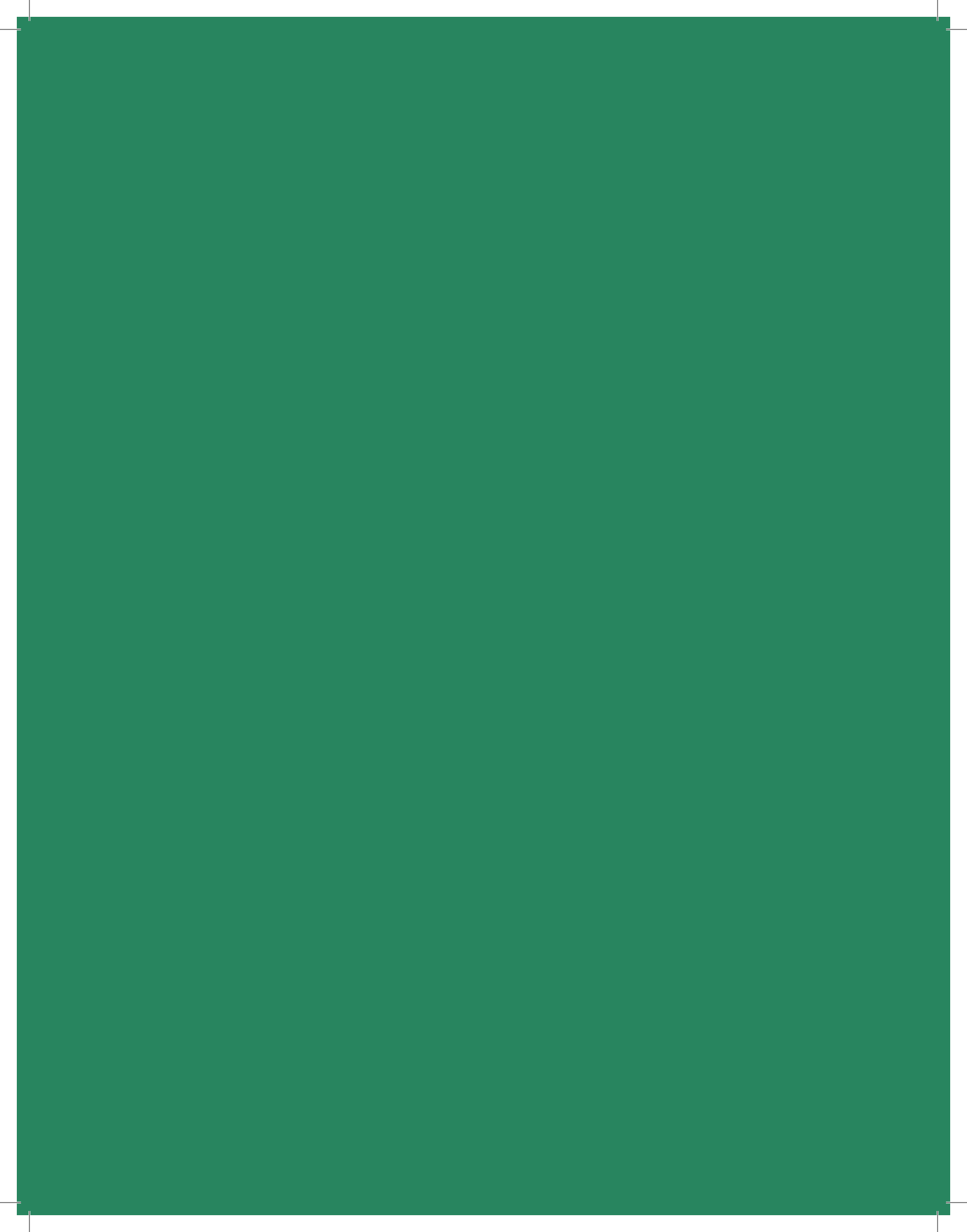
Situations of **severe negligence** towards persons with an intellectual disability or a pervasive development disorder who are receiving residential services in noninstitutional resources led the Québec Ombudsman to urgently recommend improvements to the inspection program for intermediate and family-type resources.

#### MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX

P. 95

People wait for months, if not years, to receive **rehabilitation services**. Those referred by CSST or SAAQ are given priority. The Québec Ombudsman reiterates the importance of equitable management of users based on their needs and regardless of the plan under which costs are reimbursed.







## PUBLIC SERVICE

This section presents the Québec Ombudsman's findings on certain government departments and public agencies that fall within its jurisdiction. These findings are sometimes illustrated by individual, group, or business complaints. It should be noted that the complaints presented were most often selected based on how well they represent the deficiencies described and how well-founded the reasons for the complaints are.

The number of complaints about the public service has remained relatively stable since 2006. Although Québec government departments and public agencies have demonstrated a real desire to meet the public's needs, a large percentage of these complaints illustrate worrisome tendencies, including excessive inflexibility in applying rules, which also runs counter to the need for government services to be adapted to vulnerable populations.

### **ACHIEVING FAIR APPLICATION OF REGULATIONS: AN INCREASINGLY ARDUOUS PROCESS**

Among the trends observed, the Québec Ombudsman notes that more and more often, it must intervene repeatedly before obtaining a corrective measure in the interest of fairness. The notion of fairness here refers to the need, in certain cases, for rules to be interpreted more flexibly so that a fair decision can be made.

It can be assumed that this is due in part to management constraints that limit budgets and staff numbers and increase workloads. Of course, the Québec Ombudsman fully supports the desire to manage efficiently. Yet there is no justification for government departments and public agencies—particularly those that have a financial impact on citizens—to delay in making necessary corrections or to apply their own rules in unfairly restrictive ways. In such cases, files are pushed through quickly, mistakes are made, and citizens have difficulty eliciting the flexibility their situations require.

### **CONCERTED ACTION: SILOS PERSIST**

"Silo working" within the government apparatus continues to be a widespread phenomenon. Compartmentalized action is particularly problematic for those who must do business with a number of government departments and public agencies or different areas of a single organization. In order for services to improve, there must be more integrated and better coordinated action.

## ADAPTING SERVICES TO NEEDS: MORE CONSIDERATION FOR VULNERABLE POPULATIONS IS NEEDED

Population aging is putting increased pressure on the government. The same can be said of a number of social issues that aggravate vulnerability: mental illness, illiteracy, and poverty are but three examples. Public services must take these fragile populations' needs into account more fully.

This section of the annual report:

- primarily relates situations with a collective impact; the corrective measures obtained will therefore benefit anyone who might have a similar problem;
- reports new or recurring problems that are particularly worrisome.

Government departments and public agencies are presented in alphabetical order:

- Commissaire à la déontologie policière;
- Commission administrative des régimes de retraite et d'assurances;
- Curateur public;
- La Financière agricole du Québec;
- Ministère de la Culture, des Communications et de la Condition féminine;
- Ministère du Développement durable, de l'Environnement et des Parcs;
- Ministère de l'Emploi et de la Solidarité sociale;
- Ministère de la Famille et des Aînés;
- Ministère de la Justice;
- Ministère de la Sécurité publique;
- Régie de l'assurance maladie du Québec;
- Régie du logement;
- Régie des rentes du Québec;
- Revenu Québec (Agence du revenu du Québec as of April 1, 2011);
- Société de l'assurance automobile du Québec;
- Tribunal administratif du Québec.

# Commissaire à la déontologie policière

## COMPLAINTS IN 2010–2011

The number of complaints received by the Québec Ombudsman about the Commissaire à la déontologie policière (Police Ethics Commissioner) in 2010–2011 is slightly lower than in previous years. Complaints mainly concern the handling of requests, wait times, and decisions handed down by the Commissioner.

## FOLLOWING UP ON THE QUÉBEC OMBUDSMAN'S REQUESTS AND RECOMMENDATIONS

Over the past year, the Québec Ombudsman's interventions with the Commissioner have not produced the anticipated outcomes. In a number of cases, the agency's response showed a lack of cooperation with the Québec Ombudsman's mandate, as well as lapses in relation to the Commissioner's constituting legislation (the *Police Act*) and its obligations arising from the *Act respecting administrative justice*.

As of the writing of this annual report, the Québec Ombudsperson was in the process of notifying the Commissioner via letter of her dissatisfaction with the agency's lack of cooperation, in addition to proposing other ways to ensure better handling of citizens' complaints.

The following two complaints are representative of the shortcomings observed.

To provide an understanding of the facts, here are the steps in the complaint process arising from the *Police Act*:

- when a citizen wishes to complain about a police officer, he may contact the Police Ethics Commissioner;
- if the complaint is deemed admissible, it must first be submitted to a conciliation process to help the person and police officer(s) settle their dispute;
- a complainant can refuse to take part in the conciliation process if he does not believe it is the appropriate process for the case at hand: the complainant must then explain his reasons in writing to the Commissioner within one month;
- if the Commissioner rejects the reasons cited, he informs the complainant of the right to have this decision reviewed and explains the applicable procedures;
- if the conciliation process fails (e.g., the parties fail to come to an understanding), the conciliator reports the outcome to the Commissioner, and a decision is made as to whether to investigate or close the file.

### **No—period**

*An individual who was summoned to a conciliation session by the Commissioner was opposed to taking part and explained his reasons, as stipulated by the Police Act. Following this, he learned that a conciliator had been assigned by the Commissioner to handle his file. The person assumed that his reasons for opposing the conciliation had been rejected. He contacted the Commissioner to learn the reasons for the decision. After failing to receive a response, he complained to the Québec Ombudsman. Following its investigation, the Québec Ombudsman asked the Commissioner to respond to the man in accordance with the Police Act and the Act respecting*

administrative justice, both of which stipulate that the Commissioner must provide a justified response. However, the Commissioner believed he had no obligation to respond to the man and indicated he did not intend to act on the Québec Ombudsman's request.

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#### **An agreement to disagree**

A man complained about the following facts: after a conciliation session, he stated he was pressured to sign a "post-conciliation settlement" form. Although hesitant at first, he finally agreed to sign the form after the conciliator wrote that the parties had "divergent versions."

Based on the Québec Ombudsman's interpretation, the foregoing was equivalent to stating that the conciliation had not succeeded in producing the desired reconciliation between the parties. Yet rather than concluding the conciliation had failed, the man's signature was required and the exercise was considered successful. His complaint was therefore deemed to be withdrawn.

The Commissioner refused to provide any explanation whatsoever to the Québec Ombudsman about the required signature allegation or the "divergent versions" note. The Québec Ombudsman therefore had no choice but to observe that, after the conciliation, the conciliator settled for indicating that the parties agreed . . . to disagree, which obviously does not achieve the goals of conciliation. The conciliator's report therefore should have provided an account of the dispute and been forwarded to the Commissioner so he could decide whether there was reason to delve further into the investigation prescribed by legislation in such situations. The Québec Ombudsman submitted its conclusions and recommendations to the Commissioner, who stated he did not intend to follow up on its request.

In these cases and similar situations, the Québec Ombudsman sincerely regrets the types of decisions that have been made by the Commissioner. It expects the Commissioner will change its view in relation to its service mission and its recognition of the Québec Ombudsman's role and intends to pursue its initiatives to this end.

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## **Commission administrative des régimes de retraite et d'assurances**

### **COMPLAINTS IN 2010–2011**

In one year, the number of complaints received by the Québec Ombudsman about the Commission administrative des régimes de retraite et d'assurances (CARRA) increased sharply, and substantiated complaints went from 9 in 2009–2010 to 147 in 2010–2011.

Such a change clearly indicates that problems experienced by CARRA beneficiaries are far from disappearing. Given the large number of individuals affected and how important it is for current and future pensioners to be able to obtain the services and information to which they are entitled, the Québec Ombudsman is still very concerned about the situation and expects the necessary corrective measures to be taken immediately.

Complaints mainly concern the time it takes CARRA to:

- process retirement pension applications;
- process survivor's pension applications;
- process contribution transfer applications;
- answer telephone calls;
- refund contributions;
- readjust retirement pension files;
- regularize duplication (correct contributions paid by anyone who, in a given year, had more than one job, which may cause incorrect calculations of annual contributions payable, necessitating a refund);
- produce statements of contribution;
- process complaints.

## PROCESSING REQUESTS IN A REASONABLE AMOUNT OF TIME

Wait times, which are a cause of insecurity and stress for some, are mainly related to the modernization of computer system processes. They may cause significant hardship, including:

- difficulties meeting financial obligations;
- the need to resort to credit (family or institutional);
- the need to review financial planning.

Pending applications that had accumulated before the introduction of the new computer system in June 2010 and the implementation of new processes and systems led to a rise in inventories and processing delays for CARRA.

In the past year, the number of pending files (which was stable from 2007 to 2009) went from:

- 5,500 to 14,423 for buy-back applications;
- 3,700 to 6,720 for pension applications;
- 1,800 to 1,737 for death-related pensions;
- 2,000 to 6,844 for pension estimates.

In 2010–2011, the Québec Ombudsman paid special attention to these wait time issues and to the measures that CARRA established in response:

- in September 2010, CARRA established processing priorities for pending applications, which helped shorten certain delays. However, problems persist for many citizens;
- in February 2011, CARRA's board of directors approved an action plan to gradually reduce the file surplus and processing times by the end of 2011. The Québec Ombudsman believes the plan reflects a desire to make corrections, although it involves certain risks, particularly with regard to the computer system and staff retention.

The Québec Ombudsman also notes the concrete efforts made by CARRA to increase the amount of information provided to contributors and beneficiaries as well as the transparency of its actions. Its updated online table of processing times is a noteworthy initiative. The information disseminated will, however, need to meet employers', contributors', and beneficiaries' needs throughout the action plan implementation period.

## RECOMMENDATIONS

WHEREAS the number of complaints received by the Québec Ombudsman concerning wait times at the Commission administrative des régimes de retraite et d'assurances has increased considerably in the past year;

WHEREAS these wait times may cause significant hardship;

The Québec Ombudsman recommends that the Commission administrative des régimes de retraite et d'assurances:

- take measures to reduce the surplus of files to be processed by the end of fall 2011, by increasing processing capacity, improving proficiency with the new computer system, speeding up pending application processing, and any other pertinent measures;
- continue its efforts to regularly inform contributors and beneficiaries about wait times for various services;
- inform the Québec Ombudsman quarterly of the ongoing results of its action plan beginning on September 30, 2011.

## COMMENTS FROM CARRA

"We acknowledge the difficulties encountered since the new processes and systems were introduced. However, CARRA has taken the necessary steps to ensure its beneficiaries' income is maintained and its clients' rights are protected—from the moment an application is received.

"In addition, an action plan that specifically aims to reduce the number of pending applications and shorten processing times is underway. It is part of a comprehensive plan focused on client expectations that was set up to restore service levels by the end of 2011. A number of concrete actions were taken, including the following:

- in 2010, we established processing priorities for pending applications to ensure income continuity for beneficiaries (pensioners, survivors, etc.) and protect client rights;
- staff numbers were increased, particularly in client services, to process pending applications and shorten the time it takes to answer telephone calls;
- given that we highly value information quality, we have made improvements to client correspondence in response to comments received from clients;
- we have introduced continuing education on updated work processes and tools, as well as improvements to our computer solution that will gradually allow us to increase productivity;
- internal and external communications are planned to ensure consistency and transparency with staff, clientele, and governing bodies."

## SHORTENING TELEPHONE WAIT TIMES

Since September 2010, a number of individuals have complained about difficulties accessing CARRA's telephone system and the time it takes to reach information staff. Complaints increased in early 2011, a sign that the situation is worsening.

According to CARRA, processing times, technical telephone system problems, and the mass mailing of deposit statements in a new form have led to a significant rise in calls and overloaded telephone lines. The Québec Ombudsman notes that CARRA plans to remedy the situation, in particular by increasing the number of employees assigned to answer telephone calls.

The Québec Ombudsman encourages CARRA to bring telephone wait times as close as possible to the standard prescribed by the Centre d'expertise des grands organismes (two minutes or less, with 80% of calls answered within 20 seconds).

The Québec Ombudsman recognizes the methods CARRA has announced to fully normalize the processing and telephone wait time issues. It plans to closely monitor progress on the situation.

## RECOVERING OVERPAYMENTS IN ACCORDANCE WITH THE ESTABLISHED RULE AND RESPECTING PENSIONERS' FINANCIAL PLANS

To ensure beneficiaries receive their pension payments when they retire, CARRA may advance funds. Subsequently, when the confirmed pension is calculated, it may be lower than the first estimate. CARRA then proceeds to deduct the overpayments from the monthly payments. According to the applicable regulation, this compensation may not exceed 10% of the monthly payment amount. In the past year, the Québec Ombudsman has apprised CARRA of cases in which the recovery amount exceeded this percentage, causing real financial headaches for those affected.

In the explanations it provided, CARRA asserted that the new computer system had not been programmed to automatically apply the compensation limit. Recognizing its error, the agency set up a system to identify, on a monthly basis, the individuals whose payments will be subject to compensation deductions. CARRA has taken responsibility for contacting these beneficiaries by telephone to explain the overpayment recovery mechanism, inform them of the 10% rule, and offer to sign a recovery agreement of shorter duration if they would like.

## FOLLOWING UP ON THE QUÉBEC OMBUDSMAN'S RECOMMENDATION

Last year the Québec Ombudsman recommended that CARRA do what was needed to have the *Regulation respecting the application of the Act respecting the Government and Public Employees Retirement Plan* amended to include the option to forgive debts arising from errors that beneficiaries cannot reasonably detect. In response, CARRA made a commitment to diligently take the statutory steps to have the regulation amended as suggested, in accordance with the prescribed process. Although CARRA did take the necessary steps, as at March 31, 2011, the regulation had not been amended. The Québec Ombudsman therefore reiterates this recommendation and will pay special attention to how this matter progresses over the next year.

#### **A late claim and an unfair calculation**

*A worker had been contributing to CARRA for a number of years. In 1995, CARRA sent him a cheque, indicating it consisted of a refund of a \$657.46 overpayment for the year 1990 (\$417.88 in overpayments and \$239.58 in interest).*

*Twelve years later, CARRA claimed the amount from him, asserting that there had never been any overpayment. The man paid the amount, but contested the amount and interest claimed through review and arbitration, emphasizing the time that had elapsed between the overpayment and the claim. The arbitrator decided in his favour and CARRA repaid him the sum. However, CARRA notified him that, for the year in question, his contribution would be cut by the same amount (\$657.46). Such a calculation would affect the total retirement pension amount and penalize the man.*

*The Québec Ombudsman asked CARRA to consider the amount it remitted following the arbitrator's decision as contributions made by the client for the year 1990. CARRA agreed but admitted no fault.*

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## Curateur public

### **COMPLAINTS IN 2010–2011**

A number of complaints submitted to the Québec Ombudsman in 2010–2011 about the Curateur public concern inappropriate case management. The Curateur public does not always provide its clientele with the required support, which is worrisome given the great vulnerability and dependence of those under protective supervision or for whom the agency is responsible. Moreover, the number of individuals who need protection is increasing due to population aging. The challenge is therefore to properly represent this growing clientele in spite of limited resources.

### **BETTER TREATMENT FOR THOSE ELIGIBLE FOR LEGAL AID**

In its 2009–2010 annual report, the Québec Ombudsman focused on the situation of persons under the Curateur public's protection who are eligible for legal aid. It emphasized the unfair nature of fees charged to their succession when protective supervision is initiated with formalities being undertaken by the Curateur public itself (there are no fees when the formalities are carried out by a third party). The Québec Ombudsman recommended that the Curateur public step in to have the *Legal Aid Regulation* amended by the Ministère de la Justice so that those concerned will not be penalized in this way. To date, the regulation has not been amended despite the Curateur public's involvement.

The Curateur public recognized that those eligible for legal aid were unfairly impoverished by this situation and agreed to pay the protective supervision initiation fees out of its budget as of September 2009. The Québec Ombudsman is satisfied with this initiative.

## **FOLLOWING UP ON THE QUÉBEC OMBUDSMAN'S RECOMMENDATION**

Last year, the Québec Ombudsman recommended that the Curateur public cease including the Shelter Allowance amount in its calculation to determine whether fees may be charged. The Curateur public, recognizing the importance of establishing a fair fee structure, agreed to propose a new fee schedule during the year. The Québec Ombudsman notes a delay in following up on this recommendation and is still awaiting the results from the fee-review committee set up by the Curateur public.

## **GIVING PROPER ATTENTION TO THOSE REPRESENTED**

Individuals represented by the Curateur public regularly complain about the way it handles their cases: lack of attention, unjustified refusals, errors in information sent, and wait times.

### ***A precarious situation settled . . . some months later***

*A woman whose spouse was represented by the Curateur public tried to get reimbursed for expenses she herself incurred to support him. However, every time she spoke with the Curateur public, various reasons were given for the delays, including research into the spouse's succession or the fact that the case was not a priority.*

*The Québec Ombudsman's investigation revealed that the man had previously appointed his son as his mandatary in the event of incapacity. However, the son had failed to assume his responsibilities when it came time to provide for his father's needs. Upon revocation of the mandate, the Curateur public took responsibility for the man, clearly recognizing that his material and financial situation required urgent intervention.*

*Although it had initially deemed the situation urgent, the Curateur public subsequently treated it as though it were not a priority. The Québec Ombudsman had to repeatedly pressure the Curateur public to examine the woman's file. After 14 months, she finally received the \$62,000 she had claimed.*

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### ***An unjustified wait due to the Curateur public's failure to follow up on a judgment***

*A man had custody of his grandson. A judgment granted him over \$12,000 in support arrears, the amount owed by a debtor who is under public curatorship. For this reason, the arrears had to be paid by the Curateur public, which was given 30 days to execute the judgment. In addition, child support was increased from \$300 to \$592 a month as of July 1, 2009. However, the Curateur public delayed acting on the judgment and the grandfather did not receive what was due, nor could he find out from the Curateur public what was happening with his file.*

*Following the Québec Ombudsman's intervention, the Curateur public complied with its obligations under the judgment and paid the Direction de la perception des pensions alimentaires the stipulated amount. It also adjusted the support amount after four months, in accordance with the judgment.*

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#### **A young orphan's inheritance recovered after a three-year delay**

*A 24-year-old man died in September 2005 and left his one-year-old daughter a mortgaged house. He had a \$53,000 mortgage life insurance policy. Since no one claimed the amount from the insurance company and no mortgage payments were made, the house was seized and then sold by the lending bank.*

*The Curateur public became the provisional administrator of the child's property in December 2006, but the case stagnated at the Curateur public for three years.*

*The Québec Ombudsman and a member of the child's family pressured the Curateur public to reopen the young orphan's file and do what was needed to recover the life insurance proceeds. Since the insurance company did not follow up on its requests, the Curateur public had to consider taking the case to court in July 2009. Negotiations went on for another year before the insurance company agreed to pay the \$53,000 that was owed to the girl, who by this time was six years old.*

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#### **A lack of empathy and responsibility toward a person represented by the Curateur public**

*An incarcerated man called the Curateur public to ask for a coat because he was about to be released from prison; he had been imprisoned in the summer and did not have any cold weather clothing. The Curateur public refused to grant his request, arguing that it was the detention facility's responsibility to provide one. The detainee asked the Québec Ombudsman to intervene. The Québec Ombudsman explained to the Curateur public that it was the Curateur public's responsibility to help the inmate ask the detention facility for a coat since it represented him. The Curateur public finally agreed to do so, and the request was granted.*

### **REQUESTING THE QUÉBEC OMBUDSMAN'S INTERVENTION AS NEEDED**

The Curateur public sometimes calls on the Québec Ombudsman to help those it represents. When the Québec Ombudsman sees that a government department or public agency decision is unreasonable, it recommends corrective action. This was the case when the Ministère de l'Emploi et de la Solidarité sociale repeatedly refused to pay full last-resort financial assistance to a woman represented by the Curateur public. The Québec Ombudsman's intervention resulted in payment of the amount owed to this incapacitated person (see also page 39 of this annual report, in the "Ministère de l'Emploi et de la Solidarité sociale" section). In another case, the Québec Ombudsman acted to have the health and social services network examine the case of a man under protective supervision on a priority basis. The man had been residing for four years at a health facility whose services did not suit his condition (also see page 88 of this annual report, in the "Age-related loss of independence" section).

## THE QUÉBEC OMBUDSMAN'S RESPONSE TO BILLS AND DRAFT REGULATIONS

The Québec Ombudsman commented on Bill 83, the *Act to provide a framework for mandatory state financing of certain legal services*. Its statement can be found on page 116 of this annual report, in the "Parliamentary Watch Report" section.

## La Financière agricole du Québec

### COMPLAINTS IN 2010–2011

The number of complaints received by the Québec Ombudsman regarding La Financière agricole du Québec has been relatively stable over the years and was around 15 in 2010–2011. The main areas of dissatisfaction are as follows:

- the application of the Farm Income Stabilization Insurance Program, in particular, penalties imposed after beneficiaries refused to participate in the production cost survey;
- La Financière agricole's use of data collected by Agri-Traçabilité Québec.

### APPLYING THE RULE WITH DISCERNMENT AND UNDERSTANDING

Farmers that benefit from the Farm Income Stabilization Insurance Program are required to take part in an economic study if requested by the Centre d'étude sur les coûts de production en agriculture. A complaint received by the Québec Ombudsman revealed an unreasonable application of this rule.

#### *A disproportionate penalty*

*The Québec Ombudsman received a complaint from a farmer who, due to health reasons, was unable to satisfy all the requests made by the representative from the Centre d'étude sur les coûts de production en agriculture. The representative then sent the file to La Financière agricole with a note indicating the man's refusal to participate, following which three penalties were imposed on him:*

- *he was denied compensation for 2009;*
- *he was assessed \$12,386 in administrative fees;*
- *he was excluded from the program for 2010.*

*The farmer contacted the Québec Ombudsman to contest the penalties.*

*The investigation confirmed the facts alleged by the man: documents from the Centre d'étude sur les coûts de production en agriculture and La Financière agricole revealed they had indeed been provided with the details of the man's state of health. However, this did not prevent La Financière agricole from penalizing him for his refusal to take part in the survey. In addition, there was no document from the Centre or La Financière agricole requesting he produce a medical certificate.*

*The Québec Ombudsman asked La Financière agricole to reexamine the man's file following receipt of documents proving his medical condition. La Financière agricole agreed to do so and rescinded the penalties, which meant the farmer was able to recover a sum of \$24,344.94.*

## Ministère de la Culture, des Communications et de la Condition féminine

### COMPLAINTS IN 2010-2011

In 2010-2011, there was an increase in complaints to the Québec Ombudsman regarding the vagueness of Ministère de la Culture, des Communications et de la Condition féminine standards for buildings in historic districts.

### PUBLICIZE RULES IN ORDER TO PREVENT ARBITRARINESS

Although the *Cultural Property Act* grants the minister discretionary power to determine the conditions for construction or renovation projects, citizens have the right to be informed of the basis for conditions applicable to the work they carry out. The minister therefore has the duty, in all fairness and in accordance with the *Act respecting administrative justice*, to provide this information in ways other than by exercising the authority that his discretionary power gives him.

Citizens run up against various kinds of problems in undertaking construction or renovation projects in historic districts. They say that the Department imposes requirements that are not based on any official criteria accessible to them. Even though there are documents containing departmental guidelines for heritage conservation, they are neither exhaustive nor restrictive. That is why citizens undertake their project without knowing exactly what is allowed and what is not.

The Québec Ombudsman believes that this way of forcing people to proceed by trial and error is unreasonable. The changes required by the Department and the introduction of new requirements midstream oblige citizens to constantly modify their plans, with the resulting fees and delays. Furthermore, the Québec Ombudsman notes that at times the Department's requirements go against the by-laws of the regional county municipality concerned, which must also authorize the work. For example, the Department had to repeal a requirement to increase the slope of a roof because the roof exceeded the height permitted by the municipality. The citizen footed the bill for the lack of consistency between the two jurisdictions.

When the Department refuses to approve a project which, in many cases, complies with the guidelines set out in the documentation, and imposes certain conditions, it rarely states the reasons for these decisions. The Department merely invokes the discretionary power of the minister. In the opinion of the Québec Ombudsman, this contravenes the *Act respecting administrative justice*.

The Québec Ombudsman asked the Department to justify its decisions in accordance with the act. It also urged it to define its guidelines and requirements in a fuller and more coherent manner. At the end of the fiscal year, the Department informed the Québec Ombudsman that it was doing some legal checking in order to complete its position. The Québec Ombudsman is still waiting for a response from the Department.

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## Ministère du Développement durable, de l'Environnement et des Parcs

### COMPLAINTS IN 2010-2011

The number of complaints received by the Québec Ombudsman concerning the Ministère du Développement durable, de l'Environnement et des Parcs was up slightly from previous years. The main grounds were:

- the time it took for complaints to be processed by the Department;
- the difficulties experienced by citizens due to the sharing of responsibilities between the Department and municipalities in enforcing the *Environment Quality Act* and its regulations, especially with regard to shoreline protection.

### MAKE THE TIME FRAME FOR ORDERS IN COUNCIL LESS OPEN-ENDED AND ENVIRONMENTAL ASSESSMENT MORE TRANSPARENT

On March 19, 2009, a group of citizens opposed to the Rabaska project in Lévis asked the Québec Ombudsman to intervene. The group argued that the environmental authorization procedure provided for in the *Environment Quality Act* was breached, and, consequently, the final decision by the government to green-light the project was invalid. The complainants also brought it to the Québec Ombudsman's attention that the order in council enacting issuance of the certificate of authorization (918-2007) dated back to October 2007 and that the project had yet to get off the ground. They considered this unacceptable. The owners of residences within 1.5 km of the planned Rabaska facilities deplored being kept dangling this way, with the fear that the project might be carried out hanging over them. According to them, the authorization to construct the natural gas terminal had lowered the market value of their property.

The Québec Ombudsman examined the various questions raised without, however, repeating the environmental assessment procedure and without calling into question the opinions of the experts heard during this procedure, regardless of their position on the project.

At the end of the investigation, the Québec Ombudsman concluded that the environmental authorization procedure prescribed in the *Environment Quality Act* had not been breached.

Despite the legality of the procedure, two points remain worrisome, namely:

- the unlimited duration of the order in council enacting authorization;
- limited accessibility to documents produced after the Bureau des audiences publiques sur l'environnement hearings.

The duration of an order in council arising from environmental authorization and ordering issuance of a certificate of authorization is unlimited. The resulting perpetuity enables the proponent to begin implementing the project several years after the environmental impact assessment and review procedure as well as after the consultations held by the Bureau des audiences publiques sur l'environnement. That is why the Québec Ombudsman stressed that even though the order in council complied with the issuance procedure, it was concerned that the project, authorized in 2007, could be carried out several years later. It therefore recommended that the Department limit the duration of the order in council and, if need be, ensure that when it comes into force, environmental assessment results still hold. Its recommendations in this regard were as follows:

- that Order in council 918-2007 be replaced so as to limit its duration and introduce a review date;
- that orders in councils issued further to any environmental impact assessment and review procedure have a limited duration and include a date for reviewing the project's compliance with the environmental assessment.

The Québec Ombudsman also notes that documents produced by the Department or other government departments and public agencies after Bureau des audiences publiques sur l'environnement hearings begin are not made public. The *Regulation respecting environmental impact assessment and review* limits dissemination of the documents produced in the course of the impact assessment and review process to those produced before Bureau des audiences publiques sur l'environnement hearings begin.

Department representatives assured the Québec Ombudsman that all documents and notices are taken into account during environmental assessment. That being the case, the Department's integrity is not the issue here, but rather, management of public perception: some documents are released while others are not. Why? The public has the right to ask the question.

The opinion of the Québec Ombudsman is that for the sake of transparency and complete disclosure, all documents produced in the course of environmental assessment should be released to the public right up until final approval of the project.

The Québec Ombudsman therefore made the following recommendation:

- that the Ministère du Développement durable, de l'Environnement et des Parcs amend the provisions of the *Regulation respecting environmental impact assessment and review* to allow the dissemination of any information concerning an environmental assessment until such time as a final decision is made on the project under consideration.

## THE QUÉBEC OMBUDSMAN'S RESPONSE TO BILLS AND DRAFT REGULATIONS

The Québec Ombudsman commented on the draft regulation amending the activities permitted within the proposed Samuel-De Champlain biodiversity reserve. Its intervention concerning the provisions of the draft regulation authorizing oil and gas exploration can be found on page 113 of this report, in the "Parliamentary Watch Report" section.

# Ministère de l'Emploi et de la Solidarité sociale

## COMPLAINTS IN 2010–2011

Once again this year, the Québec Ombudsman had to insistently intervene on a number of occasions to obtain corrective action and find solutions to problems experienced by citizens. It notes the Ministère de l'Emploi et de la Solidarité sociale's inflexibility with regard to worrisome situations.

## RESTRICTIVE APPLICATION OF THE MINISTER OF EMPLOYMENT AND SOCIAL SOLIDARITY'S DISCRETIONARY POWER

Since 2000, the Québec Ombudsman has often stepped in to ask the Department to consider special circumstances in applying the minister's discretionary power. The law does give the minister such power, which allows him to suspend the recovery of amounts due or grant total or partial remissions in exceptional circumstances. A number of cases recently brought to the Québec Ombudsman's attention demonstrate that this discretionary power is applied too rigidly.

### *A penalty leading to extreme poverty*

*A woman received an \$887 monthly benefit, including the QST adjustment, for her severely limited capacity for employment. Her monthly benefit was cut by \$224 following the discovery of undeclared income from several years back. However, given her monthly expenses of \$812, her budget was in the red. The Department nevertheless refused to decrease the amount withheld.*

*The Québec Ombudsman's investigation revealed that the woman had chronic physical and mental problems due to a severely underprivileged childhood and multiple instances of physical abuse throughout her life. Her caseworker also noted that the woman's personal condition and financial situation were having an adverse effect on her social reintegration. Given her vulnerable situation and in order to foster her reintegration, the Québec Ombudsman appealed to the minister's discretionary power and recommended the debt be forgiven. In response, the Department reduced the \$224 deduction to \$56 for only eight months, and suspended the interest. The Department justified its refusal to cancel the debt with a lack of any exceptional circumstances.*

While recognizing that people must bear the consequences of their failings and that the Department is responsible for recovering overpayments, the Québec Ombudsman believes this must be done with consideration for individual debtors' basic needs. It notes that the committee charged with applying the discretionary power has sometimes unreasonable requirements when it comes to changing debt recovery measures for persons who are fragile and vulnerable due to their age, a dysfunctional family situation, or their physical or mental state of health. In addition, the committee's examination of cases is too often limited to assessing whether the person is currently living in a state of total destitution: unpaid rent, heat, and electricity; no money for food; or inability to pay for medications. In other cases, the committee reduces the deduction by too little or allows it for too short a period for the person's situation to truly improve.

The committee in question should establish criteria allowing it to intervene when people—although not totally destitute—may be jeopardizing their health or safety. The committee's inflexibility is currently a source of distress for those whose debt is so heavy they cannot foresee the end of repayments (they often can pay only the interest on their debt). Their social reintegration and progress toward independence are therefore compromised.

## RECOMMENDATIONS

WHEREAS the objective of the discretionary power should be to correct a situation when the penalty is too severe so as to not exacerbate poverty;

WHEREAS the discretionary power is often exercised on behalf of those with low income or who receive social assistance;

WHEREAS application of the discretionary power also concerns vulnerable persons who have mental health problems, are psychologically fragile, or suffer from cognitive loss due to age or disease;

WHEREAS a penalty should be of reasonable length so as to foster the person's social reintegration;

The Québec Ombudsman recommends that:

- the Ministère de l'Emploi et de la Solidarité sociale establish criteria allowing it to expand the scope of application of the minister's discretionary power;
- the application of the minister's discretionary power allow debtors to stabilize their situation over a reasonable period of time.

## COMMENTS FROM THE DEPARTMENT

"The Department accepts the Québec Ombudsperson's recommendation to ensure that the criteria for exercising the discretionary power be applied so as to allow debtors to stabilize their situation over a reasonable period of time."

## REASONABLE INTERPRETATION OF THE NOTION OF SPOUSES

The Department has also shown inflexibility in the determination of benefits not involving recovery measures.

This has been the case when establishing whether an individual who is eligible for last-resort financial assistance must be considered an adult living alone or another person's spouse. It is in fact difficult to determine whether a de facto union exists when two adults cohabit, are not joined by marriage or civil union, and have no dependent children. The issue is important because the benefit granted to a family composed of two adults is lower than what would be paid to two single adults.

For the purposes of applying the Individual and Family Assistance Act<sup>1</sup>, the recognition of de facto union status for common law spouses is based on three criteria:

- at a given time, the two people have cohabited for a period of at least twelve consecutive months;
- they give each other mutual aid as two spouses would;
- they are reputed to be common law spouses.

Now, according to Department standards, two people may cohabit and provide mutual aid without the existence of a de facto union. The main goal of cohabitation may therefore be to allow one person to act as an informal caregiver to the other who has an obvious need for care and assistance. In such caregiver/care receiver relationships, the recipient of the assistance could receive the full benefit amount as though he were living alone.

Recognition of a caregiver/care receiver relationship makes it easier for those who would otherwise be institutionalized to stay at home. It reduces the assistance required from local community services centres while fostering the social integration of those being helped. However, the Québec Ombudsman has noted that the Department is sometimes hesitant to recognize caregiver/care receiver relationships considering that cohabitation is enough to demonstrate spousal status.

#### ***An unfair reduction of last-resort financial assistance***

*A person represented by the Curateur public was institutionalized for 12 years, eight of which were in secure custody. Diagnosed with a serious psychiatric condition and a number of other mental and physical disorders, she was not independent enough to live alone. She now lives with a co-tenant. Since the Department considered her to be in a de facto union with this man who supports her financially, it decreased her monthly social assistance from \$890 to \$150.*

*Before turning to the Québec Ombudsman, the Curateur public unsuccessfully requested that the Department review its decision.*

*The Québec Ombudsman's investigation confirmed the facts raised by the Curateur public. It also demonstrated that the woman's co-tenant never intended to support her and that, if the precarious financial situation continued, he would end the cohabitation. Without cohabitation, though, institutionalization would be inevitable. The Department agreed to amend its original decision and reinstate the full benefit amount. The Curateur public and the Department then agreed to review the prior three years of benefits as a result.*

## Ministère de la Famille et des Aînés

### COMPLAINTS IN 2010–2011

The number of complaints received by the Québec Ombudsman concerning the Ministère de la Famille et des Aînés or childcare services increased considerably this year compared to last year. It should be noted that the vast majority were about the instruction on payment of subsidies to home childcare service providers, which will be addressed further below. These complaints, received at the end of the year, were still in process as at March 31, 2011.

<sup>1</sup> Individual and Family Assistance Act, R.S.Q., c. A-13.1.1.

The number of substantiated complaints remained stable and mainly concerned the following:

- contract terminations or the expulsion of children by childcare services;
- the issuance of permits and recognition;
- inspection.

The Department is responsible for the organization and quality of childcare services in Québec. The *Educational Childcare Act* grants the Minister of Families the power and duty to monitor application of the act and the regulations under his responsibility. The Québec Ombudsman only has jurisdiction over the Department—not childcare services. It does, however, ensure citizens are not wronged by an act or omission by the Department.

### CREATING OFFICIAL INTERVENTION PLANS

The Québec Ombudsman is concerned about the intervention plans that must be set up between parents and childcare services to meet the particular needs of children—plans which may sometimes be vague. Based on what is stipulated in reduced-contribution childcare service agreements, childcare service facilities may terminate agreements under certain conditions—for example, when parents do not cooperate in implementing the intervention plan. However, the Québec Ombudsman has noted that there are no official requirements for such plans with regard to content or form. The Department is even satisfied with meetings between parents and childcare providers. Yet without any written documentation, it can be difficult to rule on whether parents have complied with an intervention plan.

The Québec Ombudsman believes children with special needs may be adversely affected by this situation, particularly when use of a childcare facility is terminated prematurely on the sole basis of lack of compliance with the intervention plan. The Québec Ombudsman therefore asked the Department to:

- amend Article 9 of the reduced-contribution childcare service agreement to specify that intervention plans must be in writing;
- provide a model intervention plan as a schedule to the agreement.

The Department still had not followed up on these requests as at March 31, 2011. However, it had begun revising the service agreements to indicate that intervention plans must be written up and that a guide for drafting intervention plans will be provided. The Department intends to complete this project in 2011–2012.

### MAKING THE SPACES ANNOUNCED IN THE 2008 DEVELOPMENT PLAN AVAILABLE TO PARENTS

Since access to childcare services is a major issue for parents, the Québec Ombudsman is concerned about the pace at which the 18,000 spaces announced in 2008 are being approved. The objective was supposed to have been met in 2010, but the completion timeline was postponed. As at March 31, 2011, 24% of the spaces announced were still not available.

## ABIDING BY APPROVAL DEADLINES

The *Educational Childcare Act* stipulates that a permit is required to operate a childcare or day care centre. Permit applicants must submit to the minister for approval the plans of any facility in which they propose to provide childcare services. In accordance with this same act, the minister must hand down a decision within 60 days of receipt of the plans. However, the Department is not abiding by these approval deadlines.

The Québec Ombudsman notes that three regional branches are not meeting the requirements of the *Educational Childcare Act*. At the time of its investigation, the wait time for approval at one of the branches was around four months.

Given all the steps required of applicants and the costs they must bear for months before they can begin operating their childcare services, a situation like this can complicate loan arrangements and the completion of plans. Moreover, any delay in opening a childcare facility penalizes parents.

### RECOMMENDATIONS

WHEREAS there are delays in developing childcare spaces, which affects parents;

WHEREAS delays in getting plans approved affect how long it takes applicants to obtain permits;

The Québec Ombudsman recommends that the Ministère de la Famille et des Aînés:

- make public and update—on its website in particular—project dates and date changes;
- establish means of abiding by the legislatively stipulated deadlines for approving plans;
- inform citizens about anticipated wait times for the approval of plans.

## COMMENTS FROM THE DEPARTMENT

“We have carefully noted your remarks and recommendations to the Department. The Department is making every effort to ensure children develop in a safe environment and to support childcare developers and providers in their activities to this end.”

## WEIGHING THE IMPACT OF A COMPULSORY ADMINISTRATIVE MEASURE ON CHILDCARE SERVICES

In November 2010, the Department announced that Instruction 9 on the payment of subsidies to home childcare service providers would take effect on April 1, 2011. The effect of implementing this instruction was notably to postpone subsidy payments by one week in order to standardize the procedure, according to the Department.

Associations of home childcare service providers denounced the financial repercussions of the new instruction (difficulty managing their financial obligations). In March 2011, the Department then presented an amended version of the instruction that provides for the option of temporary cash advances to any childcare providers that request it. Advances will have to be repaid in four equal consecutive installments out of the subsidies.

The new provisions clearly do not satisfy childcare service providers. As at March 31, 2011, the Québec Ombudsman had received 355 complaints about the issue, mainly reflecting the fact that those affected do not understand the merits of the Department's decision. They feel it was inappropriate to change a mechanism that had been in place since 2007 and fear significant financial problems.

The Québec Ombudsman undertook an analysis of the issue. In reviewing the complaints received, it also noted that the information sent to the coordinating offices regarding the instruction's coming into force may have been understood or reported differently throughout the network: the cash advance payment terms, in particular, were nebulous for a number of people. The Québec Ombudsman therefore requested that the Department send a note to coordinating office managers to remind them of their obligations under the new instruction, which the Department did.

#### THE QUÉBEC OMBUDSMAN'S RESPONSE TO BILLS AND DRAFT REGULATIONS

The Québec Ombudsman commented on Bill 126, the *Act to tighten the regulation of educational childcare*, during the Committee on Citizen Relations hearings. Its response can be found on page 108 of this annual report, in the "Parliamentary Watch Report" section.

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## Ministère de la Justice

#### COMPLAINTS IN 2010–2011

The number of complaints received by the Québec Ombudsman, which remained stable in 2010–2011 compared to the previous year, had to do primarily with the way cases are handled by the offices of court clerks:

- turnaround times;
- information in the clerk of the court's minute book;
- information provided by court clerks.

#### PICKING UP THE PACE OF REQUIRED LEGISLATIVE CHANGE

During recent years, the Québec Ombudsman has presented the Department with numerous recommendations for legislative amendments, primarily pertaining to the Directeur de l'état civil and the process for reviewing support payments. The Department appeared amenable to acting on these recommendations. In actuality, however, no attempt was made to amend legislation or, if efforts were made, they did not reach the executive level.

The 2009–2010 annual report of the Québec Ombudsman took the Department to task for the length of time required to implement required changes. One year later, there has still been no progress, inaction that the Québec Ombudsman deems deplorable. Here are four brief examples showing that it is indeed time for the Department to act so corrective measures can be taken.

#### **RELAX THE PROCESS OF REVIEWING CHILD SUPPORT PAYMENTS**

Since automatic collection of support payments was introduced in 1995, the Québec Ombudsman has received complaints each year about the need for court decisions to change or cancel such payments, with the resulting delays and costs.

The original recommendation to streamline the support payment review process appeared in the Québec Ombudsman's 2006–2007 annual report.

#### **ALLOW THE MODIFICATION OF PATRONYMICS, IN KEEPING WITH THE TRADITIONS AND CUSTOMS OF CULTURAL COMMUNITIES OF ORIGIN**

For many years, the Québec Ombudsman has received complaints from parents who, in keeping with the traditions and customs of their communities of origin, wish to masculinize or feminize the surnames under which their children's births are recorded.

However, under the Québec Civil Code, this cannot be done. It is only after a child's birth has been registered that a parent may file an administrative request for a name change with the Directeur de l'état civil, incurring on average over \$300 in fees, charged primarily for reviewing the request and publishing a name-change notification. These fees are fully justified when adults wish to change their surnames, but, in this case, the Québec Ombudsman mainly recommends reducing the formalities and fees charged to families for changing the name of their newborns.

The Québec Ombudsman first recommended that the Civil Code be amended in this regard in 2006.

#### **ISSUE DEATH CERTIFICATES WITHOUT REQUIRING COURT INVOLVEMENT**

The Québec Ombudsman took up the case of a family with a deceased member whose body was never recovered, although a murder conviction was made in the criminal division of the Superior Court. The family had to return to civil court to seek a declaratory judgment of death because the Civil Code of Québec does not allow the Directeur de l'état civil to issue death certificates in such situations.

The Québec Ombudsman first recommended that the Civil Code and Code of Civil Procedure be amended in this regard in 2006.

#### ISSUE CERTIFICATES OF CHANGE OF DESIGNATION OF SEX FOR PERSONS BORN IN BUT NO LONGER RESIDING IN QUÉBEC

Individuals who were born in but no longer reside in Québec cannot ask the Directeur de l'état civil to modify the genders that appear on their birth certificates, even with the required medical documents. The Civil Code of Québec essentially stipulates that persons making such requests be domiciled in Québec for at least one year. This refusal puts such individuals in difficult situations any time they must provide proof of identity (when applying for passports, establishing accounts, completing registrations, and so forth).

The Québec Ombudsman's intervention in this area dates back to 2004.

#### CLARIFICATION OF THE PROCEDURE FOR COMPENSATING PERSONS WRONGLY CONVICTED

The Québec Ombudsman interceded with the Department on the issue of compensating wrongly convicted persons, specifically those who have served prison time for crimes they did not commit.

While such cases are few in number, the substantial impact that these errors have on those who are wrongly convicted fully justifies this intervention. After citing the applicable legal framework, including the obligations recognized by the International Covenant on Civil and Political Rights, the Québec Ombudsman recommended the adoption of legislation spelling out the terms and conditions governing compensation of wrongly convicted persons. The Québec Ombudsman pointed out the importance of ensuring impartial decisions and equal treatment of all involved parties. In this sense, a neutral and impartial jurisdiction (which could act on an *ad hoc* basis given the low incidence of cases) should be charged with determining the party's factual innocence (a more rigorous process than arriving at a simple acquittal) and, if applicable, a reasonable amount of compensation to be awarded in view of the damages the individual has suffered.

In responding to the Québec Ombudsman, the Department:

- stated that many of the Québec Ombudsman's concerns in this matter were shared by the government and had been taken into consideration by the federal and provincial governments as they reviewed the *Guidelines on Compensation for Wrongfully Convicted and Imprisoned Persons*;
- was reluctant, however, to legally back the compensation process;
- agreed upon the need to clarify the process for requesting compensation from the Attorney General, so as to ensure uniform administrative treatment.

The Québec Ombudsman therefore recommended making the compensation mechanism, at a minimum, the subject of a public decree explaining the administrative process. Awaiting the new developments that are expected in this case, the Québec Ombudsman notes that the Department has reservations about the suitability of legal formalization.

#### THE QUÉBEC OMBUDSMAN'S RESPONSE TO BILLS AND DRAFT REGULATIONS

The Québec Ombudsman has commented on the *Draft regulation amending the Tariff of duties respecting the acts of civil status and change of name or of designation of sex*. A statement concerning increases in duties payable can be found on page 112 of this annual report, in the "Parliamentary Watch Report" section.

# Ministère de la Sécurité publique

## PUBLIC SECURITY AND POLICE AFFAIRS

### COMPLAINTS IN 2010–2011

The number of complaints received by the Québec Ombudsman in 2010–2011 about the Ministère de la Sécurité publique's Public Security and Police Affairs section was relatively stable compared to prior years. Complaints mainly concerned the following:

- the time it takes to process applications for issuance or renewal of firearms licenses;
- the time it takes the Department to follow up on complaints submitted to it.

### THE QUÉBEC OMBUDSMAN'S SPECIAL REPORT ON POLICE INVESTIGATIVE METHODS: THE PROBLEMS RAISED ARE STILL UNRESOLVED

On February 18, 2010, the Québec Ombudsman published its special report on the Québec investigative procedure for incidents involving police officers. Over one year later, on March 31, 2011, the Department was still silent as to how it intended to follow up—or not—on the report recommendations. This situation appears worrisome given that other incidents involving police officers have occurred since the report was published and the problems raised have not yet been resolved.

On this subject, the Québec Ombudsman notes that aspects of the following case illustrate the main findings of its report, reinforce the appropriateness of the various recommendations made in the report, and remind the Department of its obligations with regard to following up on official requests submitted to it.

The Québec Ombudsman's special report is posted on its website [www.protecteurducitoyen.qc.ca](http://www.protecteurducitoyen.qc.ca), under the "Cases and Documentation" tab.

#### ***A two-year wait with no Department response***

*A woman asked the Québec Ombudsman to intervene in order to have a public investigation conducted into the death of a member of her family who had been hit by three bullets from a firearm during a police intervention in June 2008. Two years after her request to the Minister of Public Security, the woman had still not received an answer.*

*The Québec Ombudsman informed the woman that in this situation, only the Minister of Public Security had the authority to decide whether to hold a public investigation. However, considering the unreasonable delay, it asked the Department to give the woman an answer, in accordance with the principles of the Act respecting administrative justice, which was done. The decision not to hold an investigation was officially sent to the woman by the Office of the Minister.*

# Ministère de la Sécurité publique

## CORRECTIONAL SERVICES

### COMPLAINTS IN 2010–2011

After a significant increase in 2009–2010, the number of complaints received by the Québec Ombudsman regarding the Direction générale des services correctionnels (correctional services) at the Ministère de la Sécurité publique in 2010–2011 declined to 2007–2008 levels.

In the course of the year, the Québec Ombudsman visited two detention centres, one in Québec City and the other in Sorel. Discussions with management at facilities in Baie-Comeau, Sept-Îles, Sherbrooke, Montréal (Maison Tanguay), New-Carlisle, Rimouski, Trois-Rivières, and Hull were needed to follow up on previous visits. Reports on those visits were forwarded to the relevant authorities. The Québec Ombudsman had good cooperation on these matters. Other draft or final versions of reports are underway.

Collective and individual problems were brought to the attention of facility authorities during these visits or at the time complaints were being processed. Some of these complaints are presented below.

### RESPECTING PROVINCIAL INSTRUCTIONS

The Québec Ombudsman notes that in several cases, provincial and even internal (local) instructions were not applied, were ignored, or were unknown to staff and certain managers at the detention centres. As a result, major drawbacks and inconsistencies arose that the Québec Ombudsman brought to the attention of authorities. This lack of awareness of instructions is due principally to lack of staff training, particularly among the staff members hired in large numbers over the past several years.

This is the case with the provincial instruction concerning the complaint-processing system for accused and convicted offenders, be it with regard to access to the complaint form or the need to rule on the merits of a complaint. The same goes for the provincial instruction concerning inmate mail. The opening of privileged mail between lawyer and client is subject to certain rules that facility staff do not always follow. Furthermore, the *Public Protector Act* prohibits the opening of inmate mail addressed to or received from the Québec Ombudsman.

### REDUCING EVALUATION TIME AND AVOIDING POSTPONEMENT OF COMMISSION DES LIBÉRATIONS CONDITIONNELLES HEARINGS

Hearings before the Commission québécoise des libérations conditionnelles frequently pose two problems, namely:

- delays in the evaluation and preparation of inmate correctional intervention plans. These delays have the effect of holding up consideration of applications for temporary absence or conditional release;

- documents missing from inmate files submitted to the Commission québécoise des libérations conditionnelles. In addition to the correctional services responsible for compiling these files, the Ministère de la Justice and the Directeur des poursuites criminelles et pénales have a responsibility for this problem which results in postponed hearings.

Monthly data from the Commission québécoise des libérations conditionnelles on these postponements indicates a slight improvement in December 2010. The Québec Ombudsman continues to be involved in cases of individual complaints with a view to ensuring the proper handling of conditional releases, which is of the utmost importance.

#### **A delay due to lack of staff**

*An inmate who had already served one third of his sentence complained that his correctional intervention plan had not been completed by the time he had served one sixth of his sentence, a violation of the law.*

*The Québec Ombudsman's investigation showed that the delay was due to a shortage of probation officers available to handle these matters. The detention centre therefore enlisted the assistance of open custody probation officers in preparing evaluations at the centre. The addition of an extra position dedicated to this task had been pending for some time and was finally authorized. The intervention of the Québec Ombudsman also led to the inmate being evaluated as required.*

#### **Postponement of a hearing because of an incomplete file**

*An inmate complained about three hearing postponements by the Commission québécoise des libérations conditionnelles. The Québec Ombudsman's inquiry indicated that two postponements were related to the absence of required documents, i.e., the summary of events and the disciplinary records of the institution where the inmate had previously been incarcerated. Following the intervention of the Québec Ombudsman, the Commission was able to proceed with the review of the individual's application.*

## **ELIMINATING ERRONEOUS RELEASES**

In its 2009–2010 annual report, the Québec Ombudsman commented on administrative errors that had led to the premature release of inmates or extension of their incarceration beyond the stipulated release date. An inquiry by the Department led to a series of recommendations. A provincial instruction also came into effect to:

- establish the circumstances justifying the release of inmates;
- ensure compliance with the release process;
- define and standardize the steps in the process according to the grounds and location of the release.

The Québec Ombudsman commented on the instruction and it appears to meet the objective of improving the release management process. Its implementation will be closely monitored.

## **CLARIFYING ROLES AND RESPONSIBILITIES WITH RESPECT TO FORENSIC PSYCHIATRY**

The Québec Ombudsman identified issues that might lead to problem situations. While some institutions within the health and social services network have a forensic psychiatry mandate, they are habitually unable to follow up on court-ordered psychiatric evaluations due to shortage of space. Thus, inmates who are ordered to be evaluated in a hospital are held in detention facilities for long periods of time while awaiting evaluation. In such cases, the recourse consists of the health and social services network complaints process, which gives the local complaints commissioner up to 45 days to examine a complaint (the commissioner may, however, give a complaint emergency priority), whereas the court order stipulates that processing take no longer than five days.

In the most common scenario, the judge orders a person awaiting trial to have a psychiatric evaluation. This is an evaluation of the person's fitness to stand trial or an evaluation of his criminal liability at the time of committing an offense. This order stipulates the deadline for a psychiatrist to carry out the evaluation (e.g., five to 60 days) and the place of detention for the evaluation. When a hospital with a forensic psychiatry mandate refuses a defendant due to lack of space, the latter is returned to the detention facility and at times the evaluation will take place at the centre. This does not fulfill the terms of the court order.

Resolving this problem requires coordination between the different stakeholders in the judiciary, prisons, and hospitals. The Québec Ombudsman takes note of the recently published report by the Comité de travail interministériel sur la prestation des services de psychiatrie légale relevant du Code criminel. This report examines the problems identified above, provides a clear picture of the principal challenges, and articulates relevant recommendations to help improve the situation. The Québec Ombudsman will carefully monitor how the various departments targeted in the report follow up on its recommendations.

## **TRANSFERRING RESPONSIBILITY FOR HEALTH AND SOCIAL SERVICES FOR INMATES WITH MENTAL HEALTH ISSUES**

This year the Québec Ombudsman published a special report on inmates with mental health issues. The report concentrated mainly on their care needs and how services were adapted to their conditions. Covering the gamut from police intervention to social reintegration, the report details the findings and possible solutions that the Québec Ombudsman recommends to the relevant departments in order to implement effective interventions that promote successful social reintegration, a key factor in reducing recidivism.

For the period preceding incarceration, the report stresses the need to properly support the police and improve their initial and ongoing training on intervening with persons with mental health problems.

With regard to incarceration, the Québec Ombudsman strongly recommends the transfer of responsibility for the delivery of social and health services in detention centres from the Ministère de la Sécurité publique to the Ministère de la Santé et des Services sociaux. The latter already manages a network with all the tools necessary to deliver preventive, curative, and social integration services. To make this work, the Ministère de la Santé et des Services sociaux must take into account the needs of the prison population and clarify the services to be provided.

As for the social reintegration of inmates with mental health problems, the Québec Ombudsman advocates the use of intensive community monitoring programs throughout Québec. Intervention continuity between the detention centre and the community remains a key factor in success.

To learn more, see the Québec Ombudsman's special report [www.protecteurducitoyen.qc.ca](http://www.protecteurducitoyen.qc.ca), under the "Cases and Documentation" tab.

## ENSURING FOLLOW-UP ON EXTERNAL ADMINISTRATIVE FORMALITIES

A provincial instruction mandates that detention facilities follow the proscribed procedure for taking photos for the purpose of renewing or replacing inmate health insurance cards. These rules apply when the card expires or is about to expire at the time the inmate arrives at the centre or during his incarceration. In particular, this prevents the problem that arises when an inmate on medication is granted conditional release, holds an expired card, and must incur out-of-pocket expenses to see a doctor for the purpose of renewing a prescription.

The Québec Ombudsman learned that a detention facility's authorities did not follow up on health insurance card renewal requests. It therefore intervened and those responsible agreed to correct the situation. Noting similar problems in another detention facility, the Québec Ombudsman alerted the authorities concerned. At first they claimed compliance with the provincial instruction and said that their services handled health card renewal for inmates who requested it. After another complaint was filed, the Québec Ombudsman investigated and found that the instruction existed only on paper. Following several exchanges, the authorities admitted to mistakes and communication gaps among facility stakeholders. The Direction des services professionnels is committed to implementing the new procedure in March 2011.

Another example of the same problem is seen among persons who, prior to incarceration, were victims of a work or road accident or in certain cases, a criminal act. In accordance with their respective laws, the agencies that process claims must then evaluate the person, either to extend coverage, authorize treatment, terminate the claim, or evaluate permanent disability. In preparation for an evaluation, these agencies send a notice to him. It often happens that detention facilities are not able to escort offenders, most often due to staff shortages or transfers due to overcrowding.

### ***Medical appointment postponements—a continuing saga***

*An individual was in a car accident in September 2007. In April 2009 he was incarcerated and upon his arrival at the detention centre, he informed the correctional service he had a Société de l'assurance automobile du Québec (SAAQ) medical examination scheduled on July 15. He was not brought to the appointment. The detention facility told him the doctor who was to evaluate him was on vacation at the time.*

*A new appointment was scheduled for October 2009. A few days before this appointment, the individual was transferred to another detention facility. However, the health service of the first detention facility neglected to inform the second facility of the impending appointment. The individual was not taken to his second appointment. A third scheduled appointment also did not take place due to another transfer.*

*After a series of interventions by the Québec Ombudsman with the health services of the detention facilities concerned and a SAAQ claims agent, an appointment was scheduled for June 2010.*

# Régie de l'assurance maladie du Québec

## COMPLAINTS IN 2010–2011

Complaints against the Régie de l'assurance maladie du Québec (RAMQ) were down about 20% compared to last year, especially with regard to health insurance and prescription drug insurance plans. There were also complaints about the 40 additional programs administered by RAMQ, including those covering devices that compensate for physical disabilities, hearing and visual aids, dental and optometric services, financial contributions for adults in long-term care, and financial assistance for domestic help services.

On several occasions, the Québec Ombudsman has pointed out people's difficulty in understanding all the requirements contained in the Prescription Drug Insurance Plan since its inception in 1997. As for the Health Insurance Plan, the cases presented below illustrate that errors can arise in the processing of applications for eligibility.

## IMPROVING THE MANAGEMENT OF PRESCRIPTION DRUG INSURANCE ELIGIBILITY

The Prescription Drug Insurance Plan (the Plan) is complicated and the requirement to join a private employer's group insurance is not always understood. Sometimes citizens enroll in the public system when they are not entitled to do so. RAMQ then cancels their enrollment and claims a reimbursement for the amount spent on prescription drugs during the "enrolled" period. These people then find themselves without insurance, contrary to the provisions of the *Act respecting prescription drug insurance*.

In 2009, RAMQ launched a process of analysis and reflection aimed at improving registration compliance for the Plan. The Québec Ombudsman made its concerns known in this regard.

In June 2010, RAMQ issued an administrative policy on managing eligibility for the public component of the Plan. This policy outlines the guiding principles and directions for those administering the Plan. To this end, three action plans were implemented relating to:

- required changes in procedures and systems;
- actions to improve handling of client files;
- staff engagement.

In December 2010, the Québec Ombudsman met with RAMQ for a progress update. In pursuing its 2009–2013 strategic plan, RAMQ intends to implement various measures to increase registration compliance for the Plan. In 2010–2011 it focused on the following matters:

- review of the telephone protocol used to obtain information required to determine eligibility for the public plan, convey relevant information during a phone interview, and make people aware of their rights and obligations regarding prescription drug insurance;
- the online (Internet) registration and cancellation service available since October 2010 (in February 2011 this service was used by 11,960 people);

- a letter to students enrolled in the public plan a few months prior to their 26<sup>th</sup> birthday informing them that they will soon lose their student-status benefits and must thereafter be covered by either public or private prescription drug insurance;
- discussions with groups, associations, and professional orders to ensure they understand the information concerning the Plan;
- dissemination of information to different populations, especially through social media.

In the next year, the Québec Ombudsman intends to closely monitor the work of RAMQ concerning the management of prescription drug insurance eligibility.

## PROVIDING THE CORRECT ANSWER

Complaints addressed to the Québec Ombudsman revealed situations where RAMQ erred in applying its own rules, thereby delaying access to the public plan for eligible people.

### *When obtaining a health insurance card becomes an obstacle course*

*A citizen lost her health insurance card and contacted RAMQ to obtain a replacement form. The procedure required her to send RAMQ various documents to confirm her eligibility (including proof of residence). These can be submitted directly to RAMQ or sent through a local community services centre (CLSC). She chose the latter option and received an attestation from the CLSC that the paperwork had been properly completed.*

*Several weeks later, she had still not received her card. She contacted RAMQ, which had no record of her documents. She sent RAMQ the CLSC confirmation proving the paperwork was properly completed and asked to receive a new temporary eligibility attestation to serve as an insurance card while waiting to receive her new card. Such documents are valid for 45 days but the one she possessed had already expired. RAMQ refused to do so, arguing that it had already issued her two temporary attestations during the time elapsed. The fact remains that without this document, the citizen could be required to pay for health services. She then complained to the Québec Ombudsman.*

*The Québec Ombudsman's investigation showed that the citizen met the criteria for obtaining a temporary enrollment document by having completed the necessary steps and furnished the necessary proof to replace her lost card. The loss of the documents was not her fault and she should not have been made to suffer the consequences. RAMQ agreed to follow through on the Québec Ombudsman's intervention and provide the citizen with the requested temporary attestation.*

### ***An unreasonable waiting period***

*While applying to have her health insurance card renewed, a citizen was obliged to wait for a three-month qualifying period before becoming eligible for health insurance again. According to RAMQ, this person had returned to Québec after living elsewhere, which justified the delay.*

*The citizen had planned to move to France and had advised RAMQ by completing a form to this effect. However, her plans did not materialize. The Québec Ombudsman pointed out this detail to RAMQ and concluded that since the person had not actually lived outside Québec, there was no reason to impose the three-month qualifying period. RAMQ concurred.*

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## Régie du logement

### **COMPLAINTS IN 2010–2011**

Once again this year, wait times for a hearing and, consequently, a decision by the Régie du logement were the main grounds for complaints brought to the attention of the Québec Ombudsman. In half these cases the complaints were substantiated. Although the Québec Ombudsman does not have a mandate to intervene in the legal processes of the Régie, it is nonetheless concerned with the Régie's ability to dispense justice within a reasonable time frame given constraints imposed on it by its legal framework. Previously, in 2007–2008, the Québec Ombudsman recommended that this framework be amended to decrease wait times. So particular attention will be paid to the major reform of the *Act respecting the Régie du logement* that was announced by the Minister of Municipal Affairs, Regions, and Land Occupancy during public hearings on Bill 131 in November 2010.

### **AVOIDING PROCEDURAL ABUSES**

In September 2009, the Superior Court ruled that the Régie could not declare debarment (preclusion) because no section of its enacting legislation explicitly grants it this power. Debarment is a procedure by which an individual is prevented from filing successive proceedings with the Régie in the same case. Recourse to debarment makes it possible to prevent procedural abuse by people seeking to suspend enforcement of an unfavourable decision. On December 10, 2010, the proposed legislative amendment in Bill 131 officially granted the Régie the authority to declare debarment as per the recommendation formulated by the Québec Ombudsman in its 2009–2010 annual report. The Québec Ombudsman supported Bill 131 and emphasized its relevance in strengthening the legal framework of the Régie, particularly by reducing delays detrimental to the parties. The details of this intervention can be found on page 111 of this annual report, in the "Parliamentary Watch Report" section.

In the interval between the Superior Court decision and implementation of the legislation, the Régie made use of its power of debarment in some decisions, although it had been previously invalidated. In this regard, the bill that was adopted gave the power of debarment an unusual retroactive effect.

According to the information the Régie provided to the Québec Ombudsman, some 40 debarment decisions handed down by administrators in the period following the Superior Court ruling were potentially affected by the retroactive effect of the bill at the time it was tabled in the National Assembly. Some of these decisions were likely to have been overturned by the Court of Québec or the Superior Court and the cases returned to the Régie because it lacked the authority to make such decisions at the time. Going forward however, the Régie will have the legally sanctioned power to declare debarment.

## REDUCING WAIT TIMES FOR HEARINGS

Bill 131 appeared inadequate in certain respects because it does nothing to unburden administrators and thereby reduce wait times for hearing civil cases. In 2009–2010 these delays were the reason for 48.5% of the complaints received by the Régie's Bureau des plaintes and 22.9% of those received by the Québec Ombudsman about the Régie. The Québec Ombudsman is eager to see the legal framework changed in a way that will allow applications for lease termination for non-payment of rent (51.4% of Régie requests in 2009-2010), which are generally simple to deal with, to be handled by special clerks. Relying on these clerks rather than on administrators could free up 15% to 20% of the latter's time to focus on civil cases, which are generally more complex.

At the hearings of the Committee on Planning and the Public Domain on Bill 131, the Minister of Municipal Affairs, Regions, and Land Occupancy committed to proposing a comprehensive reform of the Régie.

For its part, the Québec Ombudsman remains very concerned about issues of procedural fairness and administrative management of measures to reduce delays by the Régie, and will carefully follow up on these issues.

## FAIRNESS AND JUSTICE IN THE SCHEDULING OF CASES

The Québec Ombudsman received complaints raising questions about compliance with prioritization criteria when cases are placed on the roll. The facts reveal that more recent cases filed with the Régie had been scheduled for hearings prior to similar requests that pre-dated them by several months. It appears that there have been wait times of 30 days or less, a wide deviation from current average wait times of between eight to 17 months. Considering the importance of processing all cases fairly, and taking into account the problems of delays, the Québec Ombudsman has asked the Régie for clarification. As of March 31, 2011, discussions were ongoing on this matter.

# Régie des rentes du Québec

## COMPLAINTS IN 2010–2011

Substantiated complaints against the Régie des rentes du Québec (RRQ) in 2010–2011 were down by half compared to the previous year. They mainly concerned delays incurred awaiting RRQ decisions.

## EXPLAINING DECISIONS

In one of its investigations, the Québec Ombudsman found that, contrary to the principles of the *Act respecting administrative justice* and the *Act respecting the Québec Pension Plan*, RRQ does not explain its decisions denying disability pensions. The acts state that decisions should be:

- communicated in clear and concise terms;
- given in writing together with the reasons, even if it was communicated orally to the parties involved.

Following the intervention by the Québec Ombudsman, RRQ acknowledged the problem and pledged to change its computer system by the fall of 2011 to ensure that denials of disability pensions are accompanied by explanatory letters. In the meantime, individuals who so request will receive a letter explaining RRQ decisions.

## PAYING ITS FAIR SHARE OF THE COSTS

RRQ does not fully reimburse the costs incurred for medical reports it requests when re-evaluating an individual's eligibility for a disability pension.

On this issue, the Québec Ombudsman found discrepancies in the information provided in two documents:

- according to the *Medical eligibility directives for disability pensions*, the cost of the report is RRQ's responsibility;
- according to the *Guide du médecin traitant – L'invalidité dans le Régime des rentes du Québec*, workers are reimbursed up to \$49 for the cost of a medical report requested by RRQ for the purpose of a re-evaluation.

When individuals wish to obtain a disability pension from RRQ, they are responsible for demonstrating that they meet the criteria provided by law to receive a pension. Accordingly, they pay the full cost of the application. On the other hand, once individuals are deemed eligible, the Québec Ombudsman considers it RRQ's responsibility, when re-evaluating eligibility, to demonstrate that beneficiaries no longer meet the criteria provided by law. In such cases, RRQ should pay the full costs of re-evaluation. In May 2010, the Québec Ombudsman made a recommendation to that effect to RRQ, which has accepted and implemented retroactive to April 1, 2010.

## FOLLOWING UP ON THE QUÉBEC OMBUDSMAN'S RECOMMENDATION

In its 2008–2009 annual report, the Québec Ombudsman requested that RRQ take steps to ensure that the rules applicable to combined benefits paid to individuals also receiving compensation from the Société de l'assurance automobile du Québec (SAAQ) not have the effect of reducing their income from its initial level.

On November 10, 2010, RRQ notified the Québec Ombudsman of the following:

- it is aware of situations regarding combinations of surviving spouse's pensions or disability pensions with compensation paid by SAAQ;
- a complete and definitive solution cannot be found in the short term;
- RRQ will work to develop an acceptable alternative to redress the inequity experienced by certain individuals.

The Québec Ombudsman will continue to monitor this situation.

## THE QUÉBEC OMBUDSMAN'S RESPONSE TO BILLS AND DRAFT REGULATIONS

The Québec Ombudsman commented on the Regulation to amend the Regulation respecting benefits. Its intervention concerned the need for individuals to provide proof of the steps they have taken when applying to RRQ for benefits by phone (required procedures). A summary of this intervention can be found on page 117 of this annual report, in the "Parliamentary Watch Report" section.

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# Revenu Québec<sup>1</sup>

## TAXATION

### COMPLAINTS IN 2010–2011

In 2010–2011, the Québec Ombudsman received tax-related complaints about Revenu Québec that included the following:

- missing or incorrect information;
- delays in processing requests;
- delays in paying refunds due;
- restrictive application of the law.

### CORRECTING ERRORS FASTER

In June 2009, Revenu Québec changed its work instruction for processing payroll deductions, which limited the options for granting refunds for employer overpayments. The agents responsible for applying it had been told to interpret it strictly.

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<sup>1</sup> Agence du revenu du Québec as of April 1, 2011.

The Québec Ombudsman received calls from people who had accidentally paid double the amount due for a given period. Despite their requests, Revenu Québec refused to correct their file before getting an opinion from the Direction des affaires juridiques, even though the instruction provided for the option of granting refunds in certain situations.

Given that the people had been awaiting the legal opinion for four months, the Québec Ombudsman requested that:

- a reminder be sent to the Direction des affaires juridiques to obtain its position as quickly as possible;
- the work instruction be clarified to allow refunds in such cases.

Following the Québec Ombudsman's intervention, legal services' opinion was published. Taxpayers received the overpayment refund and the work instruction was amended to facilitate the making of this type of decision in the future.

### **ABIDING BY CURRENT DIRECTIVES AT THE CENTRE DE PERCEPTION FISCALE**

Revenu Québec's Centre de perception fiscale is responsible for collecting sums owed the government. Directives govern tax collection agents' activities and ensure compliance with current legislation and regulations. For the past several years, the Québec Ombudsman has received complaints from individuals who have been subjected to inappropriate measures taken by agents:

- seizure of bank accounts, even though Revenu Québec knows the amount in question is unseizable;
- maintaining seizure of an account, even though the account holder informed Revenu Québec that the money it contained was unseizable.

It is important to know that unseizable monies must not be remitted to Revenu Québec by individuals or financial institutions.

The Québec Ombudsman also had to intervene to stop collection measures consisting of seizure of the entire wage amount, contrary to the Code of Civil Procedure.

The Québec Ombudsman met with the administrators of the Centre de perception fiscale, which is responsible for developing directives. Its intervention led to the following corrective measures:

- modifications to internal documents clarifying which monies are unseizable;
- clarification of the obligation to provide a release (attestation that the process has been terminated) when Revenu Québec is informed of the unseizability of monies in an account;
- a ban on initiating a new seizure in an account when a release for unseizability was granted;
- reminders regarding these provisions to the agents responsible for applying the rules;
- a note added to letters sent to financial institutions and individuals following a seizure to ask that they notify Revenu Québec in the event the monies are unseizable.

## ENSURING RELIABLE ONLINE INFORMATION

Following a Federal Court decision in 2007, anyone making a proposal or consumer proposal<sup>2</sup> must file a single tax return for the fiscal year. Despite the fact that the income tax return guide includes this information, the Québec Ombudsman noticed that the Revenu Québec website mentioned that taxpayers could opt to file two income tax returns even without having declared bankruptcy. This information was inaccurate and could lead to processing delays for taxpayers. The Québec Ombudsman succeeded in getting Revenu Québec to correct the information.

## ENSURING THE ACCESSIBILITY OF THE NEW SOLIDARITY TAX CREDIT

In his 2010–2011 Budget Speech, the Minister of Finance announced the introduction of a new solidarity tax credit to take effect in July 2011. This measure will replace three existing credits (QST, property tax, and northern villages) and will make it possible to earmark over \$500 million more for the support of low-income persons. The solidarity tax credit will benefit around 2.7 million households. Unlike the credits it replaces, which taxpayers could collect by monthly cheque or request when filing income taxes, the amount will be paid by direct deposit. It was this payment method that the Québec Ombudsman brought to Revenu Québec's and the Ministère des Finances' attention.

Although the Québec Ombudsman believes in encouraging people to sign up for direct deposit (secure for users, saves administrative expenses), it is concerned about the accessibility of this new credit for the most disadvantaged individuals who are often poorly educated or even functionally illiterate, or socially isolated. Around 10% of social assistance beneficiaries—or 50,000 individuals—have no account at a financial institution. There are at least 20,000 more households in the same situation. Although the tax credit does not take effect until July, the Québec Ombudsman had already received 404 complaints as at March 31, 2011.

The Minister of Finance and the President and Chief Executive Officer of Revenu Québec indicated to the Québec Ombudsman that they believe it is important for everyone who is eligible for the new credit to receive it and that an alternative must be found for those who cannot open an account at a financial institution. As of the writing of this report, the Québec Ombudsman is in communication with the Ministère des Finances and Revenu Québec on this matter.

## APPLYING THE LAW FAIRLY AND EQUITABLY

Two situations in particular led the Québec Ombudsman to recommend that Revenu Québec base its decisions on a fair and equitable interpretation of the relevant legislative provisions.

<sup>2</sup> A proposal or consumer proposal is an offer made by a bankrupt person to his or her creditors to reduce the amount of debt owed, to extend the repayment deadline, or a combination of both. It allows such persons to pay a part of their debts and keep their property without having to declare bankruptcy. The main purpose of the proposal is to promote the discharge of insolvent companies, while the consumer proposal allows for more flexible application for individuals.

### **Unjustified double taxation**

A woman passed away in October 2008. She received disability insurance benefits from her insurer for the last three months of her life while awaiting a decision from the Régie des rentes du Québec. Unfortunately, she died before the response was issued. Further to the decision, the succession had to repay the insurer in 2009. Revenu Québec nevertheless determined that the succession could not receive any deduction related to the repayment of benefits since the woman had declared the income and not the succession.

Revenu Québec deemed that the law prevented it from rendering a different decision, even with the knowledge that this income was therefore being double taxed.

Following its investigation, the Québec Ombudsman deemed that an interpretation allowing legislators to double tax an individual's income—even if the individual is deceased—was unjustified, and this opinion was shared by Ministère des Finances tax services personnel. According to them, Revenu Québec could have adopted a much less restrictive approach here. The Québec Ombudsman's intervention helped correct this situation for the future.

The Québec Ombudsman is surprised to note that, although Revenu Québec understood the situation, it did not take any steps with the Ministère des Finances to ensure the interpretation of the tax provision did not penalize those affected by the measure.

The Québec Ombudsman's intervention, which encompassed most situations, also allowed the Ministère des Finances to see that relaxing the interpretation of current rules was not enough to handle all cases in which income received after a death is used to repay money received while the person was alive. An amendment to the Taxation Act was announced in December 2010 to correct this inequity.

## **RECOMMENDATIONS**

WHEREAS Revenu Québec's position has a detrimental effect on certain persons in the event of succession;

WHEREAS it is unfair to double tax individuals' income;

WHEREAS Revenu Québec can agree to act on a change request entailing a decrease of the balance due when this decrease is related to a tax year ending during one of the ten calendar years preceding the request (*Dossier Équité*);

The Québec Ombudsman recommends that:

- Revenu Québec identify the files for which its restrictive interpretation of the *Taxation Act* led to double taxation of a deceased person's income due to reimbursements owed by the succession;
- the process encompass the past ten years;
- Revenu Québec process these files based on its new interpretation;
- the process allow the necessary corrective measures to be taken when taxpayers have paid more than what was due during the past ten years, as the *Dossier Équité* allows.

## COMMENTS FROM REVENU QUÉBEC

"Revenu Québec looked into identifying these exceptional files and must conclude that it is not in a position to act on this recommendation. However, taxpayers may submit a request under the *Dossier Équité* to have the required changes made."

## THE QUÉBEC OMBUDSMAN'S RESPONSE

The Québec Ombudsman understands it is not possible to identify all these exceptional files. However, it believes that Revenu Québec must at the very least inform the *Ordre des comptables agréés du Québec* and the *Chambre des notaires*, among others, that taxpayers may apply for it to make the required changes.

### ***A company that paid the price of Revenu Québec's inflexibility***

*A company called on the Québec Ombudsman following Revenu Québec's refusal to grant it a refund of the tax on business inputs (taxes already paid by the company when goods are purchased). Revenu Québec based its decision on incomplete entries on the invoices submitted to it and the fact that two companies had the same name within the business structure.*

*However, the current regulation and interpretation bulletin used by Revenu Québec stipulate that it is possible to receive such a refund when the invoice contains the "name under which the person is doing business."*

*In its investigation, the Québec Ombudsman observed that the sister company with a similar name was not in operation and that the name written on the invoices was the name under which the company did business for its suppliers.*

*Higher-level interventions were required for Revenu Québec to accept the merit of the Québec Ombudsman's position that, despite similar names, there was no confusion possible as to which company the invoices were intended for. Revenu Québec then had to review these invoices keeping in mind the regulatory notion of the name under which this company was doing business. All the invoices submitted by the person in support of the claims were finally accepted, for a total of over \$300,000.*

## THE QUÉBEC OMBUDSMAN'S RESPONSE TO BILLS AND DRAFT REGULATIONS

In a letter sent to the Minister of Finance, the Québec Ombudsperson commented on Bill 117, the *Act giving effect to the Budget Speech delivered on 30 March 2010 and to certain other budget statements*. Her statement concerning the obligatory direct deposit of the new solidarity tax credit can be found on page 106 of this annual report, in the "Parliamentary Watch Report" section.

# Revenu Québec<sup>1</sup>

## SUPPORT-PAYMENT COLLECTION

### COMPLAINTS IN 2010–2011

The number of complaints received by the Québec Ombudsman concerning the Support-Payment Collection Program remained stable in 2010–2011 compared to the previous year. These complaints mainly concern the following:

- failure to pay support or irregular support payments to the creditor;
- failure by Revenu Québec to collect support when the debtor defaults on the payments stipulated in the judgment;
- the requirement for creditors and debtors to obtain a new judgment every time they wish to change or cancel support payments;
- interpretation or application of judgments;
- claimed amounts deemed disproportionate by debtors in relation to their ability to pay.

### STREAMLINING THE CHILD SUPPORT REVIEW PROCESS

Since automatic collection of support payments was introduced, the Québec Ombudsman has received complaints every year concerning the need for court decisions to change or cancel support payments. The inflexibility of the system runs counter to the objectives of the *Act to facilitate the payment of support*.

The Québec Ombudsman believes the support review process must be simplified. Despite repeated requests to the Ministère de la Justice (see the “Ministère de la Justice” section), the Québec Ombudsman is still receiving complaints from those who, even in simple situations, must go to the Superior Court to have a support order changed or cancelled.

#### ***Unnecessary court involvement in agreements where there is consensus***

*A Revenu Québec agent refused a student of legal age the right to directly receive the support the Department currently pays his mother.*

*The judgment was rendered while the student was a minor and stipulated that the support was payable by the father to the student’s mother. However all parties involved—the child, mother, and father—agreed to have the support paid directly to the child. Given current legislation, the Québec Ombudsman believes the Direction de la perception des pensions alimentaires had no other choice but to refer the parties to the courts but it suggested that the child of legal age verify his eligibility for legal assistance so that he might obtain the desired judgment at the lowest cost.*

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<sup>1</sup> Agence du revenu du Québec as of April 1, 2011.

Still in connection with streamlining the process, the Québec Ombudsman learned of a Superior Court judgment<sup>2</sup> that now allows Revenu Québec to terminate execution of support orders under certain circumstances. According to the Court, Revenu Québec may terminate a support obligation arising from a judgment when it is solely a question of establishing a factual situation that is accepted by the parents, and no evaluation or application of the law is being used to determine support. The most likely situation in which Revenu Québec could use such a power is when a child receiving support reaches legal age and is fully independent. The Québec Ombudsman is pleased to note that Revenu Québec applied the principles of this judgment in 2010–2011.

***Involvement of the courts can be avoided under certain circumstances***

*For nearly a year, a father residing abroad had been requesting that the seizure of his Régie des rentes du Québec benefits be stopped and the support he was required to pay his son be cancelled. The son had completed his university studies and the father was contesting the requirement to obtain a Superior Court judgment in order to cancel the support. He asserted he could not bring proceedings due to a lack of financial resources and an inability to return to the country. Given the law, Revenu Québec had no other choice but to require a new judgment to end support-payment collection.*

*Several months later, the Québec Ombudsman learned from the debtor that the son, to whom support payments were being made, was in all likelihood financially independent. Given these special circumstances, the Québec Ombudsman requested that Revenu Québec notify the parties involved of the new provisions allowing Revenu Québec to terminate support-payment collection without court involvement. Revenu Québec agreed to the Québec Ombudsman's proposal.*

## ENSURING FULL EXECUTION OF SUPPORT JUDGMENTS

A right stemming from a judgment generally lapses ten years after the judgment is pronounced. This rule applies to support payments but may occasionally lead to a loss of rights.

There are legal acts that interrupt the limitation period and allow the “counters to be reset to zero” in a manner of speaking. The effect of such “interruptions of prescription” is to preserve the right to collect support payments.

In 2008–2009, the Québec Ombudsman noted the absence of a written directive concerning interruption of the limitation period, both for judgments rendered in favour of creditors and for overpayment claims from debtors. It therefore called Revenu Québec's attention to this detrimental situation to prevent those who should have received support through the Direction de la perception des pensions alimentaires from being unfairly penalized due to expiration of the limitation period: agents had to be aware of this situation when necessary so that legal acts to interrupt the limitation period could be carried out.

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<sup>2</sup> P.S. c. M.D., 2010 QCCS 1582.

Revenu Québec immediately identified the cases for which urgent action was required. Moreover, in February 2011, it confirmed to the Québec Ombudsman that at the end of 2010, all Direction principale des pensions alimentaires agents had received training allowing them to:

- establish any interrupting act;
- apply the directive requiring them to notify their superiors when their intervention is needed to interrupt the limitation period.

Advanced training on the same subject was also given to certain teams that are particularly involved with this type of case. Despite this progress, the Québec Ombudsman considers the issue unsettled.

Based on existing legislation,<sup>3</sup> the Québec Ombudsman recommended that Direction de la perception des pensions alimentaires representatives request that the *Act to facilitate the payment of support* be amended so that certain administrative acts could more automatically interrupt the limitation period. This measure would better protect against “premature” limitation of rights.

The introduction on May 4, 2011, of a new section in the *Act to facilitate the payment of support* through Bill 5, the *Act to amend the Taxation Act, the Act respecting the Québec sales tax and other legislative provisions*, will allow the limitation period to be interrupted through administrative channels, which fully satisfies the Québec Ombudsman’s request.

## STOPPING ILLEGAL SUSPENSION OF PASSPORTS

Under the federal *Family Orders and Agreements Enforcement Assistance Act*, Revenu Québec can request that Canadian debtors’ passports be suspended if they fail or refuse to pay court-ordered support.

### *The end of passport suspension for non-payment of support*

*Due to lack of income, an individual stopped paying support in March 2010. As a result, Revenu Québec invoked federal legislation to request and obtain suspension of the individual’s passport. However, despite two subsequent judgments in November and December 2010 that temporarily ended any form of collection, the Revenu Québec collector refused to lift the passport suspension. He argued that these were temporary judgments and the judge’s decision could not be assumed. Proceeding otherwise would force Revenu Québec to repeat all the procedural steps in the event enforcement of the support payments were resumed.*

*The Québec Ombudsman emphasized that, under such circumstances, the Family Orders and Agreements Enforcement Assistance Act requires Revenu Québec to promptly request that the person’s passport suspension be lifted. A written legal opinion from the Department confirmed the Québec Ombudsman’s position. Following this, Revenu Québec quickly applied the procedure to have the suspension lifted.*

*Going forward, the legal opinion will allow Revenu Québec’s Centre de perception fiscale agents to correctly apply the law in similar cases.*

<sup>3</sup> This is currently the case for the recovery of State-owned amounts in matters of taxation (the *Act respecting the Ministère du Revenu*, R.S.Q., c. M-31) or employment and social solidarity (*Individual and Family Assistance Act*, R.S.Q., c. A-13.1.1).

# Société de l'assurance automobile du Québec

## HIGHWAY SAFETY CODE

### COMPLAINTS IN 2010–2011

In the area of highway safety, complaints about the Société de l'assurance automobile du Québec (SAAQ) once again mainly concern the conditions for obtaining and keeping a driver's license:

- suspension;
- the requirement to produce a medical report or evaluation by a drug rehabilitation centre;
- failing the practical exam;
- gradual driver qualification.

It should, however, be noted that a new type of complaint appeared in 2010–2011. A number of individuals requested the Québec Ombudsman's assistance with problems related to direct debits.

### PROVIDING APPROPRIATE INFORMATION TO THOSE WHO MAKE ELECTRONIC TRANSACTIONS

In its 2006–2010 strategic plan, SAAQ set an objective of adapting its services to the public's needs, expectations, and ability to pay. To meet this objective, it aimed to increase the relative percentage of transactional electronic services related to driver's licenses and registrations to 28.1% from the beginning of 2007 to the end of 2010. As at December 31, 2009, this objective seemed well on its way to being achieved as electronic transactions already represented 25.6% of service delivery channels for licenses and registration. For the same reason, in 2008 SAAQ implemented the pre-authorized debit payment method for licenses and vehicle registrations, as well as the ability to spread payments over six or 12 months.

Despite the advantages offered by these transaction methods, users are sometimes subject to unexpected and undesirable consequences. The Québec Ombudsman intervened to ensure SAAQ improved the quality of the information on its website and changed certain practices related to electronic transactions and pre-authorized debits.

When users select this transaction method, it goes without saying that they must be aware that once the transaction has been completed, it cannot be undone, and they must bear the consequences of any errors they have made. Asking SAAQ to process every correction or change request after the fact would negate the intended benefit of faster service.

In return, SAAQ is responsible for fully informing users of the consequences of the choices they make when completing an electronic transaction. To this end, SAAQ added warning messages to the vehicle discarding overview page of its website to clarify the distinction between vehicle discarding and storage. To put a discarded vehicle back on the road, the owner is required by regulation to have it mechanically inspected, which is not the case for a 12-month storage period.

This year, further to a complaint, the Québec Ombudsman asked SAAQ to add clarifications to the “Licensing of a Stored Vehicle for Road Use” overview page of its website.

#### ***The Internet and automatic billing***

*Every spring, a man licensed his stored convertible car for road use during the warmer months. This year, he decided to do it a few days early to avoid the heavy online traffic and slow service in early April, which is the month in which he wanted to resume using his car. He therefore completed the transaction on March 29. At the end of the transaction, he was surprised that he had not been able to indicate the date he wanted to license his stored vehicle for road use. SAAQ then informed him that it was impossible to make this transaction in advance since the system automatically generates a bill for the month in which the transaction is completed. As a result, the man had to pay registration fees for the month of March. At the Québec Ombudsman’s request, SAAQ added explanations to the “Licensing of a Stored Vehicle for Road Use” overview page of SAAQclic Online Services.*

### **LISTENING TO THE NEEDS OF PRE-AUTHORIZED DEBIT USERS**

The pre-authorized debit payment method for driver’s license and vehicle registration fees was implemented in 2008 to help users deal with the large insurance contribution increase. It gives them the option of paying the amount due in a single payment or spreading payments over six or 12 months. If payments are spread out, interest on the license and registration fees is added to each payment. Since it is generally the most financially vulnerable individuals who select the pre-authorized debit and installment options, the Québec Ombudsman believes it is all the more important to ensure they are not forced to bear the financial consequences of the limits of this payment method.

Since the system was implemented, a number of problems have been brought to light through complaints submitted to the Québec Ombudsman:

- users are unable to postpone payments to a later date even if they have requested it, with the knowledge they will not have sufficient funds on the scheduled date. The debit therefore occurs on the statutory date, with the result that the user gets charged for insufficient funds, and additional interest is added to subsequent payments. After two rejections, pre-authorized debits are no longer allowed;
- SAAQ clerks are unable to consult the record of pre-authorized debit payments when someone has requested a transaction likely to have an impact on the current payment, such as changes in banking information or storing, discarding, or sale of a vehicle. As a result, users are unaware of the consequences their transactions may have on current and future pre-authorized debits;
- although no annual payment notice is sent when a person’s rights are suspended, rollover notices for pre-authorized debits are issued. In the absence of any notification to the contrary from the customer, SAAQ then rolls over the pre-authorized debits to the following year, in accordance with the *Regulation respecting road vehicle registration* and the *Regulation respecting licenses*. The result is that the account being debited may not contain sufficient funds since the account holder may not have anticipated the debits, with the above-mentioned consequences. Following a complaint, the Québec Ombudsman requested that SAAQ stop sending rollover notices when rights have been suspended. As of January 2010, no notices have been sent in these circumstances.

### **A digital tangle**

*A woman registered for pre-authorized debits, occurring on the fifth of every month. On November 4, she went to a service centre to change her bank information for the debits as of the following month, but, in fact, a debit was made the next day from the new account that did not yet contain sufficient funds. Two additional attempts were made at the end of November and the beginning of December despite a letter from the woman requesting SAAQ to stop the pre-authorized debits, with the result that she was charged \$35 for insufficient funds. Further to the Québec Ombudsman's intervention, these fees were cancelled. SAAQ also started requiring its clerks and agents to consult the record of pre-authorized debit payments every time users need to make transactions that affect their payments so that they can inform the users if requested to do so. Although this is an improvement, the Québec Ombudsman thinks clerks should systematically offer to provide this information rather than waiting for users to request it.*

In 2010, SAAQ, aware of the pre-authorized debit issues, began contemplating potential solutions to avoid penalizing this often-vulnerable clientele. Further to this exercise, in 2010–2011, it undertook a series of corrective measures to reduce rejections, improve written customer communication, provide refresher training to its clerks, and modify the computer system. Other measures are planned for 2011–2012.

### **FOLLOWING UP ON THE QUÉBEC OMBUDSMAN'S RECOMMENDATION**

In its 2008–2009 annual report, the Québec Ombudsman recommended that SAAQ update its computer systems so that the complete file of anyone making a transaction in a service centre can be quickly checked with regard to licenses and registration and any requirements contrary to the law can be avoided.

Further to this recommendation, SAAQ conducted an analysis for the redesign of its computer systems in order to provide service consistent with Highway Safety Code requirements. The Québec Ombudsman will monitor progress on this work over the next year.

### **THE QUÉBEC OMBUDSMAN'S RESPONSE TO BILLS AND DRAFT REGULATIONS**

The Québec Ombudsman commented on Bill 71, the *Act to amend the Highway Safety Code and other legislative provisions*. Its statement concerned obligatory helmet wearing for cyclists age 12 and under and certain safety procedures during snow removal operations. A summary can be found on page 116 of this annual report, in the "Parliamentary Watch Report" section.

# Société de l'assurance automobile du Québec

## COMPENSATION FOR ROAD ACCIDENT VICTIMS

### COMPLAINTS IN 2010–2011

Complaints received by the Québec Ombudsman about the Société de l'assurance automobile du Québec (SAAQ) in 2010–2011 were down compared to the previous year. These mainly concerned delays in processing files and the failure to render decisions or provide them in writing.

### UNLAWFUL DISCONTINUATION OF AN INDEMNITY FOR CHILDCARE EXPENSES

SAAQ may pay compensation for expenses incurred by victims unable to care for their children after a car accident. The Québec Ombudsman found that SAAQ ceases to pay this indemnity in cases where a medical opinion is requested at its own initiative. SAAQ confirmed this is standard operating procedure. There is even a form letter notifying accident victims about this policy. No right of review is mentioned.

The *Automobile Insurance Act* provides that the indemnity for expenses related to the care of another person must be paid as long as the victim is unable to care for that person according to the criteria set out in the act. When SAAQ ceases to pay the indemnity it does not know if the victim is able to care for the person in question. This is precisely why a medical evaluation is performed. Moreover, under the act, discontinuation of the indemnity is effective at the end of the week in which the victim ceases to be incapacitated. The act also describes the grounds on which the indemnity may be denied, suspended, terminated, or reduced.

The Québec Ombudsman found that the practice of discontinuing an indemnity when requesting a medical opinion was illegal. It therefore recommended that SAAQ stop this practice, which it has agreed to do. If SAAQ pays out too much money, it can recover the overage under the powers conferred on it by law.

#### ***The obligation to deliver a reasoned decision in writing***

*To comply with a ruling by the Tribunal administratif du Québec, SAAQ had to pay an income replacement indemnity to a victim who it previously determined was unable to work. Since the Tribunal did not rule on the disability end date, SAAQ had to continue to pay compensation until the person could return to work.*

*Subsequently, SAAQ discontinued the indemnity on the basis of a medical opinion, without notifying the individual concerned in writing of its decision. The individual appealed to the Québec Ombudsman, arguing that, in the absence of a written decision, he could not exercise his right of review.*

*In this particular case, SAAQ, having failed to render a decision as to the end of disability, could not halt income replacement indemnity payments. Under the Automobile Insurance Act, SAAQ must continue paying the indemnity until the date of the decision, which must be substantiated and issued in writing to the victim. The Québec Ombudsman reminded SAAQ of this obligation and SAAQ agreed to act on the victim's request.*

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***A decision concerning the inability to work—and a ten-year retroactive adjustment***

*On May 3, 1996, an individual was the victim of an automobile accident that caused severe brain injury. In 1998, SAAQ issued a decision stating she was able to work as a telemarketing agent. In 2005, the woman suffered a relapse and in 2009, SAAQ declared that she had been unable to work since then.*

*Being of the opinion that the medical examinations conducted at SAAQ's request following her relapse actually indicated that she had never been fit to work since the 1996 accident, the individual requested that SAAQ recognize her as being unfit since that time. However, SAAQ turned down her request.*

*The Québec Ombudsman found that the information in the file should have led SAAQ to conclude that despite the individual's attempts to remain in school and training since the car accident in 1996, she had never been able to hold a job that conformed to real labour market requirements. The Québec Ombudsman therefore asked SAAQ to review her ability to work since the accident. This, however, required several interventions with various SAAQ sections. SAAQ finally agreed to act upon the recommendation, which led to a \$250 increase in the woman's income replacement indemnity every two weeks and a retroactive payment of \$125,229 plus \$26,779 in interest.*

## **THE QUÉBEC OMBUDSMAN'S RESPONSE TO BILLS AND DRAFT REGULATIONS**

The Québec Ombudsman commented on the *Regulation to amend the Regulation respecting the reimbursement of certain expenses*. The Québec Ombudsman's intervention concerning amounts paid out by an accident victim to obtain a medical report can be found on page 117 of this annual report, in the "Parliamentary Watch Report" section.

## Tribunal administratif du Québec

The Québec Ombudsman attaches considerable importance to application of the *Act respecting administrative justice*. Among other things, this act establishes the Tribunal administratif du Québec whose function, according to the cases provided, is to rule on appeals of decisions rendered by the various public authorities.

### REDUCE PROCESSING TIMES FOR AUTOMOBILE INSURANCE CASES—A PRIORITY

The significant increase in the number of automobile insurance cases brought before the Tribunal since 2006 is a source of concern for the Québec Ombudsman and was reported in its last two annual reports. This increase is mainly due to efforts by the Société de l'assurance automobile du Québec (SAAQ) to more expeditiously transfer accident victims' cases to the Tribunal and to process applications for administrative review within the 90-day deadline prescribed by the act.

The Tribunal's increased case inventory inevitably results in significant delays in processing accident victim cases and deprives victims of their right to obtain justice within a reasonable time frame. In numerous cases there is a serious impact on individuals' quality of life when, for example, SAAQ refuses to grant them an income replacement indemnity or decides to terminate their indemnity. The Tribunal must be able to process their cases within a reasonable amount of time.

In developing its 2008–2012 strategic plan, the Tribunal addressed this issue. It designed an action plan and, since 2008, has instituted several measures to achieve the long-term goal of reducing the automobile insurance case inventory. The Québec Ombudsman acknowledges that the Tribunal has:

- increased the number of hearings and conciliation sessions;
- invested significant efforts in conciliation, its preferred dispute resolution method;
- revised work processes to ensure personalized case management;
- conducted an analysis of files to ensure better inventory management and identification of particular difficulties;
- appointed coordinating administrative judges.

### ENSURING PROMPT DECISIONS

Despite the measures in place, the Québec Ombudsman found that:

- since 2006 the Tribunal has consistently opened more cases than it has closed;
- from 2009 to 2010, there was an increase in case inventory and average processing time, while both the number of cases closed and the number of hearings held declined.

### IMPACT OF CONCILIATION SESSIONS

As previously mentioned, conciliation is the Tribunal's preferred method for reducing automobile insurance case inventory.

The Québec Ombudsman notes that the Tribunal has achieved its goal of holding more conciliation sessions. Although this is a positive development, the Québec Ombudsman believes it falls far short of enabling the Tribunal to reach its goal of reducing case inventory.

## REDUCING INVENTORY AND PROCESSING TIMES

The Québec Ombudsman questions the Tribunal's case inventory target. We note that this target has varied considerably in recent years:

- in 2007–2008, the Tribunal set the goal of reducing inventory to fewer than 5,000 cases by 2011;
- in 2008–2009, the target was changed to 4,500 cases by March 31, 2012;
- in 2009–2010, no target appeared in the Tribunal's operational plan;
- according to the 2010–2011 operational plan, the current target consists of restoring inventory to the March 31, 2007 level, or 7,161 cases.

The Québec Ombudsman considers the current two-year average processing time for automobile insurance cases unacceptable and not in keeping with the principles of administrative justice. These results are worrisome. They clearly show that the steps taken by the Tribunal since 2008 have failed to prevent the rise in case inventory and are not adequate to bring about a reduction. The Tribunal must set reasonable goals to guide it in its attempt to reduce average processing time.

## THE NEED FOR SUFFICIENT RESOURCES

To deal with the increased inventory, the Tribunal must have sufficient human resources. In this regard:

- compared to the total number of administrative judges authorized at its creation in 1998, the Tribunal has seen a 17% reduction in the number of administrative judge positions; as at August 31, 2010, 18 full-time and 5 part-time positions remained vacant;
- the number of administrative judge positions assigned to the social affairs section has remained virtually unchanged despite a significant increase in the automobile assurance case inventory. The Québec Ombudsman also notes some delays in appointing administrative judges.

In early 2010, the Tribunal informed the Québec Ombudsman that the Secrétariat du Conseil du trésor had refused to temporarily exempt it from any further reductions to its support staff and would maintain the rule of replacing only four out of ten departures due to retirement. The Québec Ombudsman will continue to closely monitor developments in the coming months.

The Québec Ombudsman also took note of the March 16, 2011 appointment of eight full-time and five part-time administrative judges in the social affairs section. Their contribution should be decisive in improving the Tribunal's responsiveness in the coming year.

## RECOMMENDATIONS

WHEREAS section 1 of the *Act respecting administrative justice* defines the specificity of this area of justice and aims to ensure the quality, promptness, and accessibility of public services, as well as to guarantee respect for citizens' fundamental rights;

WHEREAS the Tribunal must take steps to ensure prompt decision-making;

WHEREAS the Tribunal pursues the goal of reducing the automobile insurance case inventory;

WHEREAS the automobile insurance case inventory has increased significantly since 2006;

WHEREAS average automobile insurance case processing time has increased to nearly two years;

WHEREAS the average automobile insurance case processing time is unreasonable and can be injurious to individuals;

WHEREAS the results observed as at March 31, 2010, clearly demonstrate that the measures implemented by the Tribunal over the past two years did not achieve the objective and that the situation continues to deteriorate;

The Québec Ombudsman recommends that with respect to the administrative responsibilities of the Tribunal administratif du Québec, it:

- take appropriate action to handle case volume and reduce the automobile insurance case inventory;
- implement mitigation measures, such as a temporary mechanism to systematically prioritize cases based on their seriousness and urgency, that would minimize processing times for the most critical road accident victim cases. This temporary mechanism, administered by the Tribunal, would make it possible to proactively examine all cases at the time of registration, unlike counter motions, which are exceptional measures;
- set short- and medium-term targets, particularly for the purposes of reducing inventory and average processing delays.

The Québec Ombudsman would like to be notified of the follow-up to its recommendations by September 30, 2011.

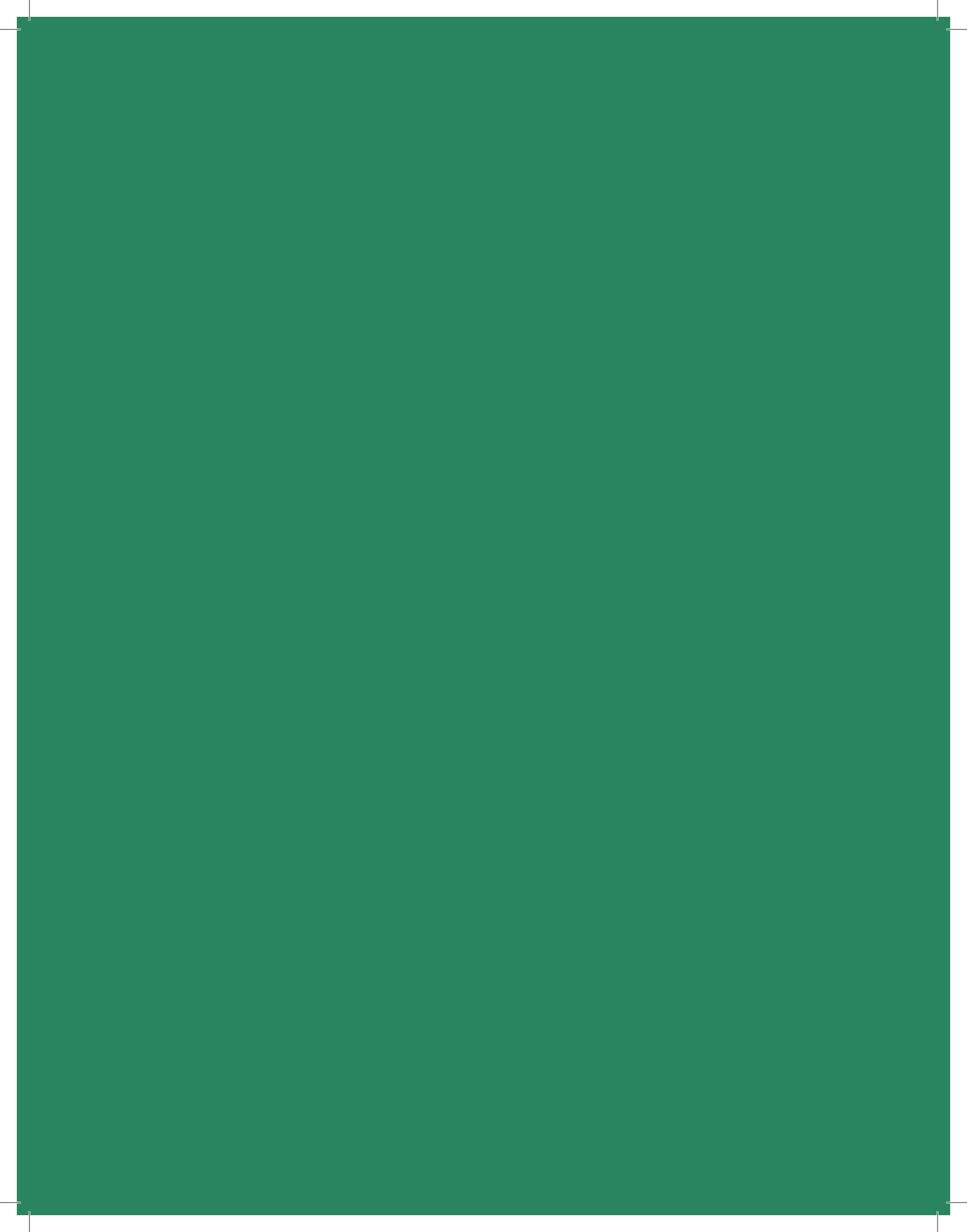
## TRIBUNAL COMMENTS

"It is imperative to take into account that, in addition to the items mentioned, additional efforts have been undertaken to reduce the SAAQ case inventory, i.e., the development of computer tools to classify inventory cases. This will figure into new planning as of October 3, 2011, with the addition of ten new positions in conciliation and 48 new positions in adjudication.

"Steps have already been taken with the Conseil du trésor to review the replacement rate of four out of ten departures due to retirement.

"Lastly, as provided in the Tribunal's constituting order, 97 administrative judge positions were deemed necessary to carry out its mission. It is highly desirable to appoint new administrative judges to help meet this target and enable the Tribunal to fulfill its mission."







## HEALTH AND SOCIAL SERVICES: DEPARTMENT AND NETWORK INSTITUTIONS

This section covering the Ministère de la Santé et des Services sociaux and its network of institutions and services focuses on:

- service programs that designate a set of services and activities to meet the public's needs;
- support programs that combine administrative and technical activities to support the service programs.

For every program, the report on the past year presents the main issues and the Québec Ombudsman's findings. Citizen complaints may be used to illustrate the findings. It should be noted that the complaints presented were most often selected based on how well they represent the deficiencies described and how well-founded the complaints are.

This year the number of complaints increased from 1,123 in 2009–2010 to 1,188 in 2010–2011. For the same period, there was a marked increase (from 118 to 179) in reports—in other words, third-party requests soliciting the Québec Ombudsman's intervention in situations that could compromise the health or well-being of one or more users of the network, who are often vulnerable. Private seniors' residences were the most frequent subject of reports to the Québec Ombudsman. Seniors often fear retaliation and do not dare complain to the local or regional commissioner. Consequently, their friends and family often take the initiative. Another significant number of requests concerns facilities that accommodate vulnerable persons.

The Québec Ombudsman estimates that nearly 50% of complaints and reports closed in 2010–2011 were substantiated, representing a significant increase over last year (39%). The majority of complaints and reports fell into the following areas: clinical and care activities, accommodations, wait times, and in-home care.

### ERADICATING COMPARTMENTALIZATION AND MONITORING SERVICE CONTINUITY

It cannot be denied—public services could be better integrated. Barriers between institutions and between professionals remain, preventing the introduction of satisfactory solutions to user needs. Some people find themselves in a state of great vulnerability after losing access to services and become discouraged due to the complex legwork that is required.

We note failures in the implementation of local networks. A persistent “silo” culture makes it difficult to ensure proper service continuity and dovetailing. As a result, users experience service interruptions, particularly while waiting for specialized services.

## IMPROVING ACCESS TO HOME-CARE SERVICE

Home-care service applies to a number of service programs and is an essential component of the *Chez soi le premier choix* policy. The Québec Ombudsman nevertheless notes that part or all of individuals' home-care services have been cut off without consideration for the impact on their health and well-being. These vulnerable persons then find themselves isolated as a result. Others are refused services or see that their names are still on a waiting list. The reasons given for decreasing access to home-care service are often budget-related. In March 2011, the Department announced an integrated services plan for seniors that will be accompanied by a new policy entitled *Vieillir chez soi*. This plan notably provides for in-home care. To this end, another \$150 million must be disbursed in 2011–2012 for senior care.

## CLARIFYING SERVICE OFFERINGS TO REDUCE UNFAIRNESS

The Québec Ombudsman has been receiving more and more complaints related to service reduction. Faced with increasing cost pressures, the Department must clarify the basket of services since, in the absence of clear guidelines, institutional choices create disparities.

In addition, certain services are no longer being offered in hospital settings and are instead being transferred to clinics. At the same time, a variety of different rate formulas are being used. Moreover, access to rehabilitation services varies greatly depending on whether one is an individual, a road accident victim, or has been injured at work. Inequities have become increasingly marked over time.

## ABIDING BY CERTIFICATION COMMITMENTS

In its prior annual reports, the Québec Ombudsman has asked the Department to finish certifying private seniors' residences and include these residences on the schedule of assessment visits. The Department responded that it:

- would revise the Regulation respecting the conditions for obtaining a certificate of compliance for a residence for the elderly;
- planned to drop in on residences to ensure they are complying with the rules under the regulation and the *Act respecting health services and social services* and that the safety and quality of such residences are appropriate.

Since the Québec Ombudsman is highly committed to ensuring the quality of services provided to seniors, it expects that the Department will take concrete action on its commitments and that the new draft regulation will provide a suitable response to the desired objectives.

## ENSURING THE COMPLAINT EXAMINATION SYSTEM HAS FULL EFFECT

The mechanism established for receiving and handling user complaints is the cornerstone of a sound approach to improving the quality of care and services provided within the network. Substantiated complaints must serve as a tool for guiding specialists and resource persons toward better practices. They must also inspire network administrators in their selection of offered services. To achieve this, local and regional commissioners must have the appropriate resources and working conditions to fulfill their responsibilities, as the Québec Ombudsman has emphasized in its annual reports. Yet this is not always the case, as demonstrated by the complaints received. In addition, the Québec Ombudsman notes that institutional authorities do not always apply or even consider commissioners'

recommendations. It hopes that the Department—in addition to ensuring the complaint examination system operates smoothly—will encourage these authorities to consider and apply commissioner recommendations.

The Department therefore pledged to publish and promote a guide covering a number of aspects of the commissioner's job, in particular the hiring, training, and evaluation of commissioners. This guide will be aimed at all those who are involved in any way with the complaint examination system and will confirm the Department's role. The Québec Ombudsman welcomes this commitment and expects the guide to be completed as soon as possible.

In addition, local commissioners continue to handle certain requests as requests for assistance when, depending on their nature, they should have been handled as complaints. Assistance, as defined in the *Act respecting health services and social services*, is limited to helping people formulate a complaint, answering their questions, and referring them to an organization that will help them through the process. Any other interpretation will deprive users of other available means of recourse, including access to the Québec Ombudsman. Although the Department has reminded the commissioners of this fact, the Québec Ombudsman believes the information should be redistributed regularly through Department means.

Regarding local commissioners' refusal to handle billing complaints, the Department has taken the firm position that commissioners must accept and examine such complaints. The Department promised to issue them a written reminder. The topic gave rise to discussions and a verbal reminder at the meeting of the Department's table of regional commissioners. However, the written reminder has yet to be issued.

## FOLLOWING UP ON THE QUÉBEC OMBUDSMAN'S RECOMMENDATIONS

In its 2009–2010 annual report, the Québec Ombudsman expressed its regret over the Department's inadequate follow-up on its recommendations: in recent years, 20 recommendations have received no response. The Department went on to provide assurance that it would officially record its commitments in an action plan that would subsequently be implemented. The Department sent the Québec Ombudsman an action plan to follow up on the recommendations in December 2010. This plan is very fitting. Certain proposed actions were carried out and satisfactorily meet user needs. Other planned solutions are appropriate but must still be applied or clarified before being implemented. The Québec Ombudsman will thoroughly monitor the steps taken so that the necessary improvements are effectively implemented. It would, however, like to emphasize the Department's excellent cooperation over the past year.

A summary of follow-up on all recommendations made to the Department can be found on page 148 of this annual report, in the "Follow-up to recommendations in the Québec Ombudsman's 2007–2008, 2008–2009, and 2009–2010 annual reports" section.

## THE QUÉBEC OMBUDSMAN'S RESPONSE TO BILLS AND DRAFT REGULATIONS

The Québec Ombudsman commented on the following:

- Bill 127, the *Act to improve the management of the health and social services network*;
- the *Regulation amending the code of ethics of physicians*.

The Québec Ombudsman's statements can be found on pages 110 and 118 of this annual report, in the "Parliamentary Watch Report" section.

The following sections present the findings from the examination of complaints received, in the following order:

- International adoption;
- Physical and intellectual disabilities and pervasive development disorders;
- Addictions;
- Troubled youth;
- Age-related loss of independence;
- Mental health;
- Physical health;
- Support.

Where applicable, these sections include the Québec Ombudsman's recommendations to the Department.

It should be noted that names of institutions have been removed to preserve anonymity, with the exception of certain cases in which the deficiencies appeared particularly serious and appalling.

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## International Adoption

The Secrétariat à l'adoption internationale falls under the Ministère de la Santé et des Services sociaux. It is responsible for coordinating international adoption activities in Québec and, in particular, assisting and counselling people who plan to adopt a child domiciled outside Québec.

### COMPLAINTS IN 2010-2011

In 2010-2011, the Québec Ombudsman received roughly the same number of complaints as the previous year. For the most part, the complaints concerned the need for applicants to be properly informed about the specifics of international adoption and the steps in the adoption process.

### CONTINUING TO IMPROVE SERVICES FOR CHILDREN AND THEIR PARENTS

In 2010-2011, the Secrétariat continued its efforts to improve the services provided to parents who adopt children domiciled outside Québec. These efforts are primarily in response to the recommendation made to the Ministère de la Santé et des Services sociaux by the Québec Ombudsman in 2008-2009 to harmonize the services provided to parents of children adopted in Québec and parents of children adopted internationally to ensure that these parents receive equivalent support, but adapted to the realities of each type of adoption.

In December 2010, the Secrétariat and its partners published a guide to international adoption entitled *Guide d'intervention en adoption internationale*, which sets out the roles and responsibilities of the partners involved in each step of the international adoption process and reaffirms the principles and rules governing the process. The guide was designed such that a follow-up committee can make amendments as international adoption practices and issues change. Although the Secrétariat

and its partners did not jointly sign the guide, despite the Department's commitment, the Québec Ombudsman is satisfied to see that the guide clearly sets out the responsibilities and functions of each player in the adoption process.

The Secrétariat also finished setting up an international adoption training program for professionals from health and social services centres (CSSSs). In 2011-2012, it plans to offer this training to professionals responsible for medical and psychosocial follow-up of adopted children and their parents.

As well, the Secrétariat continued setting up an outreach program it hopes to offer in 2011-2012 to people applying for international adoptions. In the first part of the program, the Secrétariat in cooperation with Québec youth centres, will provide general information on adopting in Québec and internationally. The second part will focus on international adoption.

The Québec Ombudsman acknowledges the efforts made by the Secrétariat and its partners to provide adoptive parents with better support during the legal and administrative procedures involved in their adoption plan. However, it questions the accessibility of specialized medical and psychosocial services for adopted children and their parents, and intends to remain vigilant with regard to these problems.

***Information not accessible to someone wanting to adopt internationally***

*In 2010-2011, a person wishing to adopt a child without going through a body certified by the Minister of Health and Social Services submitted an adoption proposal to the Secrétariat à l'adoption internationale. After studying the file, the Secrétariat refused to issue the authorization needed for the potential adoptive parent to proceed with her plan to adopt. The reasons for this decision were never explained. The Québec Ombudsman called on the Secrétariat to provide the citizen with the requested information as well as any necessary clarifications regarding the rules and assessment pertaining to the planned adoption. The Secrétariat accepted and acted on the Québec Ombudsman's recommendation and gave the complainant the necessary information.*

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## Physical Disabilities, Intellectual Disabilities and Pervasive Development Disorders

The physical disability program is aimed at people of all ages suffering from a disability that results or is likely to result in a significant and persistent motor, hearing, visual, or language impairment.

The intellectual disability and pervasive development disorder program is aimed at people in these two groups. Intellectual disability is characterized by significantly sub-average intellectual functioning and limitations in adaptive behaviour that manifest before age 18. Pervasive development disorders are specific problems that affect all areas of a person's development, i.e., cognitive, social, emotional, intellectual, sensory, and language.

These conditions can result in limitations on the affected person's lifestyle habits or ability to play a social role and, consequently, in the need for specialized rehabilitation or community inclusion support services at some point in the person's life.

## COMPLAINTS IN 2010-2011

The complaints filed with the Québec Ombudsman in 2010-2011 in relation to these two programs primarily concerned:

- wait times;
- breakdown in service continuity;
- deficiencies in residential care for vulnerable persons;
- cuts in home care support programs.

## REDUCING THE WAIT FOR SERVICES

Finding out that their child is handicapped is devastating for parents, and the diagnosis comes with a host of questions, worries, and needs. The goal of the service access plan for people with disabilities, which came into force in November 2008, is to take users and their families in hand as soon as possible after a disability is confirmed. Under the plan, individuals whose needs are deemed high priority are supposed to begin receiving services within 30 days following their registration with a health and social services centre (CSSS) and within 90 days for specialized services provided by a rehabilitation centre.

CSSSs are the portal to services, but they are not always able to respond to a request, in which case the user and his family must wait to receive the support they need—just when they need it most. The Québec Ombudsman also observed that the obligation to refer a user to a rehabilitation centre for specialized services is not always met due to time constraints. The whole access to the service system is thus paralyzed from the outset and the wait-time clock starts ticking.

### ***Tenfold increase in wait times, from 30 days to 300...***

*A father whose four-year-old son was diagnosed with a pervasive development disorder was having problems obtaining services from his CSSS (intake, needs assessment, referral to a rehabilitation centre, family assistance, and support) and filed a complaint with the Québec Ombudsman.*

*To begin with, he had to wait 75 days for the CSSS to register his son, whereas the time prescribed in the service access plan of the Ministère de la Santé et des Services sociaux is three days. When the complaint was being investigated, the child and his parents had been waiting 300 days for so-called "front-line" services, whereas the maximum wait time under the service access plan is 30 days. The "system navigator" was unable to refer them to specialized services in a rehabilitation centre because she had more than 120 user files to juggle at the same time. Consequently, the child's parents had to take multiple steps to speed up the referral process.*

*The Québec Ombudsman's investigation revealed that the CSSS did not receive the funding to deploy the access plan until a year after the government implemented it. This situation hampered the CSSS's efforts to improve its services as well as directly affected users with a*

*pervasive development disorder. The Québec Ombudsman therefore recommended that the health and social services agency concerned take the necessary means to help the rehabilitation centre fulfill its mission. The agency acted on this recommendation. It received a portion of the anticipated funding to deploy the access plan, which enabled the agency to reduce wait times, although the latter were still longer than the standard times set by the Department.*

## ENSURING SERVICE CONTINUITY

Users sometimes have to wait a long time before being referred to another service provider and receive no support while waiting, even though the purpose of local health and social services networks is to ensure access to the right service at the right time from the right institution. Nevertheless, the Québec Ombudsman noted breakdowns in service continuity, particularly during referral from one service provider to another. These breakdowns are unacceptable, penalize users and their families, and violate both the *Act respecting health services and social services* and the Department's own service access plan.

### **An endless wait**

*A three-year-old girl with a physical disability was referred to a rehabilitation centre for people with physical disabilities to get specialized services. The rehabilitation centre informed the girl's mother that she would have to wait 18 months to receive services, which is six times the 90-day wait prescribed in the access plan for children under six years of age. The mother filed a complaint with the centre and then with the Québec Ombudsman.*

*The investigation revealed that the rehabilitation centre had not offered the girl and her mother the backup measures provided for in the access plan for people with disabilities. These measures are aimed at offsetting the inability to begin providing services within the prescribed time and mitigating the impact of long waits. In the case at hand, the rehabilitation centre said it was unable to implement backup measures, and the Québec Ombudsman found that the centre was indeed facing real constraints. However, an examination of the centre's financial statements revealed a significant budget surplus. The Québec Ombudsman recommended that the surplus be used to reduce the adverse effects of long waits on users.*

*The Québec Ombudsman also recommended that:*

- *the CSSS establish an individualized service plan for the girl in order to provide her with services during the waiting period;*
- *the CSSS and the rehabilitation centre finish implementing access mechanisms binding the organizations.*

*Both the CSSS and the rehabilitation centre agreed to follow the Québec Ombudsman's recommendations.*

Users suffering from multiple problems, whether physical or mental health, for example, after an accident, and who have reduced functional independence making it hard for them to stay in their homes, can end up getting shuttled from one program or health and social services institution to another. When this happens, there is no comprehensive assessment of their needs and users do not receive the services they require.

#### ***Victim of a car accident and of poor handling of her case by public services***

*A woman was still suffering from the physical after-effects of a car accident a few years after it happened. The Société de l'assurance automobile du Québec (SAAQ) paid for private rehabilitation services for a certain period of time, after which the private agency closed the woman's file. The woman contested SAAQ's decision and the appeal process took its course. In the meantime, the woman's physician referred her to the CSSS so that she could continue receiving physiotherapy and occupational therapy treatments. The CSSS refused her request on the grounds that it did not provide the medium- and long-term services required following a head injury. The CSSS forwarded the request to the rehabilitation centre with which it had a cooperation agreement. The woman was again denied services. The rehabilitation centre explained the grounds for this decision and encouraged the woman to ask the CSSS for psychosocial assistance and a psychiatric evaluation. The woman filed a complaint with the CSSS and asked to receive the rehabilitation services prescribed by her physician.*

*During its investigation, the Québec Ombudsman found that the CSSS did not handle the request for services with enough rigour:*

- *intake, assessment and referral were handled in too cursory a manner and a biopsychosocial assessment of the individual was not conducted;*
- *an individualized service plan was not prepared;*
- *there was a lack of services for the ambulatory adult population with medium- and long-term rehabilitation needs;*
- *the dispute settlement and follow-up mechanisms provided for in the agreement binding the CSSS and the rehabilitation centre were not applied.*

*The Québec Ombudsman made recommendations aimed at rectifying the complainant's situation and improving the quality of services provided by the CSSS. The CSSS accepted all of the recommendations and implemented corrective measures in accordance with the action plan concerned.*

## **IMPROVING THE QUALITY OF RESIDENTIAL SERVICES FOR VULNERABLE PERSONS IN SOME REHABILITATION CENTRES**

The mission of rehabilitation centres for people with intellectual disabilities and pervasive development disorders is to improve their clients' autonomy and community participation in order to improve their quality of life. The residential services provided by rehabilitation centres are a crucial lever for fulfilling this mission. However, residents of these centres, especially the most socially isolated ones, sometimes suffer in silence when their rights under the *Act respecting health services and social services* and, in the most serious cases, their integrity and fundamental rights, are violated.

There were serious breaches during the year in the quality of residential services provided by some residential resources under contract with rehabilitation centres for people with intellectual disabilities and pervasive development disorders. Following these revelations, the Agence de la santé et des services sociaux de Montréal placed the Centre de réadaptation en déficience intellectuelle Lisette-Dupras under interim administration in spring 2010, at the centre's request and on the Minister of Health and Social Services' recommendation. During the summer, the same agency also decided to extend assessment of the quality of residential services to all rehabilitation centres for intellectual disabilities and pervasive development disorders within its territory. Concurrently, the Québec Ombudsman was investigating, on its own initiative, Miriam Home and Services following a report of negligence in one of its intermediate resources.

In the wake of these events, the Québec Ombudsman set up an oversight mechanism to monitor the quality of services in noninstitutional resources providing lodging for people with intellectual disabilities and pervasive development disorders. The information gathered during this monitoring exercise and the action taken by the Québec Ombudsman with regard to Miriam Home and Services is worrisome. An extreme violation of a person's rights and integrity can only occur and continue over time if there are serious failings in an institution's residential programs. Some of them struggle to manage their residential program according to departmental standards. The cited program failures had serious consequences for the rights of certain users.

#### ***Extreme negligence***

*A person informed the Québec Ombudsman of what he felt was a case of extreme negligence in an intermediate resource under contract with Miriam Home and Services. The resource had six severely disabled residents. Based on the evidence, the Québec Ombudsman visited the resource unannounced and found that there was indeed serious negligence. Following the visit, the Québec Ombudsman made a number of recommendations to the rehabilitation centre, including:*

- *suspending the intermediate resource's operations;*
- *moving the users to another resource while the centre conducted an administrative investigation;*
- *assessing the residents' state of health.*

*The rehabilitation centre took swift action to implement all of the recommendations.*

*An in-depth investigation by the Québec Ombudsman revealed a number of failings in the rehabilitation centre's residential program in terms of compliance with departmental standards for noninstitutional residential resources.*

*The action taken by the Québec Ombudsman put an end to the unacceptable negligence suffered by the six users concerned. The intermediate resource shut down and its residents were moved to suitable resources. Since then, the Québec Ombudsman has observed an improvement in the organization and operation of the rehabilitation centre's residential program, which should translate into compliance with the departmental standards for residential resources as well as users.*

The fact that the Lisette-Dupras and Miriam rehabilitation centres were visited during the Department's service-quality assessment in 2007 raises questions about the efficacy of assessment visits. The Department claims that "quality assessment visits are one of the tools used by the Minister of Health and Social Services to ensure that every person who lives in a substitute living environment that is associated with or part of the public system receives adequate services and has a quality physical environment." Although the purpose of assessment visits is not to identify inadequate residential resources, but rather to evaluate users' quality of life and compliance with the Department's policy directions, the Québec Ombudsman found that these rehabilitation centres did not meet the objectives of the quality assessment program. Three years after the Department's assessment teams conducted their visits, the Agence de la santé et des services sociaux de Montréal and the Québec Ombudsman noted that violations of the right to integrity of the person of users under the responsibility of these rehabilitation centres had been going on for years. While the centres and management of their residential programs may be responsible for the observed failures, how should the quality assessment program help prevent and correct these situations?

## RECOMMENDATIONS

WHEREAS ensuring adequate delivery of services implies conducting activities that enable the Department to identify and rectify problems;

WHEREAS the quality assessment program advocates notifying intermediate and family-type resources that they will be visited and allowing them to refuse such visits, and that this inhibits assessment teams' ability to evaluate the true quality of services;

WHEREAS assessment visits are conducted within a very short time (total 24-48 hours for all visits), and that this inhibits the teams' ability to make a thorough assessment;

WHEREAS the teams that visit resources do not have all of the tools needed to obtain information that would be helpful to their assessment, in particular, information protected under the *Act respecting Access to documents held by public bodies and the Protection of personal information*;

The Québec Ombudsman recommends that the Ministère de la Santé et des Services sociaux:

- amend its quality assessment program such that visits to intermediate and family-type resources make it possible to ensure that every resident in a substitute living environment that is associated with or part of the public system receives suitable services and enjoys a quality physical environment;
- submit an action plan to that end to the Québec Ombudsman no later than December 31, 2011.

## DEPARTMENT'S REMARKS

"Steps are being taken to optimize the visits conducted under the Department's certification assessment program. The existing assessment tools and processes will be revised and enhanced with a view to continuous improvement of the care and services provided to people living in residential resources.

“The Department will continue to conduct visits to rehabilitation centres in order to assess the deployment of the *Milieu de vie* (living environment) approach in intermediate and family-type resources. The presence and maintenance of safe, quality living environments in facilities housing vulnerable persons remains a constant priority for the Department, and visiting resources is a preferred means of ensuring this objective is attained. Monitoring implementation of this recommendation will be part of the departmental action plan that will be sent to you no later than December 31, 2011.”

## ENSURING ACCESS TO HOME CARE SUPPORT SERVICES AND SERVICE CONTINUITY

In the wake of the process to harmonize practices, health and social services institutions, in conjunction with the regional agencies, updated several programs and normative frameworks, particularly as regards in-home care. Several regions developed tools to ensure equitable allocation of services, which, unfortunately, are sometimes applied too rigidly and thus leave little room for the professional judgment needed to handle complex situations. Also, the support of a family caregiver is often taken for granted without verifying if the person actually has the availability and capacity to meet the needs of the person cared for. Consequently, users determined through a professional assessment to be suffering from a significant loss of autonomy sometimes have their services cut because they are living with a spouse, or because their condition does not match a disability rating provided for in the normative framework. For example, the CSSS reviewed its needs assessment criteria for home care support services with the result being that numerous users lost services they had been receiving prior to the review. The Québec Ombudsman launched a systemic investigation into the matter.

### *From eight hours of support a week to 14 hours a year!*

*A woman lost her sight and had neurological after-effects further to a series of strokes. Although she was eventually able to regain enough autonomy to perform activities of daily living and domestic activities of daily living in her home, she could not go out without an attendant. After the new criteria under the normative framework took effect, the woman saw the number of hours of home care support she received reduced from eight hours a week to 14 hours a year! She lost the attendant care services she had prior to the change and thus found herself confined to her home. In her complaint to the Québec Ombudsman, she decried the lack of information provided during the reassessment of her service plan and the lack of assistance in finding alternative resources. The woman also lamented the lack of transparency in the process. The Québec Ombudsman recommended that her needs be reassessed and that she get back her attendant care services if no alternative resources were available. The CSSS agreed to review the user's genuine needs and take the necessary steps to meet them.*

## FOLLOWING UP ON THE QUÉBEC OMBUDSMAN'S RECOMMENDATIONS

Last year, the Québec Ombudsman made three recommendations to the Department with respect to its programs of services for people with physical disabilities and people with intellectual disabilities and pervasive development disorders:

- a recommendation to gradually reduce the waiting lists existing prior to the implementation of the service access plan for people with disabilities;
- a recommendation to improve guidelines respecting additional delays that occur after the "start of services" (*début des services*) within the meaning of the access plan;
- a recommendation for the Department to more clearly define "first service" (*premier service*) so that it corresponds to the priority need for which the user must receive services from a rehabilitation centre.

Only the first recommendation was implemented to the Québec Ombudsman's satisfaction. The Québec Ombudsman remains in constant contact with the Department to make sure it acts on the last two recommendations.

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## Addictions

The purpose of the addiction treatment program is to meet the needs of those suffering from alcoholism, drug addiction, compulsive gambling, or Internet addiction. It includes rehabilitation, detoxification, and social reintegration services for these people and services for their families and close circle.

### COMPLAINTS IN 2010-2011

This section of the annual report covers an area of jurisdiction new to the Québec Ombudsman. In February 2010, the *Act respecting health services and social services* was amended to make certification mandatory for certain community or private resources offering lodging in private residences for persons suffering from drug addiction or compulsive gambling. More specifically, the *Regulation respecting the certification of drug addiction or pathological gambling resources*, passed in July 2010, extends the Québec Ombudsman's field of intervention to cover drug addiction or compulsive gambling resources, whether certified or not, that meet the following definition (from the Regulation): "Such a resource is a place that offers residential services and support services of various kinds, including therapy, social reintegration, assistance and support in recovering from an intoxication, and assistance and support in disintoxication, through individual or group interventions in the field of drug addiction or pathological gambling."

### A NEW AREA OF RESPONSIBILITY: SEVERAL INVESTIGATIONS ALREADY UNDERWAY

As soon as the Québec Ombudsman was assigned this responsibility, it began to receive complaints and reports concerning the quality of care, services, and lodging in certain private resources specialized in addiction treatment. Since then, various investigations have been undertaken, and the Québec Ombudsman intends to be proactive with regard to this type of residence. It will comment on its initiatives in next year's annual report.

## Troubled Youth

The Troubled Youth program consists of services for children and adolescents with developmental, behavioural, or social adjustment problems. The program is also intended for youth who need appropriate assistance to ensure their safety and development or to make sure it is not threatened or compromised. Troubled Youth also includes services for the families of these young people as well as specialized services such as adoption, placement, and social rehabilitation.

### COMPLAINTS IN 2010-2011

In 2010-2011, the number of complaints to the Québec Ombudsman concerning the Troubled Youth program was the same as the previous year. The grounds were also the same, namely:

- the intervention of youth centre staff in responding to the reporting of events ("signalement") and in monitoring individualized service plans for children and their parents;
- non-compliance with the measures agreed to by directors of youth protection and parents or ordered by the courts;
- the quality of services provided to children in residential centres and to their parents;
- the regulatory limits on parents' financial contribution while their child is placed;
- the coordination and complementarity of family interventions between institutions.

#### *Lack of information during a critical period*

*A parent complained to the Québec Ombudsman about the scarce information he received when his child was placed in a rehabilitation centre. The Québec Ombudsman showed how important it is in such situations for the child and his parents to be given a description of the rehabilitation measures taken and the steps leading up to discharge. As a result of the Québec Ombudsman's recommendation, the rehabilitation centre revised its intake program to provide those concerned with all necessary information pertaining to in-house rules and the rehabilitation process.*

#### *Billing of unused services and a questionable concept of equity*

*When an adolescent was placed in a foster family, the youth centre and the parents agreed that he would live with his grandparents temporarily. This measure proved to be clinically sound and beneficial to the teen's development. However, the parents had to continue paying a financial contribution to the youth centre for their son's placement and were not credited for the days he spent at his grandparents' home.*

*The investigation completed, the Québec Ombudsman remains concerned about the limits imposed by the Regulation respecting the application of the Act respecting health services and social services. Systemic action is underway to address problems of equity stemming from the Regulation and the necessary corrective measures.*

## TIGHTENING THE SAFETY NET TO PROTECT INFANTS AND TODDLERS

In 2010-2011, the Québec Ombudsman concluded an investigation on the services provided to three families and their young children by youth centres and CSSSs in three regions. Two children under age two died and a third in the same age group suffered serious consequences as a result of trauma. While the dedication of the caseworkers cannot be disputed, the Québec Ombudsman observed problems with service coordination and continuity in ensuring maximum protection of the children. Furthermore, access to resources for parents who have an addiction is wanting.

At the end of its investigation, the Québec Ombudsman made recommendations to the six institutions concerned. The recommendations are aimed at:

- developing, if not strengthening, collaboration among institutions in assessing potential risk situations;
- fostering the use of specialized services for parents in difficulty;
- improving interventions carried out singly or jointly by the region's institutions by conducting non-partisan case reviews following tragic events.

Afterwards, the Québec Ombudsman filed a report with the Ministère de la Santé et des Services sociaux highlighting what can be learned from these situations. The report's recommendations concern continuous improvement of the services provided by institutions in every region of Québec to children born into or living in a situation of vulnerability or neglect. More specifically, they concern:

- the ties and collaboration between CSSS staff and youth centre staff;
- the staff's use of validated clinical tools in assessing the level of risk to which infants and toddlers are exposed;
- the availability of specialized services for parents grappling with addiction.

The Québec Ombudsman is happy to report that the Department and the institutions concerned accepted and implemented almost all of its recommendations.

To learn more, see the Québec Ombudsman's special report  
[www.protecteurducitoyen.qc.ca](http://www.protecteurducitoyen.qc.ca), under the "Cases and Documentation" tab.

## Age-Related Loss of Independence

The Age-Related Loss of Independence program includes all services designed for those who have lost independence and for their families. The loss of independence must be related to age, regardless of cause: loss of functional autonomy, cognitive problems like Alzheimer's disease, or chronic illnesses. Certain services are provided in the home, others at an institution. They aim to compensate for these individuals' deterioration in health, build on their remaining potential, and ensure a safe living environment.

### COMPLAINTS IN 2010–2011

In 2010–2011, there was a significant increase—from 200 to 250—in the number of complaints and reports received by the Québec Ombudsman concerning the various residential resources. The complaints highlight problems related to the quality of services and care in public and private institutions alike. Certain private residences for seniors have trouble providing a pleasant and warm living environment that fosters a feeling of safety and belonging. Communication and residents' involvement in the living environment are often neglected in favour of a management style that focuses more on property administration than on seniors and their characteristics.

### BETTER ACCOMMODATING THE NEEDS EXPRESSED BY NON-PROFIT HOUSING RESIDENTS

Private seniors' residences managed by non-profit housing agencies are the product of a cooperative effort by municipalities and the government to offer seniors affordable and safe housing options, including a relatively broad range of services, one of which is meals. These residences accommodate low- and modest-income seniors who are independent or slightly dependent. Such residences are managed by a board of directors that is composed of volunteers and that must include a certain number of residents.

#### ***Management ill-suited to seniors' needs***

*The Québec Ombudsman received a report about major dissatisfaction on the part of a number of residents of a non-profit residence over food service, the fact that there were no residents on the board of directors, and managers' lack of respect and unwillingness to listen to residents.*

*In order to hear the different versions of the facts, the Québec Ombudsman's investigation included meetings with dozens of residents, the executive director, the members of the board of directors, as well as a number of outside parties, including representatives from the Société d'habitation du Québec and the relevant health and social services agency. These two agencies were called upon to help research possible solutions for improving service quality at the residence based on the Québec Ombudsman's recommendations.*

The Québec Ombudsman's investigation confirmed the following:

- resident participation in life at the residence was not promoted;
- there were no residents on the board of directors;
- there was no forum for residents to express themselves;
- recurrent problems were adversely affecting relations and communication between residents and management.

The Québec Ombudsman made a number of recommendations, which were all accepted. More specifically, they concerned the following:

- use of a consulting process to facilitate the adoption of best management practices for a senior residence by the board and management;
- identification, in a code of conduct, of the desired attitudes and behaviour for administrators and managers in their relations with residents, as well as enforcement measures;
- implementation of measures to promote the dissemination of information to residents as well as their participation on the board of directors and involvement in organizing their living environment;
- use of a nutritionist to ensure the quality of resident food services;
- amendment of the complaint management process.

As at March 31, 2011, a number of recommendations had been implemented to the Québec Ombudsman's satisfaction: a code of conduct had been developed, residents had been elected to the board of directors, a residents' committee had been formed, a monthly internal newsletter had been published, and a nutritionist's evaluation report on the quality of food services had been received.

Improvements that must still be made include having the nutritionist monitor the food service, amending the internal complaint management process, and undertaking a consultation process with managers to develop suitable management practices for the senior residence.

The Québec Ombudsman is closely following the residence's implementation of its recommendations.

## MONITORING SERVICE AND LIVING ENVIRONMENT QUALITY

The Québec Ombudsman requested that the Ministère de la Santé et des Services sociaux adapt services to the needs of a resident under curatorship.

### *Inappropriate resources for an elderly person under curatorship*

The Curateur public represented a 73-year-old man living in a health institution whose services had not suited his condition for four years. The man had mental health issues, had lost independence, and presented mild mental retardation. He was excluded from existing health and social services network programs for specific populations because he never fully met the established admissions and priority criteria in his area of residence.

*To expedite this man's case and provide him with appropriate resources, the Curateur public took a series of steps for which it solicited the Québec Ombudsman's assistance. In response to this intervention, the health and social services network designated the man's situation a priority, which entitled him to be transferred to the appropriate institution as soon as space became available.*

## INCREASING SAFETY MEASURES BASED ON SENIOR CLIENTELE VULNERABILITY

Every year, injuries and even deaths occur due to exposure to overly hot water. According to the Institut national de santé publique du Québec:

- such burns have caused 17 individuals, most of whom were 65 or older, to die in 2000–2007;
- 81 individuals, nearly 40% of whom were 65 or older, were hospitalized for this type of burn during the same period.

Studies show that the risk of hot water burns increases significantly with vulnerable persons: children, the elderly, and those with physical or mental disabilities. The risk is higher because their skin is fragile or because, when they find themselves in a dangerous situation, they have more difficulty escaping it.

The only standards and requirements related to hot water temperature are found in Québec's construction and plumbing codes. These regulations, which are implemented by the Régie du bâtiment du Québec, stipulate that the temperature of water leaving the faucet must never exceed 49°C. However, this requirement only applies to new buildings, which excludes any structure built before 1995. A number of residential and long-term care centres (CHSLDs) are therefore not subject to these standards and requirements.

A working committee was set up to prepare a draft regulation to impose maximum hot water temperatures. The primary goal of the regulation would be to minimize the risk of burns in health institutions, particularly those that accommodate vulnerable populations. The committee is made up of representatives from the Department, the Corporation d'hébergement du Québec, the Institut national de santé publique du Québec, the Corporation des maîtres mécaniciens en tuyauterie du Québec, and the Regroupement québécois des résidences pour aînés. Although the Québec Ombudsman recognizes the value of this initiative, it is still concerned about the situation and plans to devote its full attention to this committee's work and the general progress of the situation, which it would like to see accelerated for the purposes of prevention. Once the regulation is published, it will analyze the wording and make any recommendations it deems necessary.

### ***A death due to very hot water exposure***

*A 94-year-old resident of a residential and long-term care centre lost his balance in the bathroom and fell into the empty bathtub. He grabbed one of the faucets and involuntarily turned on the hot water. Since he was unable to get out of the bathtub or shut off the faucet, he suffered second-degree burns. Following this, he was transferred to a hospital burn unit, where he died six days later. This was the second death due to the same cause in under two years at this institution.*

*The Québec Ombudsman's intervention led to 15 recommendations that were all accepted by the various institutions concerned:*

- *the CHSLD implemented measures to ensure that water temperatures did not exceed 40°C at any faucet accessible to residents;*
- *the health and social services agency asked all residential and long-term care centres in its area—while awaiting specific regulations—to take the necessary measures to immediately limit water temperatures to 43°C and provide it with an attestation completed by a recognized professional;*
- *the Department had to take measures to enact the standards or regulations that will impose water temperature limits to prevent burns in the residential and long-term care centres not subject to the standards that apply to new buildings*

*The Québec Ombudsman notes that as at March 31, 2011, these last measures had not yet been announced by the Department.*

## FOLLOWING UP ON THE QUÉBEC OMBUDSMAN'S RECOMMENDATIONS

Once again this year, the Québec Ombudsman is seeking follow-up on the recommendations it made to the Department in its 2007–2008, 2008–2009, and 2009–2010 reports. These concerned the development of quality standards for the delivery of care and services to residents as well as the implementation of departmental guidelines for quality living environments for CHSLDs. The Department has said it is working on revising long-term residential service offerings, and the Québec Ombudsman will keep a close watch in order to analyze the impact of the changes on citizens.

In its past reports, the Québec Ombudsman has also raised the need to design a mechanism for assessing the quality of services provided in private seniors' residences. It has also emphasized time frames for completing the certification process. On this topic, the Department informed the Québec Ombudsman that it had begun amending the *Regulation respecting the conditions for obtaining a certificate of compliance for a residence for the elderly* and that the proposed changes should meet the recommendations. The Québec Ombudsman welcomes this initiative but remains very intent on ensuring that the amended regulation preserves the rights and protective mechanisms that seniors living in such residential environments currently enjoy.

With regard to the process of certification and the amendment of the *Regulation respecting the conditions for obtaining a certificate of compliance for a residence for the elderly*, the Québec Ombudsman intends to stay vigilant so that:

- the protection of vulnerable seniors remains central to these changes;
- seniors, especially those living in residences subject to the certification process on March 31, 2011, do not lose any rights they currently enjoy, in particular, access to complaint mechanisms.

## Mental Health

The Mental Health program is designed to provide an appropriate response to the needs of the mentally ill and see that they receive the right kind of attention, regardless of the intensity or duration of their problems. First-, second-, and third-line care teams are responsible for providing and coordinating care and services. The work must necessarily be carried out in partnership with those who require these services, their loved ones, as well as community organizations in some cases.

### COMPLAINTS IN 2010–2011

Over the years, the majority of the complaints received by the Québec Ombudsman have demonstrated that the rights of mental health patients remain poorly understood and the rules governing respect of these rights are applied inconsistently by those responsible.

In 2010–2011, the Québec Ombudsman, in addition to dealing with individual complaints, took action on a systemic level to correct problems affecting the entire mental health system. It also conducted extensive follow-up of its recommendations with the Ministère de la Santé et des Services sociaux regarding control measures, specifically, the use of isolation and restraint by institutions. Two special reports were produced on two aspects of the problem:

- application of the *Act respecting the protection of persons whose mental state presents a danger to themselves or to others*;
- detainees with mental health problems.

### INFORMING DYING PATIENTS' RELATIVES

Some mental health patients are treated in short-term care units. Others are housed in the long-term care units of institutions or so-called noninstitutional resource accommodations. The staff of such institutions is not always up-to-date on palliative care practices. Sometimes staff fails to provide appropriate information to patients and their loved ones.

#### ***Who is responsible: the Curateur public or the hospital?***

*An unfit individual represented by the Curateur public had lived for many years in the long-term care unit of a hospital. This person's cousin contacted the Québec Ombudsman to complain that she was not informed of her cousin's condition and subsequent decease. She was, however, well known to the care unit staff, visited regularly, kept up-to-date on the patient's condition, and had provided contact information to the institution so staff could reach her if necessary.*

*The Québec Ombudsman's investigation found that it was the responsibility of hospital staff to inform the family or contact person of a patient's death, even if the patient was represented by the Curateur public, as specified in the Curateur public's reference guide (Guide de référence du Curateur public à l'intention des personnes-ressources du réseau de la santé et des services*

sociaux). This was not done because the hospital thought it was the responsibility of the Curateur public. The Québec Ombudsman recommended that a policy be established to designate staff members responsible for notifying the family of the death of a family member, whether the patient is represented by the Curateur public or not.

The hospital was open to the recommendation and agreed to review its policy regarding patients in long-term care and noninstitutional resource accommodations connected to it. This process will ensure that information is provided at the appropriate time. The institution is also working with the Curateur public to share information should important events arise involving hospital patients represented by the Curateur public. The hospital has agreed to inform the Québec Ombudsman of the outcome of these discussions.

## BEING VIGILANT ABOUT BASIC HUMAN RIGHTS

The rights of those treated in mental health institutions are of particular concern to the Québec Ombudsman. Like everyone else, these patients have the right to:

- be informed about and consent freely to care offered;
- choose the institution in which and the physician from whom they receive care;
- decide, except in certain cases, to leave the institution if they so wish.

When institutions wish to make an exception to these rights, they must do so under the law. In the last year, the Québec Ombudsman has often had to recommend to institutions that they review their practices in this area.

### *Violation of the rights of an individual admitted involuntarily*

*On police request, ambulance attendants brought an individual to a hospital where she was held against her will for close to three weeks. During this time, the protective confinement process was not adhered to as specified by the law. The patient clearly expressed her desire to leave the hospital.*

*On investigation, the Québec Ombudsman found that the individual did not understand why she was being held in the institution and that the notes in her file made no mention of her being informed of her protective confinement. Another disturbing fact was that several times during her hospital stay, she was forced to bargain for her personal clothing after refusing to take her medications. In the first four months she spent in hospital, she was only allowed to go outside for brief walks three times, the institution citing a shortage of staff.*

*The Québec Ombudsman recommended that the institution establish concrete measures to safeguard the rights of patients, including:*

- a reminder to staff of their responsibilities in this area;
- training sessions;
- measures to ensure that current laws and standards are strictly applied;
- a review of the institution's code of ethics.

## FOLLOW-UP TO THE QUÉBEC OMBUDSMAN'S SPECIAL REPORT

In February 2011, the Québec Ombudsman submitted a special report to the Minister of Health and Social Services on problems with the application of the *Act respecting the protection of persons whose mental state presents a danger to themselves or to others*. Under certain conditions, this law allows for individuals to be confined involuntarily in a health and social services institution.

The Québec Ombudsman's report indicates various problems and recommends possible ways to address them, including:

- amendments to legislation;
- departmental guidelines to improve the legal framework relating to confinement;
- strict accountability for everything done in virtue of the act;
- development and establishment of a national training program.

The Department indicated its agreement in spirit with the recommendations of the Québec Ombudsman's report, making essentially the same observations in its own report on the question, which appeared shortly after. The Québec Ombudsman will pay close attention to the follow-up given to these two reports.

To learn more, see the Québec Ombudsman's special report [www.protecteurducitoyen.qc.ca](http://www.protecteurducitoyen.qc.ca), under the "Cases and Documentation" tab.

## INTERVENING APPROPRIATELY WITH PERSONS IN CUSTODY WHO HAVE MENTAL HEALTH PROBLEMS

This year, the Québec Ombudsman produced a special report on the services for detainees with mental health problems. This report is posted on the Québec Ombudsman's website ([www.protecteurducitoyen.qc.ca](http://www.protecteurducitoyen.qc.ca)), under the "Cases and Documentation" tab. It is also discussed on page 48 of this annual report, in the "Ministère de la Sécurité publique – Correctional Services" section.

## FOLLOWING UP ON THE QUÉBEC OMBUDSMAN'S RECOMMENDATIONS

In previous years, the Québec Ombudsman has made a number of recommendations to the Department regarding the mental health program, particularly on control measures. The Québec Ombudsman is carefully watching the Department's follow-up to these recommendations, which may concern all segments of the public—not only those with mental health problems.

## Physical Health

The Physical Health program consists of the care and services delivered by hospitals, both for ambulatory and short-term care, as well as the in-home care and support services provided to people who cannot get out. The program also includes the palliative care and services provided to users who require continuous care.

### COMPLAINTS IN 2010-2011

A large percentage of the complaints filed with the Québec Ombudsman in 2010-2011 concerned wait times and the referral of users assigned a priority level of 4 or 5 to other service providers. The Québec Ombudsman also found that users referred to clinics with which the institution has affiliation agreements do not receive enough information. This practice compromises users' ability to make a free and informed choice as to the resource.

### FULFILLING DEPARTMENTAL COMMITMENTS AND INSTITUTIONAL MISSIONS

The Ministère de la Santé et des Services sociaux uses policy directions, protocols, action plans, terms of reference, directives, guidelines, and circulars to inform institutions how care and services are to be delivered throughout the territory of Québec. The Québec Ombudsman examines these documents in detail as soon as they are published. As a rule, they are intended to improve coordination and harmonization of the various activities while promoting justice and fairness. However, the case studies presented below illustrate failures to fulfill departmental commitments and the basic missions of the institutions in question.

#### ***Budgetary considerations versus users' needs***

*A person receiving in-home care from a local community services centre (CLSC) under the regional oxygen therapy program complained to the Québec Ombudsman about the CLSC's refusal to provide her with a sufficient supply of ambulatory oxygen (filling of tanks).*

*The Québec Ombudsman's investigation revealed that the CLSC filled the user's oxygen tanks to provide up to 20 hours of oxygen per month. Given that it already provided the user with the fixed maximum, the CLSC did not reassess the person's needs. It based this decision on the fact that it has a closed budget and, therefore, no leeway, and cannot give anyone special treatment.*

*The Québec Ombudsman concluded that the CLSC failed to comply with the Department's policy directions requiring that needs be assessed at least once a year, according to the frequency fixed in the medical criteria. Furthermore, the CLSC did not comply with the home care support policy, which provides that the needs of all persons with a significant and persistent disability, as well as those of their caregivers, must be reassessed as needed or at least once a year.*

*The Québec Ombudsman deemed that a comprehensive needs assessment is required in order to ensure that users receive the equipment and supplies they need to live. It recommended that the CLSC conduct such an assessment and establish a personalized intervention plan tailored to the user's situation. The CLSC followed this recommendation.*

#### ***A decision that ignores the user's special circumstances***

*A CLSC informed a citizen that the number of catheters supplied to him was being reduced from nine to four a day. This was an administrative decision that would apply for four years. However, the attending physician kept the initial prescription of nine sterile catheters a day.*

*The citizen has been a paraplegic since 1976 and a quadriplegic since 1997. He works and handles all his own care. It is important that he continue receiving the same number of sterile catheters; otherwise, the risk of infection is liable to increase. In this case, the CLSC's decision did not take the citizen's special circumstances into account or the consequences for his independence and health.*

*The Québec Ombudsman deemed that, despite the CLSC's tight budgetary constraints, it is vital that decisions regarding the granting of material aid be made in a manner that ensures a person's quality of life and meets the person's needs. Moreover, this principle is explicitly set forth in the Department's policies and programs.*

*The Québec Ombudsman recommended that the CLSC assess all of the person's needs and avoid the adverse consequences of such a decision for the person's health and ability to continue working.*

*The CLSC reviewed its decision and admitted that it should have taken clinical aspects, not just financial aspects, into account.*

### **SOLVING PROBLEMS WITH ACCESS TO REHABILITATION SERVICES**

Systemic problems with access to rehabilitation services have existed for years. Back in 2006, the Québec Ombudsman recommended that the Department start exploring means for providing users with services that are commensurate with their actual needs, irrespective of the plan that reimburses the cost of these services. The Québec Ombudsman underscored the fact that the coexistence of the hospital insurance plan and other public insurance plans, in particular those administered by the Société de l'assurance automobile du Québec (SAAQ) and the Commission de la santé et de la sécurité du travail (CSST), has an impact on the delivery of rehabilitation services. Indeed, whereas people who benefit from the plans administered by CSST and SAAQ can obtain services from private clinics or hospitals pursuant to service agreements, other users cannot. The Québec Ombudsman concluded that a percentage of the population, in particular people who go to outpatient clinics for care, suffer a form of inequity. In addition, it was also concerned that access to non-emergency hip and knee surgery would result in an increase in demand for rehabilitation services in the public network. It also recommended that the minister, in conjunction with the parties concerned, develop an action plan to address the problems with access to rehabilitation services.

Five years later, all of these problems continue to exist. The Québec Ombudsman still receives complaints from people who wait months, if not years, for physiotherapy treatments or an audiological evaluation. Healthcare institutions advise people to seek services from the private sector, but not everyone has the means to do so. Institutions blame their inability to hire enough professional resources and specialists on budgetary constraints. The recommendations made by the Québec Ombudsman in 2006 regarding equitable treatment of users and access to rehabilitation services still hold today.

### ***Prolonged wait for unlikely treatment***

*A person waited five years to receive physiotherapy services from a hospital. Her case was deemed to be “semi-urgent.” In 2010, she contacted the service quality and complaints commissioner and was told that there were nearly 600 people on the waiting list and that only people whose condition is deemed an emergency or who are referred to physiotherapy services by CSST receive treatment (under an agreement, beneficiaries must be seen within five days). The commissioner also said that he had received other complaints about the same thing and told the person that in all likelihood she would never receive physiotherapy treatments from the hospital.*

## **SHOWING EMPATHY TO A DYING PATIENT’S LOVED ONES**

When a loved one is in hospital and it becomes clear that the person will not get better and is about to die, family members are suddenly overwhelmed with feelings of helplessness. They rely on hospital staff to tell them what to do. Unfortunately, however, the support and empathy they need are not always there.

### ***Shortage of services and lack of supportive care and attention***

*A woman filed a complaint with the Québec Ombudsman after her husband died in hospital. She was at her husband’s bedside throughout his hospitalization and even tended to his personal hygiene herself.*

*However, following a bacteria outbreak in the unit the man was in, the hospital put the patients into isolation and closed the unit to visitors without considering the special circumstances of a dying patient’s loved ones.*

*The Québec Ombudsman took the matter up with the hospital and the hospital acknowledged that it had failed to follow its own protocols. To prevent the same thing from happening again, the authorities tightened the enforcement of its protocols. In particular:*

- when a care unit is closed to protect both patients and visitors from infection, family members are allowed to start visiting dying patients again as soon as possible, while taking the necessary additional precautions;*
- if a patient’s condition changes, the advisability of allowing visitors even though the unit is closed is systematically evaluated.*

*The same complaint raised another major problem. Up until the isolation, the man’s wife had been tending to his personal hygiene, virtually the only care he would accept. During the time the unit was closed to visitors, the hospital staff never succeeded in tending to the man’s personal hygiene and ended up having to ask his wife to come in despite the isolation order. Seeing the deplorable condition her husband was in, the woman complained that the hospital had waited too long before calling her. Deeming that the patient’s needs had not been properly assessed and that the situation was unacceptable, the Québec Ombudsman made recommendations to the hospital to make sure this kind of thing does not happen again.*

*The hospital accepted the recommendations and all of the employees concerned received the necessary training.*

### ***Lack of services and empathy during end-of-life palliative care***

*A son complained to the Québec Ombudsman about the lack of empathy and supportive care his father had received from hospital staff. His father should have received end-of-life care even if he was in a short-term care unit. The evening before he died, the man went into convulsions. Despite the son's repeated calls for help, no one came to his aid or even explained what was happening. When his father died, the son was left alone and got no sympathy from the hospital staff.*

*The Québec Ombudsman noted that the staff working in this care unit did not seem to consider the following:*

- *the patient's condition was getting much worse;*
- *the care administered should have been adjusted to his worsening condition;*
- *a different approach should have been adopted, i.e., end-of-life care.*

*In addition, the facts show a lack of coordination between the different teams, which should have ensured continuity in care.*

*After submitting its findings, the Québec Ombudsman noted changes:*

- *the hospital introduced an approach to palliative care along with various strategies to enable families to be with their loved one with complete peace of mind;*
- *two private rooms in the short-term care unit were set up and reserved exclusively for end-of-life care. A semi-private room was also used first and foremost for this type of care;*
- *a palliative care service coordinator was hired, with the mandate to raise employee awareness about the need to adapt their practices in these specific cases;*
- *staff received training;*
- *new clinical tools to monitor palliative care patients will be introduced soon.*

## **ENSURING QUALITY CARE AND SERVICES**

The complaint described below highlights significant failures, particularly in nursing care.

### ***Poor care resulting in a tragic outcome***

*A man turned to the Québec Ombudsman when his wife died after giving birth to their third child. The complainant felt that his wife's life could have been saved if the hospital had been more responsible. He decried the lack of planning of nursing care, the lack of consistency and continuity in services, and the lack of information received.*

*The Québec Ombudsman's investigation revealed that nursing best practices were indeed not followed. The hospital officials have since given the Québec Ombudsman guarantees that the stringent measures put in place to ensure safety and quality care for mothers and newborns will be complied with, in particular measures dealing with nurses' training, professional support and coaching, and work organization.*

The users' rights enshrined in the *Act respecting health services and social services* are not always respected.

***Failure to listen to a family member***

*An elderly woman went to a hospital emergency room alone. Her daughter arrived shortly thereafter and wanted to speak to the triage nurse to make sure that her mother had given them all the necessary information regarding her case. The nurse refused to speak to the daughter, preventing the latter from being able to help her mother, who has Alzheimer's disease.*

*Following an investigation, the Québec Ombudsman recommended that the hospital give greater consideration to the special needs of the elderly and to the legitimate desire of family members to assist them, as stipulated in the hospital's code of ethics. As at March 31, 2011, the Québec Ombudsman was still waiting to see if the hospital had followed its recommendation.*

## **FOLLOWING UP ON THE QUÉBEC OMBUDSMAN'S RECOMMENDATIONS**

The Québec Ombudsman has made a number of recommendations to the Department in the last few years, in particular regarding wait times in hospital emergency rooms. The Department responded to the Ombudsman's recommendations by introducing measures to provide front-line services elsewhere than in hospital emergency rooms to users in need of less urgent care (priority level 4 or 5). The Québec Ombudsman was pleased with the different means taken by the Department to reduce wait times. It is keeping a close watch to ensure solutions are effectively implemented.

The Québec Ombudsman also drew the Department's attention to the issue of end-of-life care, stressing the need to implement the End-of-Life Palliative Care Policy, particularly as regards employee training. The Québec Ombudsman is especially concerned about services that must be provided to users and their loved ones who go through these critical times outside of palliative care units, that is, in any other unit where death occurs. The Department accepted and promised to strive to implement this recommendation.

## Support

Support programs include administrative activities and those that assist with the delivery of services to clientele in all institutions that are part of the health and social services network. These programs concern the general management of institutions, administration of technical services, and management of the physical environment and equipment.

### COMPLAINTS IN 2010–2011

Complaints submitted to the Québec Ombudsman in 2010–2011 concerned room rates and fees for equipment used for therapeutic purposes in hospitals, among others.

### HARMONIZING THE APPLICATION OF BILLING STANDARDS

The Ministère de la Santé et des Services sociaux regulation and circular on hospital-room billing stipulates that private or semi-private rooms in intensive care are billed when patients make their room selection at the time of admission and occupy that room type before being transferred to intensive care.

Some patients received hospital bills for occupying a private room in intensive care after being transferred directly from the emergency room to that unit. It was only after the transfer that their representatives went to admissions and signed a form to select a private room. In such circumstances, the Québec Ombudsman believes that patients should not be billed for a private room for their stay in intensive care.

Another patient received a bill from the same hospital for her occupancy of a private room in intensive care. She had requested admission to a private room but was staying in a semi-private room when she was transferred to intensive care. The Québec Ombudsman therefore believes that the semi-private room rate should apply for her stay in intensive care.

This hospital's refusal to follow the Québec Ombudsman's recommendations led it to intervene with the Department to have the regulation changed and, in the meantime, have more details added to the Department circular to prevent application disparities. The Québec Ombudsman was still awaiting the Department's response on March 31, 2011.

#### ***Incorrect application of the rule and a lack of humanity***

*The mother of a young child who was hospitalized after being run over and seriously injured by a school bus contacted the Québec Ombudsman regarding room charges that were billed by the hospital for the child's stay of approximately one month in the intensive care unit. From the moment the child was admitted to the hospital, specialists considered the child's chances of survival to be slim.*

*The Québec Ombudsman's investigation showed that the child went directly from the emergency room to a private room in intensive care further to the doctor's decision. The mother had requested a private room after her child was transferred but did not remember signing a form to this effect because she was in shock at the time.*

*The Québec Ombudsman recommended in this case that no fees be billed for the private room because the child was already in intensive care further to a medical decision when the mother signed the room selection form. On March 31, 2011, the hospital centre had yet to reimburse the citizen.*

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#### **An unjustified bill**

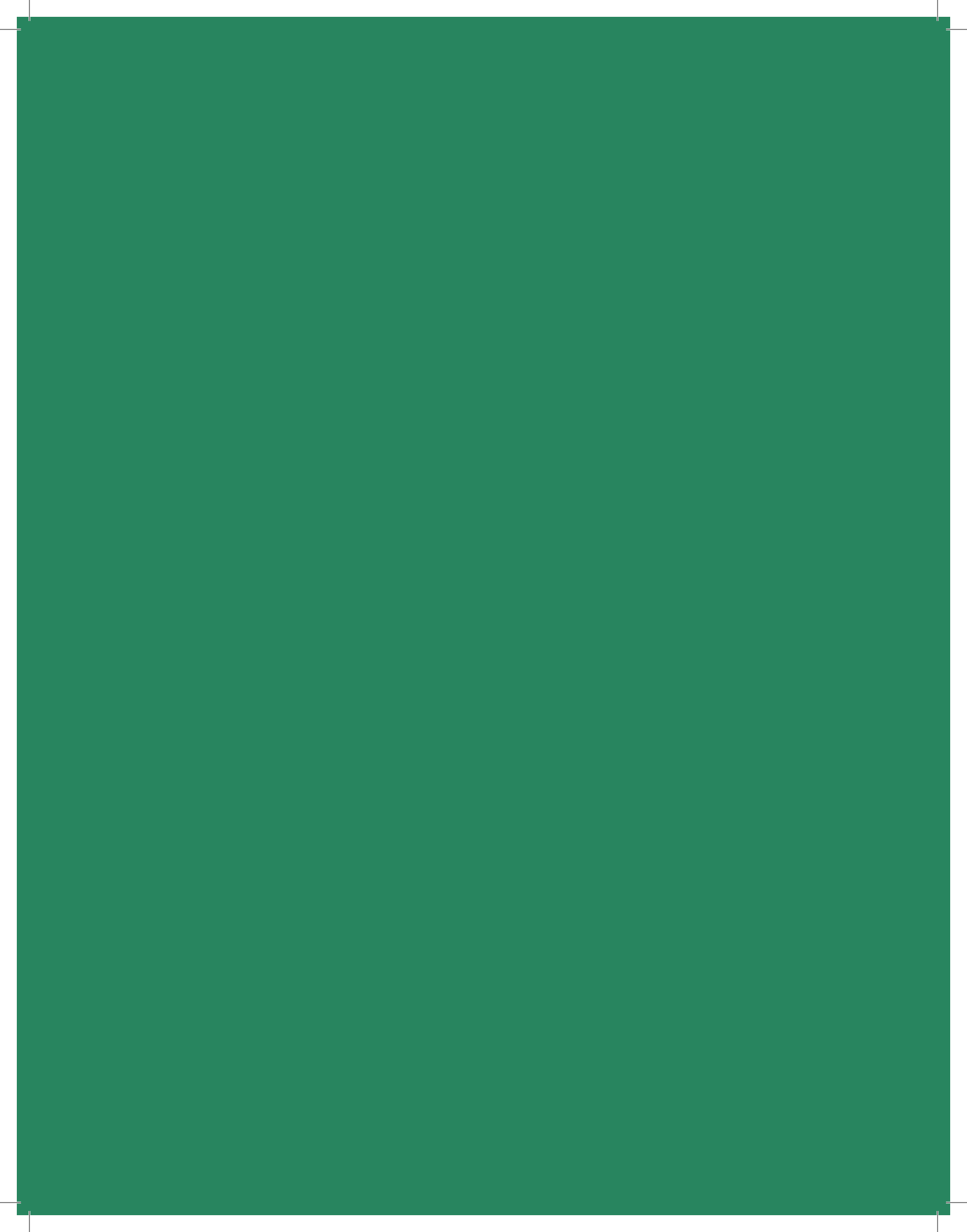
*A woman complained about fees she had to pay for a halo vest, a device that was medically required in her situation to treat a neck fracture. The device was installed (through the insertion of a screw in her neck) by a neurosurgeon and an orthotist in the operating area. The woman received a medical prescription and wore the vest for three months. There were no cost-free alternatives in her situation.*

*The Hospital Insurance Act stipulates that insured services are provided free of charge by hospitals to residents for the period during which such services are medically required. Insured services include the use of operating rooms with the necessary equipment and materials, as well as the supply of prosthetics and orthotics that may be incorporated into the human body.*

*Given these guidelines, the Québec Ombudsman demonstrated the woman was not responsible for paying for the device.*

*The hospital agreed to follow its recommendation and reimbursed the woman.*







## PARLIAMENTARY WATCH REPORT

Under its constituting act, the Québec Ombudsman is empowered to review all bills and draft regulations, and, when it deems necessary, call the attention of the National Assembly and the government to legislative, regulatory, or administrative reforms it considers to be in the public interest. Parliamentary watch is also carried out under the *Act respecting the Health and Social Services Ombudsman*, which makes the Québec Ombudsman responsible for ensuring that health and social service users are respected and that the rights recognized in this act are enforced.

In 2010-2011, the Québec Ombudsman intervened 15 times with regard to ten bills and five draft regulations. The following is a summary of these interventions. The last section of the table reports on the follow-up to the parliamentary watch conducted in 2008-2009 and 2009-2010 and the outcomes of these interventions observed in 2010-2011.

The Québec Ombudsperson's public interventions are posted on the Québec Ombudsman's website ([www.protecteurducitoyen.qc.ca](http://www.protecteurducitoyen.qc.ca)), under the "Cases and Documentation" tab.

BILL	INTERVENTION AND FOLLOW-UP
<p><b>An Act to amend the Taxation Act, the Act respecting the Québec sales tax and other legislative provisions</b> (Bill 96, 2010)</p>	<p><b>Intervention</b></p> <p>One of the effects of this tax bill is to authorize the Régie des rentes du Québec to suspend the payment of the refundable tax credit for child assistance pending an investigation into the citizen's eligibility.</p> <p>While it is clear that the Québec Ombudsperson feels that sound management of public funds is essential and that fraud must be detected and countered, she was concerned about the very broad scope of the provision in question. She recommended that the Committee on Public Finance amend the bill so that the use of such a measure is subject to rules or guidelines that guarantee restricted use and to specific accountability in the Régie's annual report.</p> <p><b>Follow-up</b></p> <p>Even though the bill was passed on October 26, 2010, without amendment, the Québec Ombudsperson received written confirmation from the Minister of Revenue that the Régie intends to exercise this power only as an exception. The Québec Ombudsman will therefore monitor its use.</p>
<p><b>An Act to amend the Charter of the French language and other legislative provisions</b> (Bill 103, 2010)</p> <p><b>An Act following upon the court decisions on the language of instruction</b> (Bill 115, 2010)</p> <p>(CONT'D ON NEXT PAGE)</p>	<p><b>Intervention</b></p> <p>The Québec Ombudsperson welcomed the additional requirements introduced in Bill 103 for college- and university-level institutions, municipal bodies, and public agencies concerning adoption and publicizing of their linguistic policies and their accountability. She also approved of the measures aimed at giving the Office québécois de la langue française greater means for enforcing the act.</p> <p>The Québec Ombudsperson's recommendations to the Committee on Culture and Education on September 8, 2010, concerned the provisions of the bill in response to the Supreme Court ruling on access to English-language schools in the public system. This decision overturned the provisions of the Charter of the French language aimed at preventing citizens from placing their children in unsubsidized private English-language schools in order to make them subsequently eligible to attend English-language public schools.</p> <p>Considering the importance of the issue of language of instruction in Québec, and judging that lawmakers are responsible for deciding on the assessment criteria and conditions under which a child is presumed or deemed to have satisfied the requirement of having received the major part of his education in English within the meaning of the Charter, the Québec Ombudsperson recommended that the principles and basic components of the framework for analyzing eligibility applications regarding instruction in English be integrated into the Charter rather than adopted by regulation, and that the government's regulatory power be limited to the technical elements outlining how to assess the criteria set out in the act.</p>

BILL	INTERVENTION AND FOLLOW-UP
(CONT'D) (Bill 103, 2010) (Bill 115, 2010)	<p>With a view to the transparency and rigour of regulatory procedure, the Québec Ombudsperson also recommended that the regulation adopted pursuant to this power not be exempt from the pre-publication requirement set out in the <i>Regulations Act</i>.</p> <p><b>Follow-up</b></p> <p>Bill 103 died on the order paper at the end of the first parliamentary session after a complete overhaul of the provisions regarding access to English-language schools in Bill 115. The bill, introduced and passed in October 2010, disregarded the Québec Ombudsperson's recommendations.</p>
<p><b>Act respecting the Agence du revenu du Québec</b>            (Bill 107, 2010)</p>	<p><b>Intervention</b></p> <p>The Québec Ombudsperson reminded the Public Finance Committee that in exercising her jurisdiction over the Ministère du Revenu, the Québec Ombudsman already acts as an independent and impartial ombudsman for taxpayers, and will continue to do so with the Agence du revenu du Québec.</p> <p>The Québec Ombudsperson recommended improved accountability in the processing of complaints and amendment of the bill to oblige the agency to produce an activity report for its complaints management section in order to have a clear picture of citizens' complaints, of this section's activities, and of the potential solutions the section proposes. The Québec Ombudsperson also suggested that the section report directly to the agency's board of directors.</p> <p>In another vein, in order to make justice more accessible to citizens, the Québec Ombudsperson recommended that the claim amounts prescribed for a summary appeal before the Small Claims Division of the Court of Québec be increased to \$7000 for notices of assessment produced by Revenu Québec and \$25,000 for a reduction in the calculation of taxable income, modeled on the amounts prescribed in the Code of Civil Procedure for small claims.</p> <p><b>Follow-up</b></p> <p>The act passed on December 8, 2010, disregarded these recommendations.</p>
<p><b>Municipal Ethics and Good Conduct Act</b>            (Bill 109, 2010)</p> <p>(CONT'D ON NEXT PAGE)</p>	<p><b>Intervention</b></p> <p>The bill provides that further to an inquiry into the alleged violation of the municipal code of ethics and conduct, the Commission municipale make a recommendation to the municipal council, which decides whether or not to apply it.</p>

BILL	INTERVENTION AND FOLLOW-UP
<p>(CONT'D) (Bill 109, 2010)</p>	<p>The Québec Ombudsman approached those in charge of the bill at the Ministère des Affaires municipales, des Régions et de l'Occupation du territoire to suggest that it include a mechanism for homologating municipal council decisions when it chooses to act on the Commission's recommendation, but the elected official concerned refused to comply.</p> <p><b>Follow-up</b></p> <p>Even though under the act passed on November 30, 2010, the Commission municipale became empowered to render a decision, the question of decision homologation remained unsettled.</p> <p>Section 32 of the act as assented to includes the amendment suggested by the Québec Ombudsman, namely, that the municipality may have the Commission's decision homologated by the Court, thereby making it enforceable.</p>
<p><b>Act to amend the Act respecting labour standards in order to facilitate reciprocal enforcement of decisions ordering the payment of a sum of money</b> (Bill 111, 2010)</p>	<p><b>Intervention</b></p> <p>The Québec Ombudsperson supported this bill aimed at facilitating reciprocal enforcement between Québec and other governments (including the other Canadian provinces) of labour standard decisions ordering the payment of a sum of money. Considering that this would benefit Québec workers whose employers are headquartered outside Québec, she stated her expectations regarding implementing of the bill, particularly, that reciprocity agreements soon be signed with other provinces, paving the way for enforcement of decisions in favour of these workers. To this end, she also expressed the hope that the Commission des normes du travail reopen unresolved cases and requests made to the appropriate provincial authorities, with a view to diligent enforcement of the decisions in question.</p> <p><b>Follow-up</b></p> <p>On August 20, 2001, the chairman and director general of the Commission wrote to the Québec Ombudsperson to confirm that steps were already underway to reopen unresolved cases. The bill was passed into law on September 29, 2010.</p>
<p><b>An Act giving effect to the Budget Speech delivered on 30 March 2010 and to certain other budget statements</b> (Bill 117, 2010)</p> <p>(CONT'D ON NEXT PAGE)</p>	<p><b>Intervention</b></p> <p>In a letter to the Minister of Revenue, the Québec Ombudsperson expressed her concerns regarding the obligation to register for direct deposit in order to qualify for the new solidarity tax credit. While she subscribed to the principle of direct deposit, which enables the reduction of the government's administrative costs, the Québec Ombudsperson feared that people without an account in a financial institution would suffer. She therefore made three recommendations to the minister:</p> <ol style="list-style-type: none"> <li>1. Establish a mechanism that will ensure that the least privileged citizens, who do not have an account in a financial institution, can nonetheless claim the credit on a monthly basis;</li> </ol>

BILL	INTERVENTION AND FOLLOW-UP
(CONT'D) (Bill 117, 2010)	<ol style="list-style-type: none"> <li>2. Allow citizens to retroactively claim this credit when they file their income tax return;</li> <li>3. Allow direct deposit of the credit to any account in a recognized financial institution, even if it is not an establishment located in Québec.</li> </ol> <p><b>Follow-up</b></p> <p>The minister indicated that exceptional measures would be taken so that citizens who do not have access to a bank account can qualify for the credit. On March 31, 2011, a month before the deadline for submitting tax returns and applying for the credit, there was not yet any word on these measures.</p>
<p><b>Act to improve relations between people living along off-vehicle club trails and the users of those trails and to improve user safety</b> (Bill 121, 2010)</p>	<p><b>Intervention</b></p> <p>This bill, while maintaining the moratorium which protects users and managers of interregional trails from legal proceedings on the grounds of neighbourhood disturbances or any other damage relating to noise, odours, or other contaminants, made it mandatory for the minister to institute a complaint-resolution process for such disturbances or damage, and introduced the possibility for the complainant to ask that a mediator be appointed to attempt to settle the dispute if nothing comes of the complaint-resolution process. As in the past, the Québec Ombudsperson approached the Committee on Transportation and the Environment to ask for lifting of the moratorium.</p> <p>Citing the general principles of legitimacy and credibility, the Québec Ombudsperson said she was satisfied to see that a complaint-resolution process had been introduced, but while she welcomed the creation of a mediation mechanism, she questioned the potential consequences of failure for the parties, especially for inconvenienced citizens, and proposed an arbitration mechanism as an interesting alternative.</p> <p><b>Follow-up</b></p> <p>The bill was amended to provide for arbitration should mediation fail, a favourable response to the Québec Ombudsperson's concerns. However, the moratorium was not lifted and was instead extended until December 1, 2017.</p> <p><b>Intervention</b></p> <p>Noting that a report to the government on whether to maintain, amend, or repeal the provisions dealing with complaint resolution and mediation must be tabled no later than five years after the bill is passed, the Québec Ombudsperson recommended that this evaluation should only review the terms and conditions of the mechanism, to improve it as needed, and not to question the need for it.</p> <p><b>Follow-up</b></p> <p>This recommendation was not taken into account in amending the bill.</p>

BILL	INTERVENTION AND FOLLOW-UP
<p>Act to tighten the regulation of educational childcare (Bill 126, 2010)</p> <p>(CONT'D ON NEXT PAGE)</p>	<p><b>Intervention and follow up</b></p> <p>On November 17, 2010, at the invitation of the Committee on Citizen Relations, the Québec Ombudsperson commented and made recommendations on this bill which, as the name suggests, is aimed at tightening the regulation of educational childcare. The measures presented for achieving this consist of creating a new attribution process for subsidized places, curtailing the development of daycare chains, making shareholders responsible, introducing a new penalty regime, and creating new powers to put an end to illegal childcare services, including the use of an order when the health and safety of the children may be compromised.</p> <p>While she subscribed to the basic principles of this bill, the Québec Ombudsperson had some comments on particular aspects of it and made the following recommendations on the bill itself:</p> <ol style="list-style-type: none"> <li>1. Change the composition of the advisory committees in favour of representatives designated by childcare centres and daycares in the territories in question; → the bill was thus amended;</li> <li>2. Consider the possibility of having the advisory committees add regional criteria to the needs and priorities determined by the minister; → the bill was amended so that the minister consults the regional advisory committees when determining these needs and priorities;</li> <li>3. Link the extension of acquired rights for daycare chains to the legality and compliance of their original conferral, attested by a Department audit; → the bill was thus amended;</li> <li>4. Establish balance between the fine for overcapacity for a licensed childcare service and the fine for illegal care provided by a person with no permit; → this recommendation was disregarded;</li> <li>5. Introduce inspection for the educational program and service quality and subject shortfalls in this regard to the new penalty regime; → this recommendation was disregarded;</li> <li>6. a) Allow recourse to the Tribunal administratif du Québec for closure under section 120; → this recommendation was disregarded;</li> </ol>

BILL	INTERVENTION AND FOLLOW-UP
<p>(CONT'D) (Bill 126, 2010)</p>	<p>b) Subject the order to a review mechanism such as the one provided for administrative fines;</p> <p>→ no order-review mechanism was introduced in the bill. However, the bill was amended so that recourse before the Tribunal administratif du Québec can occur and be deemed urgent, which mitigates the effect denounced, namely, lengthy delays before being heard by the Tribunal.</p> <p><b>Intervention</b></p> <p>The Québec Ombudsperson recommended the following amendments in the application of the act to the Ministère de la Famille et des Aînés:</p> <ol style="list-style-type: none"> <li>a) Ensure that Department priorities governing the attribution of subsidized places are not subject to change while the process is underway, and that these priorities are made public;</li> <li>b) Ensure that advisory committee recommendations are made public;</li> <li>2. Plan the distribution of subsidized places in an integrated manner, taking into consideration the existence of unsubsidized daycares, in order to avoid having government intervention result in a shift of clients from private unsubsidized daycare to subsidized care;</li> <li>3. Minimize the impact for parents of any actions taken to curtail illegal childcare services and provide transitional measures where possible;</li> <li>4. Take whatever steps are necessary to reduce permit attribution time, to allow illegal childcare services to comply with the law;</li> <li>5. Come to an agreement with the coordinating offices on timelines and the means to implement in order to accelerate the recognition of people in charge of home daycares that do not have subsidized places.</li> </ol> <p><b>Follow-up</b></p> <p>Apart from the recommendation to make advisory committee recommendations public, which led to amendment of the bill, only time will tell whether they are being followed. The Québec Ombudsman will keep a close eye on developments in this respect.</p>

BILL	INTERVENTION AND FOLLOW-UP
<p>Act to improve the management of the health and social services network (Bill 127, 2010)</p> <p>(CONT'D ON NEXT PAGE)</p>	<p><b>Intervention</b></p> <p>At the invitation of the Committee on Health and Social Services, the Québec Ombudsperson presented her observations on March 15, 2011. She explained that, in her opinion, the changes proposed by the bill would have very little practical and immediate impact on the improvement of services to the public, and that access to clearly defined, well-integrated, and well-dispersed quality services at reasonable cost requires a simplification of structures, strengthened accountability, and clarification of the basket of services, which were not addressed in this bill. The following recommendations were made to the Committee:</p> <ol style="list-style-type: none"> <li>1. To allow for more representative participation and avoid isolating user and public representatives on institutional boards of directors: <ul style="list-style-type: none"> <li>• provide for the participation of two user representatives;</li> <li>• provide for the designation of a substitute member, in the event that one of these representatives is unable to perform his duties.</li> </ul> </li> <li>2. To adjust governance methods to the reality of the health and social services network, particularly with regard to accountability: <ul style="list-style-type: none"> <li>• clarify the role of the health and social services agencies, units reporting to the Ministère de la Santé et des Services sociaux, and their chain of command with regard to the institutions; in particular, specify the extent of their coordinating role;</li> <li>• by extension, abolish the boards of directors of the health and social services agencies;</li> <li>• clarify the obligations and accountability of the institutional directors and their immediate and hierarchical chain of administrative command;</li> <li>• define the responsibilities of the boards of directors more clearly, including their relationship with the executive director of the institution and their accountability, where necessary.</li> </ul> </li> <li>3. To ensure the most efficient management, insofar as the institutional directors play a critical role in upholding government orientations and are therefore accountable: <ul style="list-style-type: none"> <li>• grant more leeway to institutional directors at the local level to facilitate the implementation of these orientations in keeping with the populational approach, which entails respecting the realities and specific needs of the people in the territory they serve.</li> </ul> </li> <li>4. To ensure equitable access to services, including financially, for all people wherever they live, and to clarify what has become an area of confusion for both institutions and the professionals involved: <ul style="list-style-type: none"> <li>• establish clear guidelines for all questions related to administrative and incidental fees or other cost components that may affect access to services;</li> </ul> </li> </ol>

BILL	INTERVENTION AND FOLLOW-UP
(CONT'D) (Bill 127, 2010)	<ul style="list-style-type: none"> <li>• require all institutions to plan for the technical component when they choose to outsource a service;</li> <li>• require the Minister of Health and Social Services to report annually on any changes made to the basket of services and the factors behind these decisions.</li> </ul> <p><b>Follow-up</b></p> <p>The bill, introduced during the first parliamentary session, was reentered in the order paper for the second session. As at March 31, 2011, the bill had not been passed.</p>
<p><b>Act to amend the Act respecting the Régie du logement and various acts concerning municipal affairs</b> (Bill 131, 2010)</p>	<p><b>Intervention</b></p> <p>The purpose of this bill was to give the board complete jurisdiction over any matter relating to setting rent, changing other conditions of a lease or revising rent, and powers to curb abuse of procedure (debarment). In this sense, the bill is a response to the Québec Ombudsman's recommendations concerning debarment in its 2009-2010 annual report.</p> <p>In addressing the Committee on Planning and the Public Domain on November 30, 2010, the Québec Ombudsperson pointed out that the bill would have to be improved to solve the ongoing problem of excessive delays at the Régie.</p> <p>Arguing that she felt it was important that the legislator give the Régie a legislative framework that would allow it to be as effective as possible, while fully respecting its mission, the Québec Ombudsperson recommended that special clerks be given a greater role, notably, powers to hear all cases involving failure to pay rent.</p> <p><b>Follow-up</b></p> <p>Even though no amendments were made to the provisions concerning the Régie in the act passed on December 10, 2010, the minister announced he intended to completely overhaul the <i>Act respecting the Régie du logement</i>. In so doing, the role of special clerks would be covered. Recognizing the expertise the Québec Ombudsman had developed, he said he would solicit its collaboration and was open to its proposals.</p>
DRAFT REGULATION	INTERVENTION AND FOLLOW-UP
<p><b>Regulation respecting immigration consultants</b> (2010, Gazette officielle, Part 2, 882)</p>	<p><b>Intervention</b></p> <p>The Québec Ombudsperson wrote to the minister to indicate her approval of the much-awaited regulation which defines the conditions for recognition of consultants and the attendant obligations which, if defaulted on, could lead to suspension or revocation, as well as a fine. She considered that this regulation satisfies the commonly expressed need for supervision of the practice of consultants and should have a major and beneficial impact on the lives of immigration applicants, who are often vulnerable to fraudulent or ill-intentioned behaviour.</p>

DRAFT REGULATION	INTERVENTION AND FOLLOW-UP
<p><b>Regulation to amend the Regulation respecting teaching licenses</b> (2010, Gazette officielle, Part 2, 968)</p>	<p><b>Intervention</b></p> <p>The bill was supposed to amend the regulation so that it would comply with the Agreement on Internal Trade, which, as generally regards labour mobility, provides that citizens from every Canadian province or territory who are certified to practice a given trade or profession be certified to do so across Canada.</p> <p>The Québec Ombudsman felt that the provision preventing holders of provisional teaching authorizations from enjoying the benefits of labour mobility agreements needlessly limited the advantages of the Agreement on Internal Trade for these individuals.</p> <p><b>Follow-up</b></p> <p>Further to the Québec Ombudsman's comments to the drafters of the proposed regulation, this provision was removed and was not in the regulation published on July 28, 2010.</p>
<p><b>Regulation to amend the Tariff of duties respecting the acts of civil status and change of name or of designation of sex</b> (2010, Gazette officielle, Part 2, 3294)</p> <p>(CONT'D ON NEXT PAGE)</p>	<p><b>Intervention</b></p> <p>The draft regulation provided for an increase in the duties charged to issue copies of acts, certificates and attestations, based on the service channel. For example, on the regulation's entry into force, the cost to obtain a birth certificate would increase from the current \$15 (flat fee) to \$28 by electronic means, \$38 by mail and \$43 at the counter.</p> <p>First, discussions took place between the Québec Ombudsman and Directeur de l'état civil authorities in order to amend the regulation to specify that the tariff would be based on the method used by the applicant rather than on the method of delivery, over which citizens have no control.</p> <p><b>Follow-up</b></p> <p>This suggestion was accepted and the amendment was included in the regulation passed into law on November 17, 2010.</p> <p><b>Intervention</b></p> <p>Secondly, the Québec Ombudsperson, judging that this fee structure would be regressive for individuals who have limited access to the Internet, such as low-income earners, the elderly, and people living in remote regions, approached the chair of the Conseil du trésor and the Minister of Government Services to ensure that the new standards be such as to prevent these people from being penalized.</p>

DRAFT REGULATION	INTERVENTION AND FOLLOW-UP
<p>(CONT'D) (2010, Gazette officielle, Part 2, 3294)</p>	<p>The Québec Ombudsperson therefore recommended that the government:</p> <ul style="list-style-type: none"> <li>• provide for adjustment mechanisms so as not to penalize certain clienteles, in particular low-income households, in compliance with its policy for the funding of public services;</li> <li>• provide information on the basis for and details of calculations leading to the proposed fee structure, with regard to the different delivery channels and clienteles;</li> <li>• request that in 2013 the Directeur de état civil produce a report on past and foreseeable future impacts of the new fee schedule with regard to its financial integrity and the fairness of fees charged to citizens.</li> </ul> <p><b>Follow-up</b></p> <p>The regulation as passed into law was not amended to reflect the Québec Ombudsperson's recommendations, and the requested information on the setting of new tariffs was not provided.</p>
<p><b>Regulation to amend the Regulation respecting the selection of foreign nationals</b> (2010, Gazette officielle, Part 2, 5634)</p>	<p><b>Intervention</b></p> <p>The purpose of the draft regulation was to better protect temporary foreign workers and to make the employers who hire them accountable. One of the means proposed was to oblige employees who hire foreign nationals applying for a temporary stay in Québec for work purposes to establish a direct employment link between the employer and the applicant, making the contracting employer clearly identifiable.</p> <p>However, the draft regulation as introduced did not provide for this obligation for employers wishing to hire foreign nationals for domestic help.</p> <p>The Québec Ombudsman intervened with Ministère de l'Immigration et des Communautés culturelles authorities to suggest that this provision be extended to temporary foreign worker categories.</p> <p><b>Follow-up</b></p> <p>This recommendation was approved and included in the regulation published on March 30, 2011.</p>
<p><b>Regulation amending the activities framework of the Réserve de biodiversité projetée Samuel-De Champlain</b> (2010, Gazette officielle, Part 2, 5701)  (CONT'D ON NEXT PAGE)</p>	<p><b>Intervention</b></p> <p>The draft regulation amends the activities permitted or prohibited within the proposed Samuel-De Champlain biodiversity reserve. The Québec Ombudsperson noted that a section of the draft regulation authorized gas and oil exploration. She pointed out that this decision seemed inconsistent with the protection of certain identified areas because of the environmental interests they represent. Consequently, she recommended withdrawal of the passage authorizing such activities from the draft regulation.</p>

DRAFT REGULATION	INTERVENTION AND FOLLOW-UP
(CONT'D) (2010, Gazette officielle, Part 2, 5701)	<p><b>Follow-up</b></p> <p>On February 15, 2011, the Québec Ombudsperson received written confirmation from the Deputy Minister of Sustainable Development, Environment and Parks that her recommendation to the minister would be followed and that the exploration licenses issued to oil and gas companies would be modified to exclude the territory of the reserve in question. As at March 31, 2011, the regulation had not been published.</p>
INTERVENTION MONITORING IN 2009-2010 AND 2008-2009	
Act to amend the Act respecting educational institutions at the university level and the Act respecting the Université du Québec with respect to governance (Bill 38, 2009)	<p><b>Intervention</b></p> <p>The Québec Ombudsperson noted the absence of an obligation for university institutions to establish an impartial and independent complaints mechanism. Although the majority of university community members have access to an ombudsman, she deemed that such a mechanism should be built into the bill so that all can benefit.</p> <p><b>Follow-up</b></p> <p>The bill was reentered in the order paper for the second session. As at March 31, 2011, the bill had not been passed.</p>
Act to amend the General and Vocational Colleges Act with respect to governance (Bill 44, 2009)	<p><b>Intervention</b></p> <p>The Québec Ombudsperson noted the need for the measure aimed at requiring colleges to establish a dispute-settlement mechanism, but raised concerns regarding the measure's failure to address the broad principles essential to a legitimate and credible complaints processing mechanism in which individuals can have complete confidence. She therefore recommended that the minister be empowered to regulate complaints processing standards and conditions in order to ensure that they are harmonized with what is provided for the Student Ombudsman under the <i>Education Act</i>.</p> <p>The Québec Ombudsperson also recommended that the mechanism selected be modelled on the one developed for the health and social services network. She also recommended that this mechanism not be restricted to registered students, but that it also cover administrative decisions made at the time of admission.</p> <p><b>Follow-up</b></p> <p>The bill was reentered in the order paper for the second session. As at March 31, 2011, the bill had not been passed.</p>

## INTERVENTION MONITORING IN 2009-2010 AND 2008-2009

### Code of Ethics and Conduct of the Members of the National Assembly (Bill 48, 2009)

#### Intervention

The Québec Ombudsperson unreservedly supported subjecting the Ombudsman and Deputy Ombudsmen to the jurisdiction of the Ethics Commissioner following the example of other persons appointed by the National Assembly.

#### Follow-up

The bill was nevertheless amended to not subject the Québec Ombudsman or the other persons appointed by the National Assembly to this code.

#### Intervention

The Québec Ombudsperson recommended that it be possible for the Commissioner, under the conditions he has determined, to shorten the two-year restriction imposed under the post-term rules for Cabinet members.

#### Follow-up

This provision was withdrawn.

#### Intervention

The Québec Ombudsperson commented on the deadline given to the President of the National Assembly to table an inquiry report of the Commissioner in the National Assembly. She recommended a maximum of three days instead of 15, which would minimize the risk for leaks and various forms of pressure, in addition to reinforcing the independence of the Commissioner and the impartiality of the President of the National Assembly.

#### Follow-up

This recommendation was accepted.

#### Intervention

For the sake of public confidence in the Commissioner, the Québec Ombudsperson expressed reservations about the intention stated in the bill to fully exempt the *Code of Ethics and Conduct of the Members of the National Assembly* from the application of the *Act respecting Access to documents held by public bodies and the Protection of personal information*.

#### Follow-up

This comment was not approved by the parliamentarians, on the grounds of their constitutional parliamentary privileges and the fact that the provision is an extension of section 34 of the latter act, which, among other stipulations, states that no person may have access to a document from the office of a Member of the National Assembly or a document produced for that member by the services of the National Assembly.

#### Intervention

The Québec Ombudsperson recommended that a provision be added to make it possible to replace the Ethics Commissioner when the Commissioner ceases to perform his duties or is unable to act.

(CONT'D ON NEXT PAGE)

## INTERVENTION MONITORING IN 2009-2010 AND 2008-2009

<p>(CONT'D) (Bill 48, 2009)</p>	<p><b>Follow-up</b></p> <p>This recommendation was accepted. The bill was passed into law on December 3, 2010.</p>
<p><b>Act to amend the Highway Safety Code and other legislative provisions</b> (Bill 71, 2009)</p>	<p><b>Intervention</b></p> <p>The Québec Ombudsperson drew the attention of parliament to the applicability of the measure aimed at making helmets mandatory for cyclists age 12 and under. Although she noted the advantage of this safety measure, she nonetheless questioned the reasons behind the age limit imposed.</p> <p>The Québec Ombudsperson recommended that any by-laws be made subject to the Minister of Transport's right of disallowance should municipalities attempt to adopt measures to override the requirement that snowblowers weighing over 900 kg be preceded by a supervisor on foot during snow removal operations in residential zones or where the speed limit is 50 km/h or less.</p> <p><b>Follow-up</b></p> <p>This recommendation was welcomed by the minister, who informed the Québec Ombudsperson of her intention to submit an amendment to this effect. The amended bill was passed into law on December 10, 2010.</p>
<p><b>Act to provide a framework for mandatory state financing of certain legal services</b> (Bill 83, 2010)</p>	<p><b>Intervention</b></p> <p>The services targeted by this bill related to criminal trials. The Québec Ombudsperson felt that other amendments could be made to the legal aid system, notably to correct inequities toward incapacitated individuals represented by the Curateur public when a curatorship is initiated. She recommended amendments so that incapacitated individuals financially eligible for legal aid be exempted from certain legal fees, as other incapacitated individuals in the same financial circumstances but for whom proceedings were not initiated by the Curateur public. She also recommended that proceedings to replace the legal representative be included among those to which such an exemption is applied.</p> <p><b>Follow-up</b></p> <p>The bill passed into law on June 2, 2010, did not include any amendments to this effect. However, when the bill was considered in detail, the subject was discussed and the Minister of Justice made it known that she would examine the question. The Québec Ombudsman is keeping a close eye on this issue.</p>

## INTERVENTION MONITORING IN 2009-2010 AND 2008-2009

**Regulation to amend the Regulation respecting benefits**  
(2009, Gazette officielle, Part 2, 1718)

### Intervention

This draft regulation gave individuals the option to apply for Régie des rentes du Québec benefits by telephone. In the interests of maintaining records of applications and to give applicants proof of having applied, the Québec Ombudsman suggested that a confirmation number be provided to these individuals. The suggestion was noted, and the Québec Ombudsman requested that the Régie keep it informed of the follow-up to this suggestion.

### Follow-up

According to the information received from the Régie this year, the board will not introduce confirmation numbers because too many costly changes would have to be made to the system. It has decided instead to record applications made by telephone and to attach a note to the file. This solution satisfies the Québec Ombudsman.

**Code of Ethics of Midwives**  
(2009, Gazette officielle, Part 2, 5613)

### Intervention

The Québec Ombudsperson observed that the draft regulation contained no provision regarding the declaration and disclosure of incidents or accidents to the user or user's representative, unlike for other orders of health professionals and as provided for in the *Act respecting health services and social services* for events taking place in network institutions. She recommended to the chair of the Office des professions du Québec that such provisions be added to the *Code of Ethics of Midwives*.

### Follow-up

The chair advised the Québec Ombudsperson that he would take this recommendation into account in his own recommendations to the government. The regulation passed into law on April 14, 2010, included a provision corresponding to the Québec Ombudsperson's recommendation.

**Regulation to amend the Regulation respecting the reimbursement of certain expenses (medical reports)**  
(2009, Gazette officielle, Part 2, 5961)

(CONT'D ON NEXT PAGE)

### Intervention

The draft regulation provided for an increase in the maximum expenses reimbursed by the Société de l'assurance automobile du Québec (SAAQ) for the medical reports of road accident victims. This increase reduces the gap between the amount these individuals have to pay for medical reports and the amount reimbursed by SAAQ, which should help road accident victims, particularly as the rates had not been increased since 1993. However, given that the rates suggested by the Fédération des médecins omnipraticiens du Québec in 2009 are already much higher than what was proposed in this regulation, the Québec Ombudsperson considered that the concerns of road accident victims had not been fully accounted for and such individuals would possibly still have to pay additional amounts to obtain the medical reports required by SAAQ.

## INTERVENTION MONITORING IN 2009-2010 AND 2008-2009

(CONT'D)  
(2009, Gazette officielle,  
Part 2, 5961)

The Québec Ombudsperson also recommended removing the provision to reduce the amount of reimbursement to the road accident victim if the physician's report is provided other than on the form furnished by SAAQ, as this provision penalizes road accident victims, whereas it is intended as an incentive for physicians to use SAAQ forms.

In order to avoid large gaps between costs reimbursed by SAAQ and the amounts road accident victims pay for medical reports, the Québec Ombudsperson recommended that provisions be added to require that reimbursement rates be reviewed periodically, at intervals not exceeding three years.

### Follow-up

The regulation passed into law on April 21, 2010, did not contain any amendments.

**Regulation to  
amend the Code  
of Ethics of Physicians**  
(2010, Gazette officielle,  
Part 2, 54)

### Intervention

By virtue of changes proposed in this draft regulation, any physician who opts out or does not participate in the health insurance plan, or who demands payment for services not covered by the plan, must post, in public view in the waiting area, the price of services and supplies and additional fees to be billed. Although in agreement with this change, which is in the users' interest, the Québec Ombudsperson considered that other information should also be posted in order to provide sufficient information and avoid any confusion.

Thus, the effect on users resulting from the physician's health insurance plan status (opted out or non-participating professional)—little understood by the general public—for the reimbursement of expenses by the Régie de l'assurance maladie du Québec (RAMQ), should also be put up.

The Québec Ombudsperson also recommended that information regarding the conciliation and arbitration mechanism for physician accounts, through which users may submit any disputed overpayment accounts to the Collège des médecins, also be posted, as this option is little known to users and could be better publicized.

The Québec Ombudsperson also recommended that this information, as well as being prominently posted in the medical clinic waiting areas, be posted on the clinic website as applicable.

(CONT'D ON NEXT PAGE)

## INTERVENTION MONITORING IN 2009-2010 AND 2008-2009

(CONT'D)

(2010, Gazette officielle,  
Part 2, 54)

### Follow-up

The Office des professions du Québec consulted the Collège des médecins, RAMQ, and the Ministère de la Santé et des Services sociaux. The Collège feels that the amendment is unnecessary because the regulation already includes an obligation worded broadly enough to cover the information in question. However, it indicated that a reminder to this effect would be added to its guidelines to the practice of medicine, *Le médecin, la publicité et les déclarations publiques* (published in August 2010).

The Collège and RAMQ are of the opinion that the obligation for a physician to provide information about his health insurance plan status (opted out or non-participating professional) and the effect on users for the reimbursement of expenses by RAMQ is already covered in sections 25 and 26 of the *Regulation respecting the application of the Health Insurance Act*, which stipulate that a notice of withdrawal must be "delivered by hand in advance by the professional to any beneficiary who avails himself of the professional's services."

Consequently, the regulation passed into law on June 23, 2010, was not amended in this respect, but the spirit of the recommendations should be maintained in applying the regulation. The Québec Ombudsman is keeping a close eye on this issue.

### Regulation to amend the Regulation respecting telematic games

(2010, Gazette officielle,  
Part 2, 708)

### Intervention

The Québec Ombudsperson recognized that online gaming constitutes a reality that currently lies outside the scope of government control, that the difficulty in regulating this sector is a worldwide problem, and that this underground industry is conducive to the exploitation of persons vulnerable to compulsive gambling as well as the illicit use of revenues generated. She took the position that should the government operate its own online gaming sites, in order to ensure public safety and minimize the adverse effects of this activity, it should not do so without conditions.

The Québec Ombudsperson felt that the selection of online game products should be thoroughly analyzed in advance, that the products be introduced according to a plan and increased gradually up to a certain limit, and that results be closely monitored, particularly in the case of products linked to compulsive gambling.

The Québec Ombudsperson recommended that an advisory committee of experts independent of the government, including government enterprises and networks, be mandated to advise the government on regulation, guidelines, and the rate at which telematic gambling would be established. She also recommended that the results of these independent experts' work be made public and examined by a parliamentary committee.

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## INTERVENTION MONITORING IN 2009-2010 AND 2008-2009

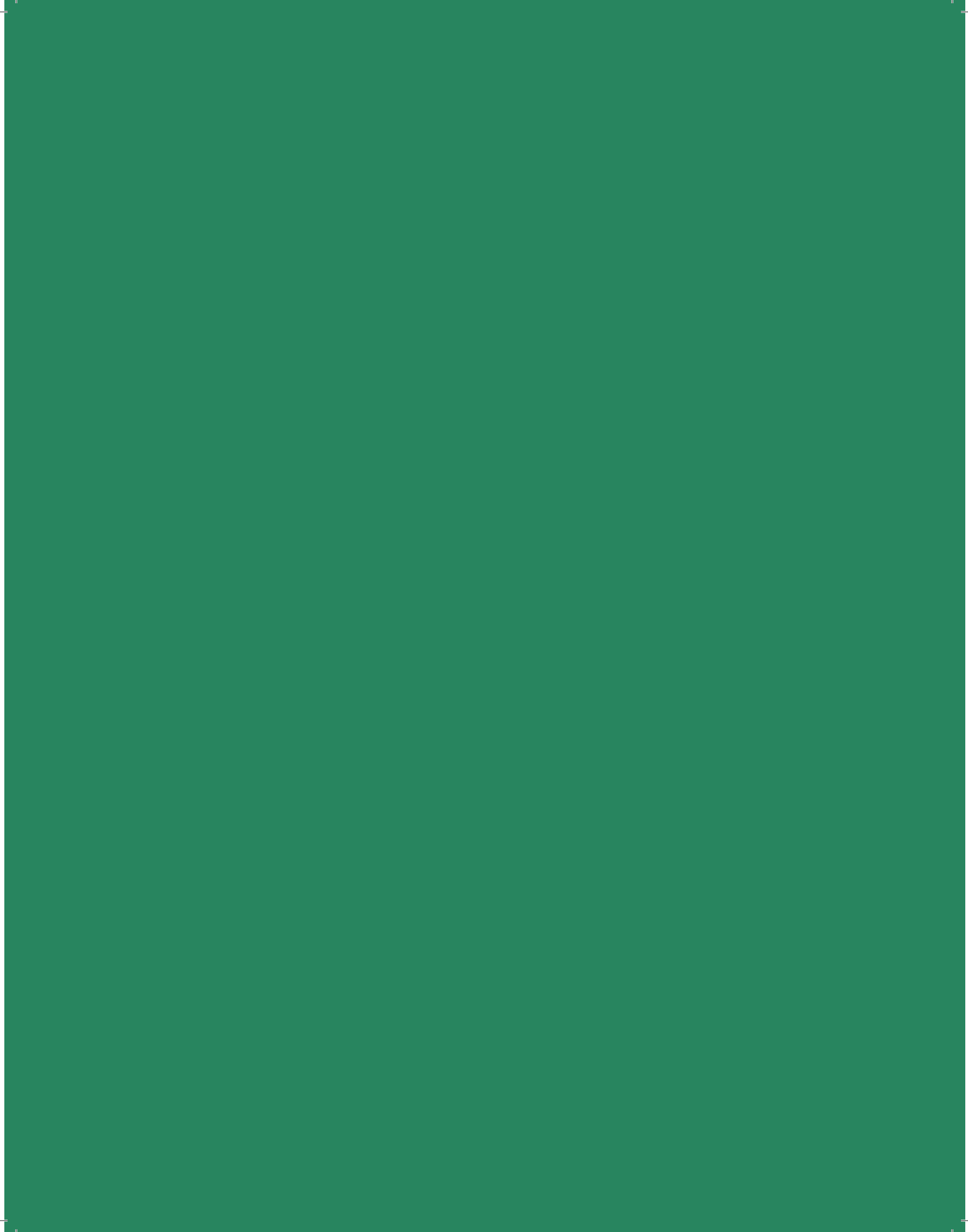
(CONT'D)  
(2010, Gazette officielle,  
Part 2, 708)

### Follow-up

The regulation was passed into law on July 7, 2010.

Further to the Québec Ombudsperson's recommendation, the government decided to fast-track the formation of a committee of independent experts and the beginning of its work (which was originally supposed to start when Loto-Québec's online gaming service offering was launched). A report is expected no later than three months after the start date for online gaming.







## RESULTS IN FIGURES

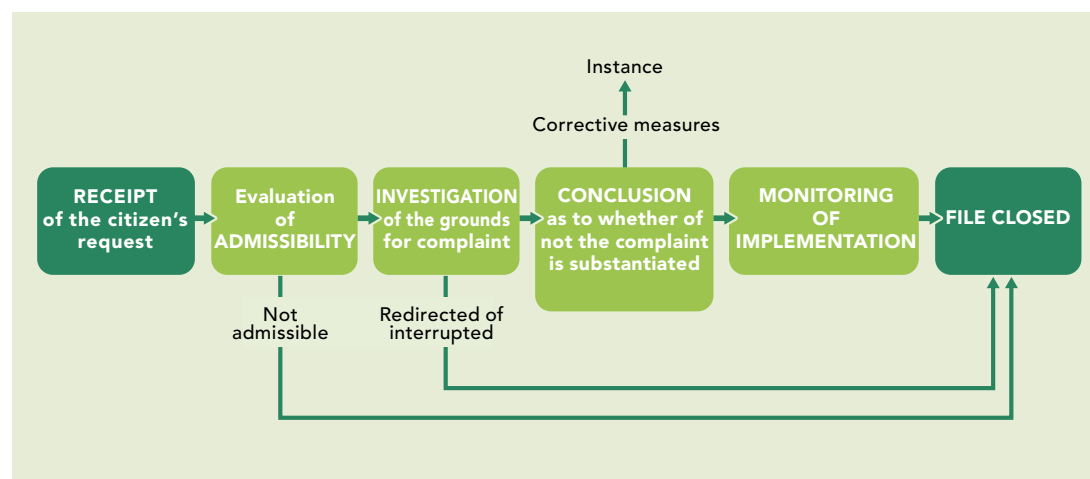
This chapter presents information on the Québec Ombudsman's actions pursuant to the two pieces of legislation that govern it, namely the *Public Protector Act* and the *Act respecting the Health and Social Services Ombudsman*.

In the health and social services sector, the Québec Ombudsman, in all but a handful of cases, is the second line of non-judicial recourse for users who are dissatisfied with decisions made by local or regional service quality and complaints commissioners.

Citizens' requests for service, which are deemed admissible as complaints or reports, give rise to investigations. All other requests are treated as requests for assistance or referrals.

When the investigation is complete, the Québec Ombudsman informs the person of its findings. If the complaint is substantiated, the government department, public agency, or body concerned is asked to introduce corrective measures, and the Québec Ombudsman monitors their implementation. A substantiated complaint file is not closed until implementation has been monitored, at which point the Québec Ombudsman is assured that the corrective measures have in fact been applied.

### Processing of requests for service



## 1. REQUESTS FOR SERVICE RECEIVED

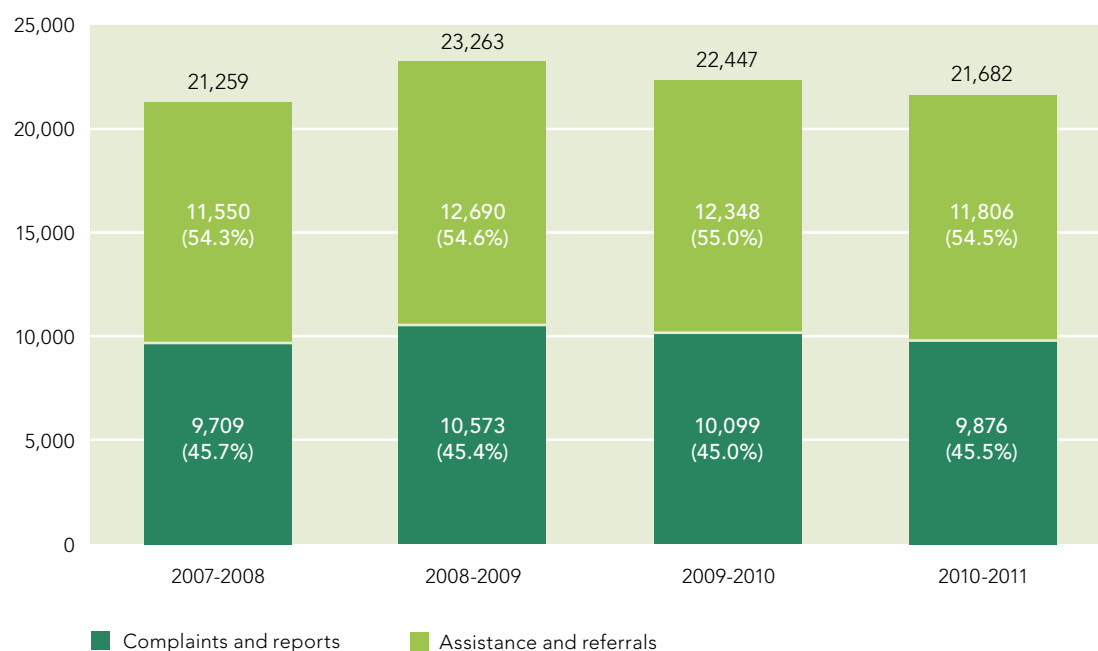
### Variations in the number of requests received



Requests for service include all requests for assistance, referrals, or information, along with all the complaints and reports received by the Québec Ombudsman.

## 2. CLOSED REQUESTS FOR SERVICE

### Variations in the number of closed requests for service



Analysis of a request for service may lead to the identification of several grounds for intervention on the part of the Québec Ombudsman; that is why the number of closed requests is slightly higher than the number of requests received.

In 2010-2011, the number of complaints and reports fell by 2.2% from 2009-2010 figures, going from 10,099 to 9,876, whereas the number of requests for assistance and referrals that did not lead to investigations decreased by 4.4% (from 12,348 to 11,806) during the same period. More than 70% of the decrease in requests for service is due to requests that the Québec Ombudsman could not process because they were not within its purview.

The percentage of requests for service leading to investigations has remained stable for the last four years, at around 45%.

### 3. COMPLAINTS AND REPORTS CLOSED FOLLOWING AN INVESTIGATION

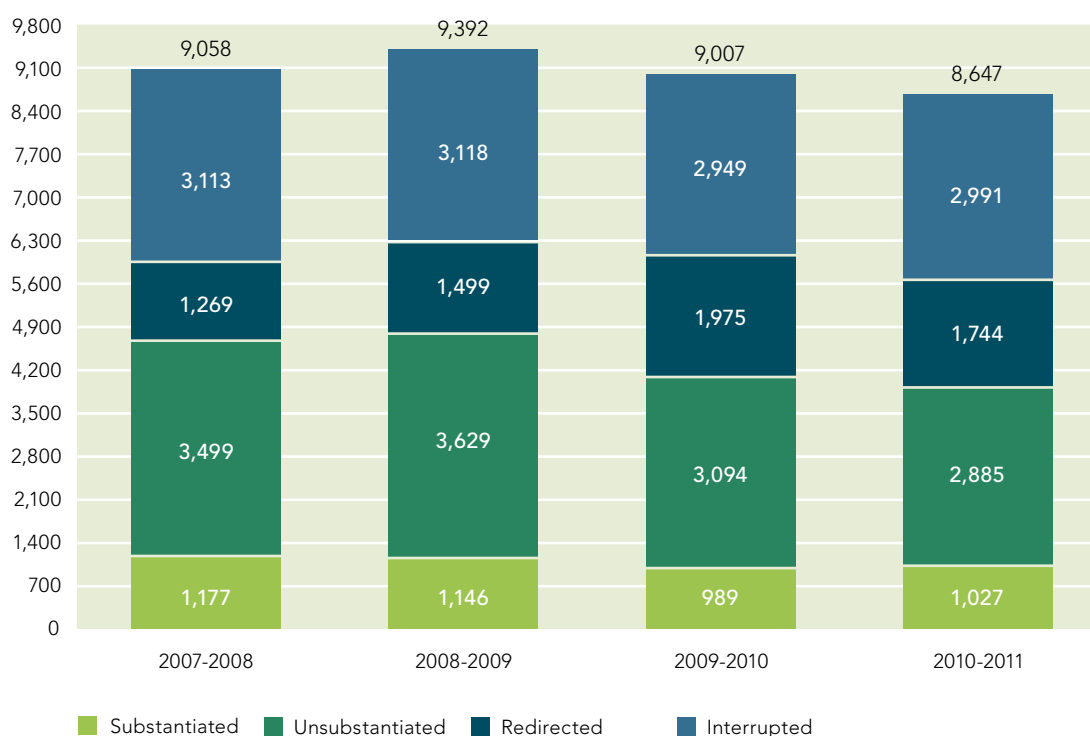
When a complaint or report is deemed admissible, the Québec Ombudsman launches an investigation.

It sometimes happens that citizens and users withdraw or fail to follow up on their complaints during the investigation.

Sometimes an investigation may not be completed because the Québec Ombudsman decides to refer the person to another resource, based on the information collected.

A decision as to whether or not a complaint is substantiated is only made after the investigation has been completed.

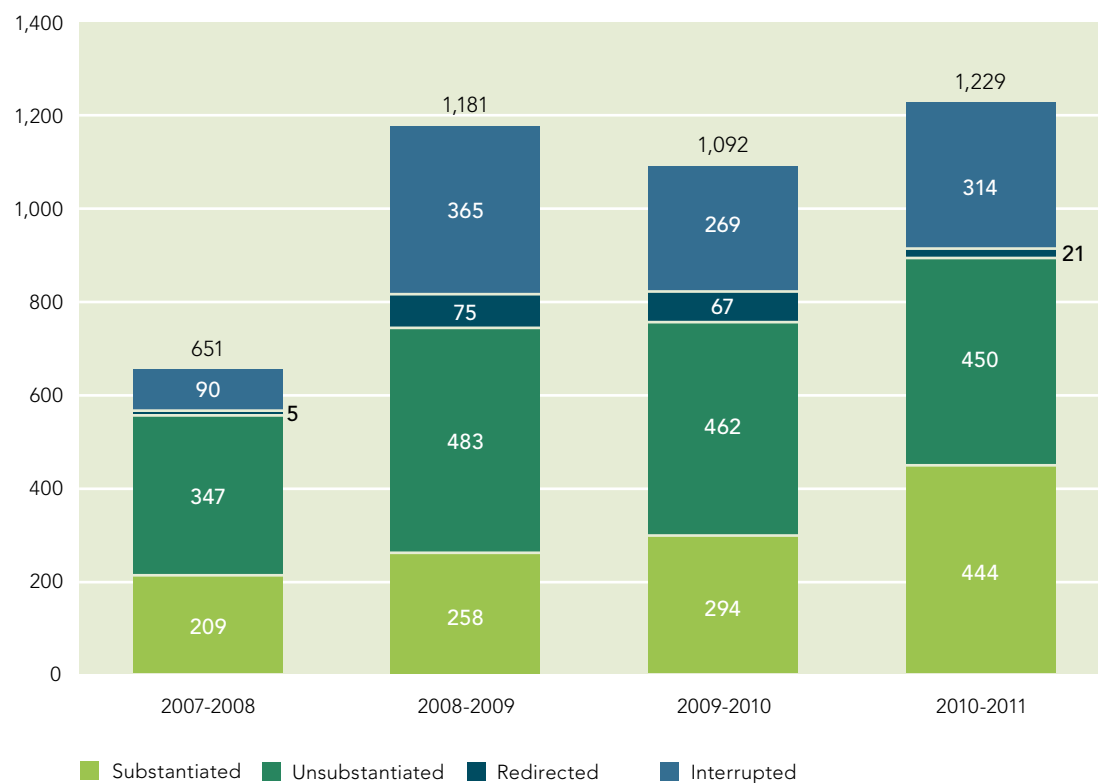
#### 3.1 Variation in the number of closed complaints – Public service



In 2010-2011, the number of substantiated public service complaints rose by 3.8% (from 989 to 1,027), despite an overall decrease of 4% in the number of closed complaints (9,007 to 8,647).

The sizable increase in the number of substantiated complaints concerning the Commission administrative des régimes de retraite et d'assurances (CARRA) accounts in large part for this variation.

### 3.2 Variation in the number of closed complaints and reports – Health and social services



In 2010-2011, the number of substantiated complaints and reports in the health and social services sector more than doubled (from 294 to 444) from last year's figures.

### 3.3 Percentage of substantiated complaints and reports

	2007-2008	2008-2009	2009-2010	2010-2011
Substantiated complaints – Public service	25.2%	24.0%	24.2%	26.3%
Substantiated complaints and reports – Health and social services	37.6%	34.8%	38.9%	49.7%

The percentage of substantiated complaints is calculated as follows:

Substantiated complaints and reports

Substantiated complaints and reports + Unsubstantiated complaints and reports

The percentage of substantiated health and social services complaints has risen steadily in the last two years (by some 15 percentage points in all).

#### 4. SOURCE OF COMPLAINTS AND REPORTS THAT WERE CLOSED FOLLOWING AN INVESTIGATION

##### 4.1 Source of closed complaints for the public service, by administrative region of applicant

ADMINISTRATIVE REGION	POPULATION <sup>1</sup>		2010-2011	
	NUMBER	%	NUMBER	%
(01) Bas-Saint-Laurent	201,268	2.5	250	2.9
(02) Saguenay–Lac-Saint-Jean	272,911	3.5	173	2.0
(03) Capitale-Nationale	693,859	8.8	1,314	15.2
(04) Mauricie	262,401	3.3	308	3.6
(05) Estrie	309,975	3.9	434	5.0
(06) Montréal	1,934,082	24.5	2,990	34.6
(07) Outaouais	363,638	4.6	301	3.5
(08) Abitibi-Témiscamingue	145,835	1.9	170	2.0
(09) Côte-Nord	95,538	1.2	96	1.1
(10) Nord-du-Québec	42,175	0.5	16	0.2
(11) Gaspésie–Îles-de-la-Madeleine	93,826	1.2	120	1.4
(12) Chaudière-Appalaches	405,483	5.1	224	2.6
(13) Laval	398 667	5.0	227	2.6
(14) Lanaudière	464,467	5.9	300	3.5
(15) Laurentides	549,442	7.0	588	6.8
(16) Montérégie	1,441,423	18.2	875	10.1
(17) Centre-du-Québec	232,385	2.9	143	1.6
Unspecified	–	–	81	0.9
Outside Québec	–	–	37	0.4
<b>Total</b>	<b>7,907,375</b>	<b>100.0</b>	<b>8,647</b>	<b>100.0</b>

<sup>1</sup> Sources: Statistics Canada, Demographics Division; Institut de la statistique du Québec, Direction des statistiques sociodémographiques; and Ministère de la Santé et des Services sociaux, Direction des études et des analyses. Population estimate as at July 1, 2010.

#### 4.2 Source of closed complaints and reports for the health and social services network, by health and social service region of the body concerned

While the service offering in the public service sector is coordinated at the provincial level, that in the health and social services sector is administered at the regional level. Québec is divided into a number of health and social service regions under the auspices of the Ministère de la Santé et des Services sociaux, and these regions are accountable for the services they provide for citizens.

HEALTH AND SOCIAL SERVICE REGION	POPULATION <sup>1</sup>		2010-2011	
	NUMBER	%	NUMBER	%
(01) Bas-Saint-Laurent	201,268	2.5	51	4.2
(02) Saguenay–Lac-Saint-Jean	272,911	3.5	21	1.7
(03) Capitale-Nationale	693,859	8.8	96	7.8
(04) Mauricie et Centre-du-Québec	494,786	6.3	69	5.6
(05) Estrie	309,975	3.9	59	4.8
(06) Montréal	1,934,082	24.5	399	32.5
(07) Outaouais	363,638	4.6	44	3.6
(08) Abitibi-Témiscamingue	145,835	1.9	44	3.6
(09) Côte-Nord	95,538	1.2	12	1.0
(10) Nord-du-Québec	14,700	0.1	3	0.2
(11) Gaspésie–Îles-de-la-Madeleine	93,826	1.2	26	2.1
(12) Chaudière-Appalaches	405,483	5.1	63	5.1
(13) Laval	398,667	5.0	28	2.3
(14) Lanaudière	464,467	5.9	64	5.2
(15) Laurentides	549,442	7.0	160	13.0
(16) Montérégie	1,441,423	18.2	90	7.3
(17) Nunavik	11,830	0.1	0	0.0
(18) Terres-Cries-de-la-Baie-James	15,645	0.2	0	0.0
<b>Total</b>	<b>7,907,375</b>	<b>100.0</b>	<b>1,229</b>	<b>100.0</b>

<sup>1</sup> Sources: Statistics Canada, Demographics Division; Institut de la statistique du Québec, Direction des statistiques sociodémographiques; and Ministère de la Santé et des Services sociaux, Direction des études et des analyses. Population estimate as at July 1, 2010.

## 5. MONITORING OF CORRECTIVE MEASURES

If a complaint is found to be substantiated following the Québec Ombudsman's investigation and transmission of its conclusions, corrective measures are implemented by the instance concerned.

The acceptance rate for individual and collective measures requested by the Québec Ombudsman was 97.8% (98.4% for individual measures and 96.6% for collective measures).

### 5.1 Individual scope measures accepted

SECTOR	2007-2008	2008-2009	2009-2010	2010-2011		
				MEASURES REQUESTED	MEASURES ACCEPTED	% ACCEPTANCE
Public service (complaints)	98.6%	99.4%	99.6%	834	832	99.8%
Health and social services (complaints)	97.5%	96.4%	99.2%	142	128	90.1%
Health and social services (reports)	100.0%	100.0%	100.0%	8	8	100.0%
<b>Total</b>	<b>98.5%</b>	<b>99.2%</b>	<b>99.6%</b>	<b>984</b>	<b>968</b>	<b>98.4%</b>

### 5.2 Collective scope measures accepted

SECTOR	2007-2008	2008-2009	2009-2010	2010-2011		
				MEASURES REQUESTED	MEASURES ACCEPTED	% ACCEPTANCE
Public service (complaints)	97.6%	99.2%	99.5%	170	170	100.0%
Health and social services (complaints)	99.1%	99.7%	98.0%	279	262	93.9%
Health and social services (reports)	100.0%	100.0%	100.0%	86	85	98.8%
<b>Total</b>	<b>98.8%</b>	<b>99.6%</b>	<b>98.8%</b>	<b>535</b>	<b>517</b>	<b>96.6%</b>

## 6. PROFILE OF COMPLAINTS BY GOVERNMENT DEPARTMENT, PUBLIC AGENCY, MISSION, OR SERVICE PROGRAM

In 2010-2011, the Québec Ombudsman intervened in respect of:

- 61 of 87, or 70%, of the government departments and public agencies subject to its jurisdiction;
- 174 of 307, or 57%, of the institutions and agencies in the health and social services network subject to its jurisdiction.

### 6.1 Substantiated complaints in the public service for government departments and public agencies in respect of which at least ten substantiated complaints were received

DEPARTMENT/AGENCY	SUBSTAN- TIATED 2007-2008	SUBSTAN- TIATED 2008-2009	SUBSTAN- TIATED 2009-2010	AVERAGE (2007-2008, 2008-2009, 2009-2010)	SUBSTAN- TIATED 2010-2011	VARIATION FROM MEAN
Société de l'assurance automobile du Québec	245	233	184	221	117	- 104
Ministère de la Sécurité publique	499	412	372	428	342	- 86
Commission de la santé et de la sécurité du travail	80	69	48	66	34	- 32
Régie des rentes du Québec	22	30	24	25	12	- 13
Ministère de l'Emploi et de la Solidarité sociale	40	70	54	55	47	- 8
Curateur public	20	22	28	23	18	- 5
Régie de l'assurance maladie du Québec	16	29	9	18	14	- 4
Régie du logement	23	26	19	22	26	4
Ministère de l'Éducation, du Loisir et du Sport	35	31	18	28	42	14
Ministère du Revenu du Québec	111	119	115	115	133	18
Commission administrative des régimes de retraite et d'assurances	5	9	9	8	147	139
Other	81	96	109	95	95	0
<b>Total Administration publique</b>	<b>1,177</b>	<b>1,146</b>	<b>989</b>	<b>1,104</b>	<b>1,027</b>	<b>- 77</b>

The 11 government departments and public agencies for which at least ten substantiated complaints were received generated nearly 91% of all substantiated complaints.

## 6.2 Closed complaints, by government department or public agency, by investigation outcome

DEPARTMENT/AGENCY/ COMPONENT	COM- PLAINTS RECEIVED IN 2010-2011	CLOSED COMPLAINTS IN 2010-2011				
		REDIREC- TED	INTERUP- TED	UNSUBS- TANTIATED	SUBTAN- TIATED	TOTAL
Agence de l'efficacité énergétique	6	0	1	2	2	5
Autorité des marchés financiers	16	0	6	12	3	21
Bureau d'audiences publiques sur l'environnement	0	0	1	0	0	1
Centre de services partagés du Québec	11	2	3	2	5	12
Comité de déontologie policière	1	0	0	1	0	1
Commissaire à la déontologie policière	65	0	21	33	0	54
Commission administrative des régimes de retraite et d'assurances	260	0	34	33	147	214
Commission d'accès à l'information	31	1	9	9	7	26
Commission de la fonction publique du Québec	2	0	1	0	0	1
Commission de la santé et de la sécurité du travail						
Indemnisation	554	10	200	142	23	375
Indemnisation des victimes d'actes criminels	138	1	52	37	11	101
Général	34	1	3	5	0	9
Commission de l'équité salariale	4	0	0	0	1	1
Commission de protection du territoire agricole du Québec	12	1	9	3	0	13
Commission des lésions professionnelles	62	3	45	3	4	55
Commission des normes du travail	54	3	20	14	4	41
Commission des relations du travail	15	1	8	4	0	13
Commission municipale du Québec	1	0	0	0	0	0
Commission québécoise des libérations conditionnelles	32	5	14	3	1	23

DEPARTMENT/AGENCY/ COMPONENT	COM- PLAINTS RECEIVED IN 2010-2011	CLOSED COMPLAINTS IN 2010-2011				
		REDIREC- TED	INTERUP- TED	UNSUBS- TANTIATED	SUBTAN- TIATED	TOTAL
Conseil consultatif du travail et de la main-d'œuvre	1	0	0	1	0	1
Conseil de gestion de l'assurance parentale	1	0	0	0	0	0
Conseil de la justice administrative	4	0	4	0	0	4
Conseil de la magistrature	1	0	1	0	0	1
Coroner	12	0	2	6	3	11
Curateur public	190	11	64	109	18	202
Directeur des poursuites criminelles et pénales	4	0	3	0	1	4
La Financière agricole du Québec	16	0	6	5	2	13
Ministère de la Culture, des Communications et de la Condition féminine	14	0	5	4	4	13
Ministère de la Famille et des Aînés	407	0	17	22	8	47
Ministère de la Justice	44	0	15	13	7	35
Ministère de la Santé et des Services sociaux	53	0	39	4	3	46
Ministère de la Sécurité publique						
Sécurité civile	5	0	1	2	0	3
Services correctionnels	3,867	1,529	1,083	777	340	3,729
Général	18	1	9	4	2	16
Ministère de l'Agriculture, des Pêcheries et de l'Alimentation	21	0	8	9	4	21
Ministère de l'Éducation, du Loisir et du Sport						
Aide financière aux études	145	0	21	99	31	151
Éducation	87	14	58	21	11	104
Général	8	0	2	0	0	2
Ministère de l'Emploi et de la Solidarité sociale						
Emploi	129	24	43	40	3	110
Régime québécois d'assurance parentale	31	2	13	13	0	28
Solidarité sociale	764	93	275	247	44	659

DEPARTMENT/AGENCY/ COMPONENT	COM- PLAINTS RECEIVED IN 2010-2011	CLOSED COMPLAINTS IN 2010-2011				
		REDIREC- TED	INTERUP- TED	UNSUBS- TANTIATED	SUBTAN- TIATED	TOTAL
Général	159	4	18	14	0	36
Ministère de l'Immigration et des Communautés culturelles	24	3	10	8	2	23
Ministère des Affaires municipales, des Régions et de l'Occupation du territoire	51	2	11	26	2	41
Ministère des Finances	183	0	165	7	1	173
Ministère des Ressources naturelles et de la Faune	34	0	8	15	2	25
Ministère des Services gouvernementaux	1	0	0	0	0	0
Ministère des Transports	38	2	11	13	6	32
Ministère du Développement durable, de l'Environnement et des Parcs	58	2	15	39	2	58
Ministère du Développement économique, de l'Innovation et de l'Exportation	1	0	0	0	0	0
Ministère du Revenu du Québec						
Direction générale des biens non réclamés	11	0	3	3	2	8
Fiscalité	673	7	203	235	109	554
Perception des pensions alimentaires	112	7	18	62	21	108
Registraire des entreprises	14	0	4	0	1	5
Général	72	0	2	1	0	3
Ministère du Tourisme	2	0	1	1	0	2
Ministère du Travail	2	0	1	0	1	2
Office de la protection du consommateur	18	0	2	6	6	14
Office des personnes handicapées du Québec	6	0	4	1	0	5
Office des professions du Québec	10	0	2	7	7	16
Office québécois de la langue française	5	0	1	2	1	4

DEPARTMENT/AGENCY/ COMPONENT	COM- PLAINTS RECEIVED IN 2010-2011	CLOSED COMPLAINTS IN 2010-2011				
		REDIREC- TED	INTERUP- TED	UNSUBS- TANTIATED	SUBTAN- TIATED	TOTAL
Régie de l'assurance maladie du Québec	209	0	36	120	14	170
Régie des alcools, des courses et des jeux	4	0	1	2	1	4
Régie des marchés agricoles et alimentaires du Québec	3	0	1	0	0	1
Régie des rentes du Québec	246	0	53	127	12	192
Régie du bâtiment du Québec	11	0	3	4	1	8
Régie du cinéma	1	0	0	1	0	1
Régie du logement	168	2	60	46	26	134
Secrétariat du Conseil du trésor	2	1	1	0	0	2
Services Québec						
Directeur de l'état civil	43	0	10	28	1	39
Général	5	0	2	1	0	3
Société de l'assurance automobile du Québec						
Code de la sécurité routière	298	11	58	185	30	284
Indemnisation	515	1	150	235	87	473
Général	41	0	4	3	0	7
Société d'habitation du Québec	20	0	9	5	1	15
Tribunal administratif du Québec	39	0	27	9	2	38
Vérificateur général	1	0	1	0	0	1
<b>Total</b>	<b>10,200</b>	<b>1,744</b>	<b>2,991</b>	<b>2,885</b>	<b>1,027</b>	<b>8,647</b>

Note: A list of all the government departments subject to the Public Protector Act can be found at: [www.protecteurducitoyen.qc.ca](http://www.protecteurducitoyen.qc.ca).

### 6.3 Closed complaints, health and social services, by mission

HEALTH AND SOCIAL SERVICES NETWORK	COM- PLAINTS RECEIVED IN 2010-2011	CLOSED COMPLAINTS IN 2010-2011				
		REDIREC- TED	INTER- RUPTED	UNSUB- STANTIFIED	SUBSTA- TIATED	TOTAL
Hospitals	464	8	89	146	194	437
Local community services centres	176	3	43	67	54	167
Residential and long-term care centres	162	2	29	60	68	159
Rehabilitation centres	84	1	20	28	38	87
Youth centres	135	1	51	67	11	130
Health and social services agencies	21	0	2	2	5	9
Community organizations	14	0	8	5	13	26
Private seniors' residences	25	0	4	10	2	16
Prehospital emergency services	37	0	4	17	4	25
Shelters	3	1	0	2	0	3
Awaiting assignment of a mission	14	0	0	0	0	0
<b>Total</b>	<b>1,135</b>	<b>16</b>	<b>250</b>	<b>404</b>	<b>389</b>	<b>1,059</b>

Section 38 of the *Act respecting the Health and Social Services Ombudsman* requires a separate report on complaints filed by citizens and interventions made pursuant to section 20 (reports).

#### 6.4 Closed reports, health and social services, by mission

HEALTH AND SOCIAL SERVICES NETWORK	REPORTS RECEIVED IN 2010-2011	CLOSED REPORTS IN 2010-2011				
		REDIRECTED	INTERRUPTED	UNSUBSTANTIATED	SUBSTANTIATED	TOTAL
Hospitals	46	1	15	14	18	48
Local community services centres	11	0	6	0	0	6
Residential and long-term care centres	31	0	19	17	13	49
Rehabilitation centres	16	1	2	4	3	10
Youth centres	24	0	4	1	14	19
Health and social services agencies	10	0	3	3	5	11
Community organizations	3	0	0	4	0	4
Private seniors' residences	32	3	15	3	2	23
Prehospital emergency services	1	0	0	0	0	0
Shelters	5	0	0	0	0	0
<b>Total</b>	<b>179</b>	<b>5</b>	<b>64</b>	<b>46</b>	<b>55</b>	<b>170</b>

## 6.5 Closed complaints and reports, health and social services, by service program

SERVICE PROGRAM	COM- PLAINTS AND REPORTS RECEIVED IN 2010-2011	CLOSED COMPLAINTS AND REPORTS IN 2010-2011				
		REDIREC- TED	INTERUP- TED	UNSUB- STANTIFIED	SUBSTA- TIATED	TOTAL
Buildings and equipment	13	2	0	2	6	10
Intellectual disability/Pervasive development disorders	79	2	16	24	41	83
Physical disability	67	1	13	24	17	55
Addictions	9	1	1	4	2	8
Troubled youth	151	1	52	71	20	144
Physicians	10	0	6	1	2	9
Age-related loss of independence	258	6	67	89	80	242
Complaints investigation system	124	0	31	22	62	115
Mental health	125	2	45	45	55	147
Physical health	268	3	41	94	123	261
Public health	2	0	0	0	0	0
Support	158	0	14	70	33	117
Not applicable	15	1	18	0	0	19
Other	18	2	8	4	3	17
Awaiting assignment of a service program	17	0	2	0	0	2
<b>Total</b>	<b>1,314</b>	<b>21</b>	<b>314</b>	<b>450</b>	<b>444</b>	<b>1,229</b>

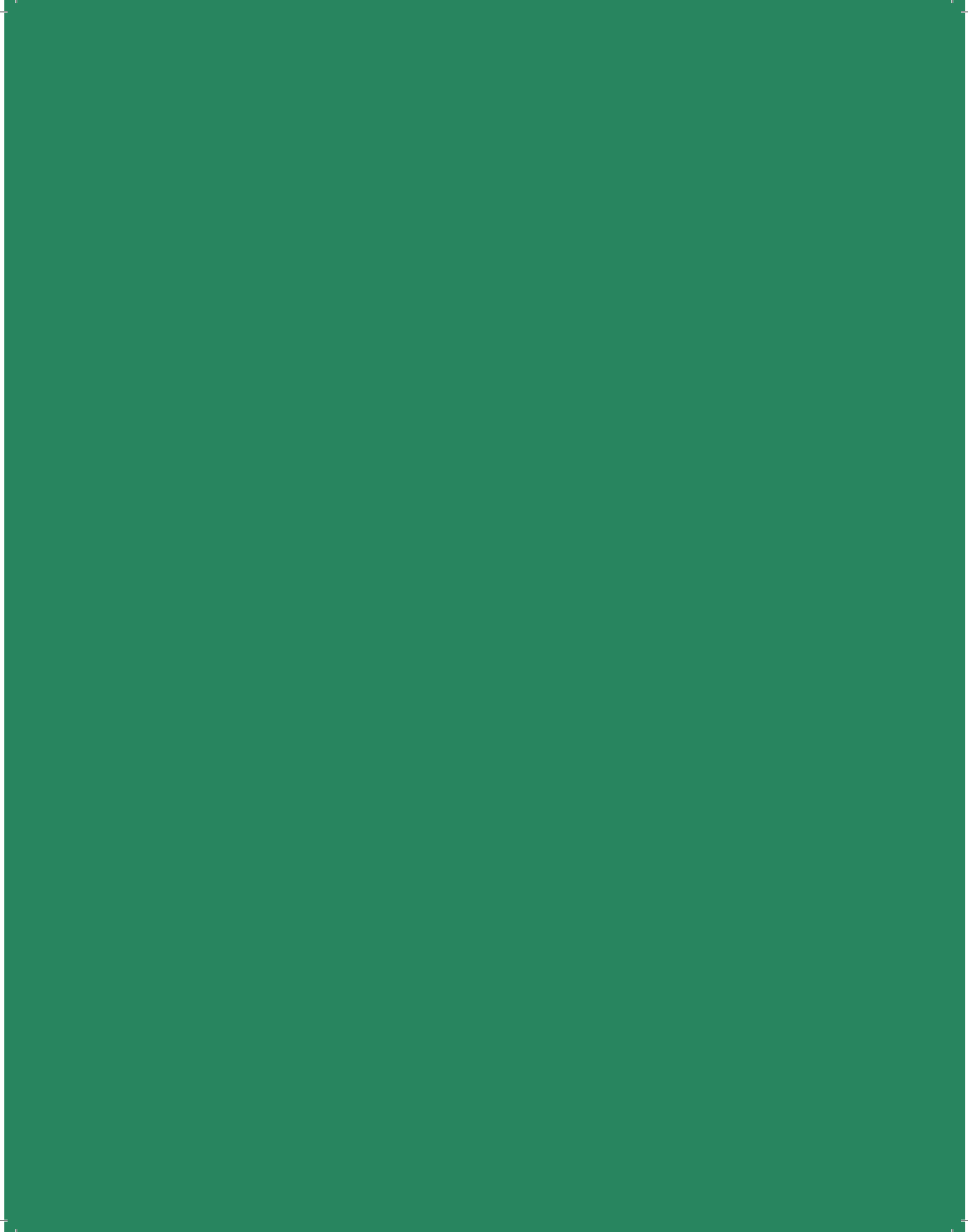
## 7. SECTORS NOT UNDER THE QUÉBEC OMBUDSMAN'S JURISDICTION BUT WHOSE REQUESTS FOR SERVICE RAISE CONCERNS

As has been the case for several years, Hydro-Québec and the education network generated a significant number of requests for service. The Québec Ombudsman, under the jurisdiction assigned to it by law, cannot process these requests as complaints.

This year, the Québec Ombudsman received 229 requests for service concerning Hydro-Québec, compared with 164 in 2009-2010. The main grounds for the requests were billing, payment agreements, service interruptions, installation wait times and, generally speaking, problems in obtaining services, including the inability to present a problem to a staff member.

The education network was the subject of 105 requests for service, compared with 122 in 2009-2010. Most of the requests concerned college education, secondary education, and school boards.

	2007-2008	2008-2009	2009-2010	2010-2011
Hydro-Québec	208	171	164	229
Education network	102	158	122	105



# SUMMARY TABLE OF FOLLOW-UP

## FOLLOW-UP TO RECOMMENDATIONS IN THE QUÉBEC OMBUDSMAN'S 2007-2008, 2008-2009 AND 2009-2010 ANNUAL REPORTS

### PUBLIC SERVICE

COMMISSION ADMINISTRATIVE DES RÉGIMES DE RETRAITE ET D'ASSURANCES (CARRA)		
INFORMATION		
RECOMMENDATION 2008-2009	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2010-2011
That CARRA should inform the Québec Ombudsman of the results of the steps taken to improve the quality of the information provided when it implements its 2009-2010 action plan.	<b>WORRIED</b> that the anticipated improvement has not taken place.	<b>WILL MONITOR</b> the results of CARRA's efforts to improve the quality of information.
REMISSION OF DEBTS ARISING FROM ERRORS		
RECOMMENDATION 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2010-2011
That CARRA take steps to obtain an amendment to the application regulation for the <i>Act respecting the government and public employees retirement plan</i> in order to include the possibility of remission of debts arising from errors that recipients cannot reasonably detect.	–	<b>AWAITING</b> the opinion of retirement committees and possible regulatory amendments.

COMMISSION DE LA SANTÉ ET DE LA SÉCURITÉ DU TRAVAIL –  
CRIME VICTIMS COMPENSATION DIRECTORATE

TELEPHONE ACCESS

RECOMMENDATION 2008-2009	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2010-2011
<p><b>That</b> the Crime Victims Compensation Directorate should provide the Québec Ombudsman with a plan of action by June 30, 2009, which should then be implemented without delay to bring the average waiting time as close as possible to the standard recommended by the Centre d'expertise des grands organismes.</p>	<p><b>APPRECIATES</b> the results obtained, in particular the fact that the average waiting time has been reduced from more than six minutes to approximately one minute.</p> <p><b>CONFIDENT</b> that effort will continue to be made to reduce the waiting time even further.</p>	<p><b>SATISFIED</b> with the measures established and the results seen (call-hold time of one minute).</p>

CURATEUR PUBLIC

DELAYS IN LAUNCHING PROTECTIVE SUPERVISION PROGRAMS

RECOMMENDATIONS 2007-2008 AND 2008-2009	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2010-2011
<p><b>That</b> the Curateur public provide the Québec Ombudsman, no later than September 1, 2008, accurate data on the delays for obtaining a judgment subsequent to the receipt of the director general's reports attesting to the need for a protective supervision program. In addition, the Québec Ombudsman asked the Curateur public for a copy of its action plan, including the measures it plans to introduce to limit to the greatest possible extent the intervention delays when a protective supervision program must be launched.</p> <p><b>That</b> the Curateur public present to the Québec Ombudsman a review of the measures it has introduced, and that it submit a report on its analysis of the results obtained as a result of the steps taken by other bodies.</p>	<p><b>DISSATISFIED.</b> The Québec Ombudsman feels that a permanent correction to this problem is required.</p> <p><b>WORRIED</b> about ongoing delays.</p> <p><b>WILL MONITOR</b> progress carefully.</p>	<p><b>SATISFIED</b> with the action plan and the report on measures implemented by the Curateur public to limit intervention delays as much as possible when a protective supervision program must be launched. On March 31, 2011, the wait time was 90 days in 65% of cases.</p>

CURATEUR PUBLIC (CONTINUED)		
CONSENT FOR INCAPACITATED INDIVIDUALS		
RECOMMENDATIONS 2007-2008	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2010-2011
<p><b>That</b> the Curateur public measure the results of its efforts, primarily to ensure that its message has been heard and understood by the main stakeholders involved in the issue of consent for care. This measure should also allow the Curateur public to determine whether institutions or actors are failing to obtain its consent when necessary.</p> <p><b>That</b> the Curateur public notify the Québec Ombudsman of the results obtained.</p>	<p><b>DISSATISFIED</b> with the delay in the follow-up to this recommendation.</p>	<p><b>SATISFIED</b> with the proposed measures and the new way of processing consent for care applications.</p>
UNDERSTANDING THE CLIENTELE		
RECOMMENDATION 2008-2009	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2010-2011
<p><b>That</b> at one of the regular meetings between now and January 2010, the Curateur public submit to the Québec Ombudsman a review of the steps taken to understand the clientele.</p>	<p><b>WILL MONITOR</b> the requested clarifications to confirm that the maximum target set by the Curateur public is realistic.</p>	<p><b>SATISFIED</b> with the clarifications concerning the maximum target set (85%).</p>
REASSESSMENT OF PROTECTIVE PROGRAMS		
RECOMMENDATION 2008-2009	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2010-2011
<p><b>That</b> the Curateur public report to the Québec Ombudsman by May 2010 on the implementation of its plan action.</p>	<p><b>SATISFIED</b> with the plan of action that has been introduced.</p> <p><b>WILL MONITOR</b> its results to ensure that the problem regarding delays has been permanently corrected.</p>	<p><b>SATISFIED</b> with the report on the measures taken by the Curateur public.</p>
FEES CHARGE TO THE PERSONS REPRESENTED		
RECOMMENDATION 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2010-2011
<p><b>That</b> the Curateur public should cease the practice of including the amount of the Shelter Allowance in its calculation to determine whether its wards should pay fees.</p>	<p>–</p>	<p><b>WORRIED</b> about the Curateur public's delay in acting on this recommendation.</p> <p><b>AWAITING</b> the results of the fee-review committee.</p>

MINISTÈRE DE L'ÉDUCATION, DU LOISIR ET DU SPORT		
AN IMPARTIAL AND CREDIBLE COMPLAINT MANAGEMENT SYSTEM		
RECOMMENDATION 2007-2008	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2010-2011
<p><b>That</b> the Ministère de l'Éducation, du Loisir et du Sport determine the most appropriate conditions for providing the school systems with a manner for handling complaints capable of ensuring the impartiality and credibility necessary to meet the needs of parents, students and institutions.</p>	<p><b>NOTES</b> that complaints have been made in this respect.</p> <p><b>WORRIED</b> that the regulation as adopted does not sufficiently ensure the legitimacy and impartiality of the new recourse.</p> <p><b>WILL MONITOR</b> the implementation of the complaint processing system.</p>	<p><b>SATISFIED</b> with the progress made creating various student ombudsmans and with school boards' complaints management systems.</p> <p><b>INVITES</b> the Department to ensure that complaint management procedures comply with the regulatory provisions.</p> <p><b>AWAITING</b> the passage of Bills 38 and 44 under which the university and cegep network would have a complaints management system.</p>

MINISTÈRE DE LA JUSTICE		
SIMPLIFICATION OF THE PROCESS OF REVISING CHILD SUPPORT PAYMENTS		
RECOMMENDATION 2006-2007 AND 2007-2008	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2010-2011
<p><b>That</b> the Civil Code and the Code of Civil Procedure be modified to relax the process for reviewing child support.</p>	<p><b>CONFIDENT</b> that, in view of the priority granted by the Minister to the question of access to justice, simplified, low-cost measures will be implemented by 2011-2012.</p>	<p><b>DISSATISFIED</b> because even though the Department acknowledged the importance of this issue as early as 2007, so far there has been no concrete action.</p>

MINISTÈRE DE LA SÉCURITÉ PUBLIQUE – CORRECTIONAL SERVICES		
A SOCIAL REINTEGRATION PLAN		
RECOMMENDATION 2007-2008 AND 2008-2009	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2010-2011
<p><b>That</b> the government of Québec oversee the development of an action plan, no later than December 2008, for the creation and management of social integration services.</p> <p><b>Note:</b> The government entrusted this task to the Ministère de la Sécurité publique.</p>	<p><b>SATISFIED</b> with the preparation of a government action plan.</p> <p><b>WILL MONITOR</b> its officialization and implementation, beginning in 2010-2011.</p>	<p><b>SATISFIED</b> that the action plan was made official on December 15, 2010 despite delays.</p> <p><b>WILL MONITOR</b> its implementation in the coming year.</p>

## MINISTÈRE DE LA SÉCURITÉ PUBLIQUE – CORRECTIONAL SERVICES (CONTINUED)

### REQUESTS FOR HEALTH SERVICES

RECOMMENDATIONS 2007-2008	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2010-2011
<p><b>That</b> the Ministère de la Sécurité publique evaluate in the near future options to make changes to the conditions governing written requests for health services.</p> <p><b>That</b> it notify the Québec Ombudsman of the results of this review.</p>	<p><b>CONFIDENT</b> that follow-up action will be taken, given the progress made in reviewing the conditions applicable to written requests.</p> <p><b>WILL MONITOR</b> the Department's ongoing efforts.</p>	<p><b>WORRIED</b> about the slow pace. The Direction générale des services correctionnels struck a working committee to examine the 2007-2008 recommendation in February 2010 only. We are still awaiting the comments on the recommendations made in November by the committee.</p>

### CONFIDENTIALITY OF INFORMATION EXCHANGED BY INMATES AND MEDICAL STAFF

RECOMMENDATIONS 2008-2009	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2010-2011
<p><b>That</b> the Ministère de la Sécurité publique reassess the internal directives of individual institutions.</p> <p><b>That</b>, in its directives, it emphasize the importance of respecting confidentiality and stipulate how this may be done.</p> <p><b>That</b> it identify the necessary material conditions to allow for confidential consultations while limiting any security risks, and that it report to the Québec Ombudsman by December 31, 2009, on the steps taken.</p> <p><b>That</b> it undertake discussions with the health and social services institutions that most often receive inmates, in order to determine the conditions required to allow confidential medical consultations in a secure environment.</p>	<p><b>WORRIED</b> that the principle of confidentiality for discussions between medical staff and inmates is not acknowledged in the new instruction.</p> <p><b>WILL MONITOR</b> the corrective measures taken as a result of these recommendations.</p>	<p><b>SATISFIED.</b> On June 18, 2010, provincial directive 21S05 on hospitalized detainees was modified to the Québec Ombudsman's satisfaction.</p> <p><b>WILL MONITOR</b> detention facility directors' compliance with the directive.</p>

COMMISSION QUÉBÉCOISE DES LIBÉRATIONS CONDITIONNELLES,  
MINISTÈRE DE LA SÉCURITÉ PUBLIQUE, MINISTÈRE DE LA JUSTICE,  
DIRECTOR OF CRIMINAL AND PENAL PROSECUTIONS

RELEASE ON PAROLE: CHRONIC POSTPONEMENT OF HEARINGS

RECOMMANDATIONS 2008-2009	APPRÉCIATION 2009-2010	APPRÉCIATION 2010-2011
<p><b>That</b> the Ministère de la Justice, the Ministère de la Sécurité publique, the Director of Criminal and Penal Prosecutions and the Commission québécoise des libérations conditionnelles work together to analyze bottlenecks in the current parole release system, in order not only to improve existing practices but also to make suitable changes to the rules and simplify their operation, if possible. It also asks that they report to it on the changes made by January 2010.</p>	<p><b>DISSATISFIED</b> with the time taken to follow up on this recommendation, in view of the large number of postponements that have occurred since the recommendation was made.</p> <p><b>WILL MONITOR</b> the results of the work done to correct the situation.</p>	<p><b>SATISFIED</b> with the action plan tabled in November 2010.</p> <p><b>WILL MONITOR</b> the first report on action plan implementation across the correctional system.</p>

RÉGIE DES RENTES DU QUÉBEC

COMBINATION OF BENEFITS WITH NO NEGATIVE EFFECTS

RECOMMENDATION 2008-2009	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2010-2011
<p><b>That</b>, as part of the pension plan review that will take place in the fall of 2009, steps should be taken to ensure that the rules applicable to benefit combinations paid to citizens receiving compensation from the Société de l'assurance automobile du Québec do not have the effect of reducing their income from its original level.</p>	<p><b>SATISFIED</b> with the measures introduced to minimize the impacts for citizens.</p> <p><b>WILL MONITOR</b> the legislative amendments to be proposed in the coming months.</p>	<p><b>DISSATISFIED</b> with the delay in follow-up to the recommendation.</p>

RÉGIE DU LOGEMENT

LEGISLATIVE AMENDMENTS TO REDUCE WAIT TIMES

RECOMMENDATION 2007-2008	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2010-2011
<p><b>That</b> the legal framework under which the Régie du logement addresses cases involving the non-payment of rent be modified so as to incorporate a new procedure for improving the availability of decision-makers in this area while jointly hearing all cases within a reasonable time frame. That measures are taken to ensure that these changes are designed so as to respect the fundamental rights of all the parties, particularly with regard to procedures involving lease cancellation and the eviction of a tenant.</p>	<p><b>DISSATISFIED</b> with the delays, which are depriving citizens of the opportunity to obtain justice within a reasonable time. The work announced in 2009 has not yet been completed.</p>	<p><b>DISSATISFIED</b> with persistent delays.</p> <p><b>WILL MONITOR</b> actions further to the Minister of Municipal Affairs, Regions and Land Occupancy's stated intention to introduce a bill to overhaul the <i>Act respecting the Régie du logement</i>.</p>

RÉGIE DU LOGEMENT (CONTINUED)		
POWER OF COMMISSIONERS TO DECLARE DEBARMENT		
RECOMMENDATION 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2010-2011
<p>The Québec Ombudsman makes the following recommendation to Minister of Municipal Affairs, the Regions and Land Occupancy: that the <i>Act respecting the Régie du logement</i> be amended to explicitly stipulate that commissioners have the power to declare debarment for citizens who abuse its procedures.</p>	–	<b>SATISFIED</b> with the follow-up to this recommendation.

SOCIÉTÉ DE L'ASSURANCE AUTOMOBILE DU QUÉBEC (SAAQ)		
OVERHAUL OF THE COMPUTER SYSTEM		
RECOMMENDATIONS 2008-2009	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2010-2011
<p><b>That</b> SAAQ should overhaul its computer systems so as to allow for a quick review of the licence and registration files of every citizen who effects a licence or registration transaction at a service centre, and also to avoid requirements that are contrary to the act.</p> <p><b>That</b> SAAQ should treat the overhaul as a priority, and inform the Québec Ombudsman of the outcome of its time frame review by September 30, 2009.</p> <p><b>That</b>, in the meantime, SAAQ should introduce the necessary administrative measures, regardless of the constraints involved.</p> <p><b>That</b> SAAQ should submit an action plan to the Québec Ombudsman by June 30, 2009, detailing these measures.</p>	<p><b>CONFIDENT</b> that the computer system overhaul that SAAQ intends to perform in 2011 will allow it to provide a service in accordance with the requirements of the Highway Safety Code, given the concern demonstrated by the agency's managers in this matter.</p>	<p><b>WILL MONITOR</b> the results of the analysis conducted for overhauling the computer systems.</p>

## HEALTH AND SOCIAL SERVICES

MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX		
ADEQUATE INFORMATION, RESOURCES AND FACILITIES FOR THE COMPLAINT MANAGEMENT SYSTEM		
RECOMMENDATION 2007-2008	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2010-2011
<p><b>That</b> boards of directors of institutions in the health and social services network and regional agencies make sure that local and regional service quality and complaints commissioners have at their disposal adequate resources and operating conditions to carry out their responsibilities in an effective and efficient manner.</p>	<p><b>DISSATISFIED</b> with the follow-up to this recommendation.</p>	<p><b>SATISFIED</b> with the actions proposed.</p> <p><b>WILL MONITOR</b> the follow-up on implementation.</p>

MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX – INTERNATIONAL ADOPTION		
SERVICES TO ADOPTIVE PARENTS		
RECOMMENDATIONS 2008-2009	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2010-2011
<p><b>That</b> services for parents of children adopted from Québec or from abroad be harmonized, to achieve equity.</p>	<p><b>DISSATISFIED</b> that, despite the efforts of the Secrétariat and its partners, the supply of services for international adoption applicants has not been harmonized with the supply of services for domestic adoption applicants.</p>	<p><b>SATISFIED</b> with the actions proposed.</p> <p><b>WILL MONITOR</b> the follow-up on implementation.</p> <p><b>SATISFIED</b> with the follow-up to this recommendation.</p>
<p><b>That</b> the Ministère de la Santé et des Services sociaux report to the Québec Ombudsman no later than January 2010.</p>		<p><b>SATISFIED</b> with the follow-up to this recommendation.</p>

MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX – INTERNATIONAL ADOPTION  
(CONTINUED)

SERVICES TO ADOPTIVE PARENTS

RECOMMENDATIONS 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2010-2011
<p><b>That</b> the Ministère de la Santé et des Services sociaux ensure that an inter-sector agreement be entered into by the authorities responsible for providing services to applicants domiciled in Québec and where applicable, to the children who are adopted, at the pre-adoption, adoption and post-adoption phases in the process of adopting a child domiciled outside Québec.</p>	–	<b>SATISFIED</b> with the follow-up to this recommendation.
<p><b>That</b> this agreement reiterate the responsibilities of the authorities concerned, and in particular of the following:</p> <ul style="list-style-type: none"> <li>- the Secrétariat à l'adoption internationale;</li> <li>- Directors of Youth Protection;</li> <li>- youth centres;</li> <li>- health and social services centres;</li> <li>- accredited agencies;</li> </ul>	–	<b>SATISFIED</b> with the follow-up to this recommendation.
<p><b>That</b> this agreement define all the services that the authorities concerned undertake to provide to applicants and, where applicable, to the children adopted, at every step in the process of adopting a child domiciled outside Québec.</p>	–	<b>SATISFIED</b> with the follow-up to this recommendation.

MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX - PHYSICAL DISABILITIES,  
INTELLECTUAL DISABILITIES AND PERVASIVE DEVELOPMENT DISORDERS

AVAILABILITY OF SPEECH THERAPY

RECOMMENDATION 2007-2008	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2010-2011
<b>That</b> the Ministère de la Santé et des Services sociaux take the necessary measures to implement special access mechanisms for making speech therapy services available within a reasonable time frame.	<b>WORRIED</b> that the waiting time has simply been shifted to another position in the process.  <b>WORRIED</b> that the standards of the service access plan are not applied to people who were on the waiting list before November 8, 2008, and that the first service does not necessarily correspond to the user's priority needs.	<b>WILL MONITOR</b> innovative work organization projects to optimize the use of speech therapy resources.

AVAILABILITY OF PHYSICAL DISABILITY, INTELLECTUAL DISABILITY  
AND PERVASIVE DEVELOPMENT DISORDER SERVICES

RECOMMENDATIONS 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2010-2011
<b>That</b> the Ministère de la Santé et des Services sociaux take the necessary steps to ensure that users enrolled on residual waiting lists be served as promised by November 1, 2010.	–	<b>SATISFIED</b> with the follow-up to this recommendation.
<b>That</b> it set acceptable wait times between the beginning of the needs evaluation process and the provision of actual rehabilitation services.	–	<b>WORRIED ABOUT</b> the progress made with regard to wait times between needs evaluation and the delivery of services.
<b>That</b> it clearly define what is meant by "first service" to ensure that it addresses the user's priority need.	–	<b>WILL MONITOR</b> the follow-up to this recommendation.
<b>That</b> it inform the Québec Ombudsman of the results of implementing these recommendations by February 1, 2011.	–	<b>AWAITING</b> the outcomes of these recommendations.

MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX – AGE-RELATED LOSS  
OF INDEPENDANCE

INSPECTION OF FACILITIES AND QUALITY INDICATORS

RECOMMENDATIONS 2007-2008	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2010-2011
<p><b>That</b> the Ministère de la Santé et des Services sociaux continue and intensify its efforts to inspect institutions.</p> <p><b>That</b> notably inspection programs, as additional security measures, be developed for private residential facilities serving vulnerable persons, and that these facilities be constrained to a certification program and complaint management system.</p> <p><b>That</b> the Ministère de la Santé et des Services sociaux, in view of its role and obligations regarding quality of care and services, encourage each institution to implement quality indicators.</p> <p><b>That</b> the Ministère de la Santé et des Services sociaux prepare an annual progress report on quality indicators developed and used by institutions.</p>	<p><b>DISSATISFIED</b> with the follow-up to this recommendation.</p> <p><b>DISSATISFIED</b> with the delay in the process of certifying private seniors' residences.</p> <p><b>DISSATISFIED</b> that the Department is still at the planning stage, and that no indicators have yet been designed.</p> <p><b>DISSATISFIED</b> with the follow-up to this recommendation.</p>	<p><b>WILL MONITOR</b> the inspection visits to be carried out in the coming months.</p> <p><b>WILL MONITOR</b> the proposed improvement measures and the proposed amendment of the regulation concerning certification and its application.</p> <p><b>SATISFIED</b> with the follow-up to this recommendation.</p> <p><b>SATISFIED</b> with the follow-up to this recommendation.</p>

MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX - AGE-RELATED LOSS OF INDEPENDANCE (CONTINUED)		
QUALITY ASSURANCE		
RECOMMENDATIONS 2008-2009	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2010-2011
<p><b>That</b> the Ministère de la Santé et des Services sociaux step up the pace of its quality assessment visits in order to offer CHSLD residents a quality living environment.</p> <p><b>That</b> private seniors' residences be included in the resources that must undergo priority ministerial assessment visits.</p> <p><b>That</b> quality indicators be included in management agreements between agencies and institutions, and that the contracts made with private resources explicitly set out the level of quality expected and the means of quality control.</p> <p><b>That</b> the capacity of the resources to meet the specific needs of their residence be ascertained.</p>	<p><b>DISSATISFIED</b> with the follow-up to this recommendation.</p> <p><b>DISSATISFIED</b> with delays in the certification process.</p> <p><b>DISSATISFIED</b> that the Department is still at the planning stage, and that no indicators have yet been designed.</p> <p><b>DISSATISFIED</b> with the follow-up to this recommendation.</p>	<p><b>WILL MONITOR</b> the inspection visits to be carried out in the coming months.</p> <p><b>WILL MONITOR</b> the proposed improvement measures and the proposed amendment of the regulation concerning certification and its application.</p> <p><b>LIKES</b> the actions proposed.</p> <p><b>AWAITING</b> their implementation.</p> <p><b>WILL MONITOR</b> the effect of the measures adopted to meet residents' specific needs.</p>
RECOMMENDATIONS 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2010-2011
<p><b>That</b> the Ministère de la Santé et des Services sociaux ensure that the certification process for private seniors' residences is completed by December 31, 2010.</p> <p><b>That</b> private seniors' residences be included in its quality assessment visits.</p>	<p>–</p> <p>–</p>	<p><b>WORRIED ABOUT</b> the delays in completing the certification of private seniors' residences.</p> <p><b>WILL MONITOR</b> the proposed improvement measures and the proposed amendment of the regulation concerning certification and its application.</p>

MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX - AGE-RELATED LOSS OF INDEPENDANCE (CONTINUED)		
LIVING ENVIRONMENTS		
RECOMMENDATION 2007-2008	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2010-2011
That the Ministère de la Santé et des Services sociaux advise the Québec Ombudsman with regard to the measures it will adopt to ensure the implementation of the department orientations regarding the living environment in all CHSLDs.	<b>DISSATISFIED</b> with implementation of the measures, and in particular with the time taken to implement measures to improve living conditions in the centres.	<b>WILL MONITOR</b> the effect of the measures adopted to ensure implementation of the Department's orientations regarding the living environment in all CHSLDs.
ENVIRONMENTS THAT ALLOW PRIVACY AND RESPECT		
RECOMMENDATION 2007-2008	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2010-2011
That residential and long-term care centres provide an appropriate environment to allow users to spend time with their loved ones in private, and ensure that bodies are treated with respect at all times, up until they are taken away by the undertaker.	<b>WORRIED</b> that no guarantee has been given to the effect that a portion (albeit small) of the budget granted for functional renovations will be used to develop a suitable environment that provides users with privacy at the end of their lives.	<b>WILL MONITOR</b> the reminder to institutions in the spring of 2011.  <b>WORRIED ABOUT</b> the fact that the service review has been postponed to 2015.
CODE OF CONDUCT AND AGGRESSIVE OR VIOLENT INDIVIDUALS		
RECOMMENDATION 2007-2008	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2010-2011
That residential and long-term care centres develop and institute a policy and methods for controlling individuals who are violent and aggressive with residents, employees or managers.	<b>DISSATISFIED</b> with delays in circulating guidelines for addressing violent behavior by third parties or relatives of residents.	<b>LIKES</b> the idea of proposing to the Canadian Council on Health Service Accreditation that it assess this aspect during its accreditation visits.  <b>WILL MONITOR</b> what happens to this proposal.
FILING REPORTS IN CONFIDENTIALITY AND WITHOUT FEAR OF REPRISALS		
RECOMMENDATION 2007-2008	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2010-2011
That residential and long-term care centres develop mechanisms to enable employees to confidentially blow the whistle on any situations where users' rights are compromised, while also advising staff members that they can contact the Québec Ombudsman, who will confidentially handle their report, should they fear reprisals.	<b>DISSATISFIED</b> with the follow-up to this recommendation.	<b>WILL MONITOR</b> the effect of the proposed improvement measures as follow-up to this recommendation.

MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX - AGE-RELATED LOSS OF INDEPENDANCE (CONTINUED)		
QUALITY LIVING ENVIRONMENTS FOR PEOPLE IN RESIDENCES		
RECOMMANDATIONS 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2010-2011
<p><b>That</b> the Ministère de la Santé et des Services sociaux step up assessment visits in order to enforce the implementation, by December 2011, of its departmental guidelines concerning a quality living environment for residents.</p>	–	<b>WILL MONITOR</b> the visits conducted in the coming months.
<p><b>That</b> it report to the Québec Ombudsman the measures it intends to take, in addition to assessment visits, to ensure that work and services are organized so as to adequately meet the needs of the residents and respect their rhythm and lifestyle.</p>	–	<b>WILL MONITOR</b> the actions proposed for ensuring that residents' rhythm and lifestyle are respected.
<p><b>That</b> it design guides, tools and quality standards for institutions to follow in order to reorganize their work and services to truly meet the needs of the seniors they house, including those with cognitive deficits combined with disruptive behavioural disorders, while respecting their rhythm and lifestyle.</p>	–	<p><b>LIKES</b> the actions proposed in response to residents' needs.</p> <p><b>WILL MONITOR</b> implementation of these actions.</p>
<p><b>That</b> it report to the Québec Ombudsman, by April 2011, on the measures it intends to adopt to guarantee to all users with behavioural disorders, even before they are referred and admitted to a residential resource, that the institution that accepts them will be able immediately to provide all the services required by their condition, especially in terms of organization and environment, without infringing on the other residents' right to privacy, security and dignity.</p>	–	<p><b>LIKES</b> the actions proposed.</p> <p><b>WILL MONITOR</b> implementation of the integrated service plans for seniors announced by the Minister of Health and Social Services.</p>
<p><b>That</b> it report to the Québec Ombudsman, by April 2011, on the steps it intends to take to follow up on the recommendations issued in the national report on quality assessment visits carried out from September 2004 to June 2007.</p>	–	<b>SATISFIED</b> with the follow-up to this recommendation.

MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX – MENTAL HEALTH		
EVALUATION OF SERVICES AND QUALITY OF LIFE		
RECOMMENDATIONS 2007-2008 AND 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2010-2011
<p><b>That</b> the follow-up of the action plan under the responsibility of the Ministère de la Santé et des Services sociaux include an evaluation of the quality of services and the quality of life of users, regardless of the site of service delivery or type of services.</p> <p><b>That</b> the results of the team of experts tasked to evaluate implementation of the 2005-2010 mental health action plan be transmitted as soon as they are known.</p>	<p><b>WILL MONITOR</b> the progress and anticipated results of the evaluation of action plan implementation.</p>	<p><b>SATISFIED</b> with the follow-up to this recommendation.</p> <p><b>WILL MONITOR</b> the follow-up to this recommendation.</p>
GIVING PRECEDENCE TO RESPECT FOR HUMAN RIGHTS ABOVE ALL ELSE		
RECOMMENDATIONS 2007-2008	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2010-2011
<p><b>That</b> the Ministère de la Santé et des Services sociaux confirm that respect for users' rights has priority over all other considerations except those provided for in the <i>Act respecting health services and social services</i> and the <i>Act respecting the protection of persons whose mental state presents a danger to themselves or to others</i> (P-38), notably by preparing and releasing guidelines with regard to chemical substances as a control mechanism, as announced in the <i>Orientations ministérielles relatives à l'utilisation exceptionnelle des mesures de contrôle: contention, isolement et substances chimiques</i>.</p> <p><b>That</b> this statement be clear and unambiguous, like that prohibiting sectorization practices that violate mental health users' rights to choose their provider of services.</p>	<p><b>DISSATISFIED</b> with the follow-up to this recommendation.</p> <p>–</p>	<p><b>SATISFIED</b> with the follow-up to this recommendation.</p> <p><b>SATISFIED</b> with the follow-up to this recommendation.</p>

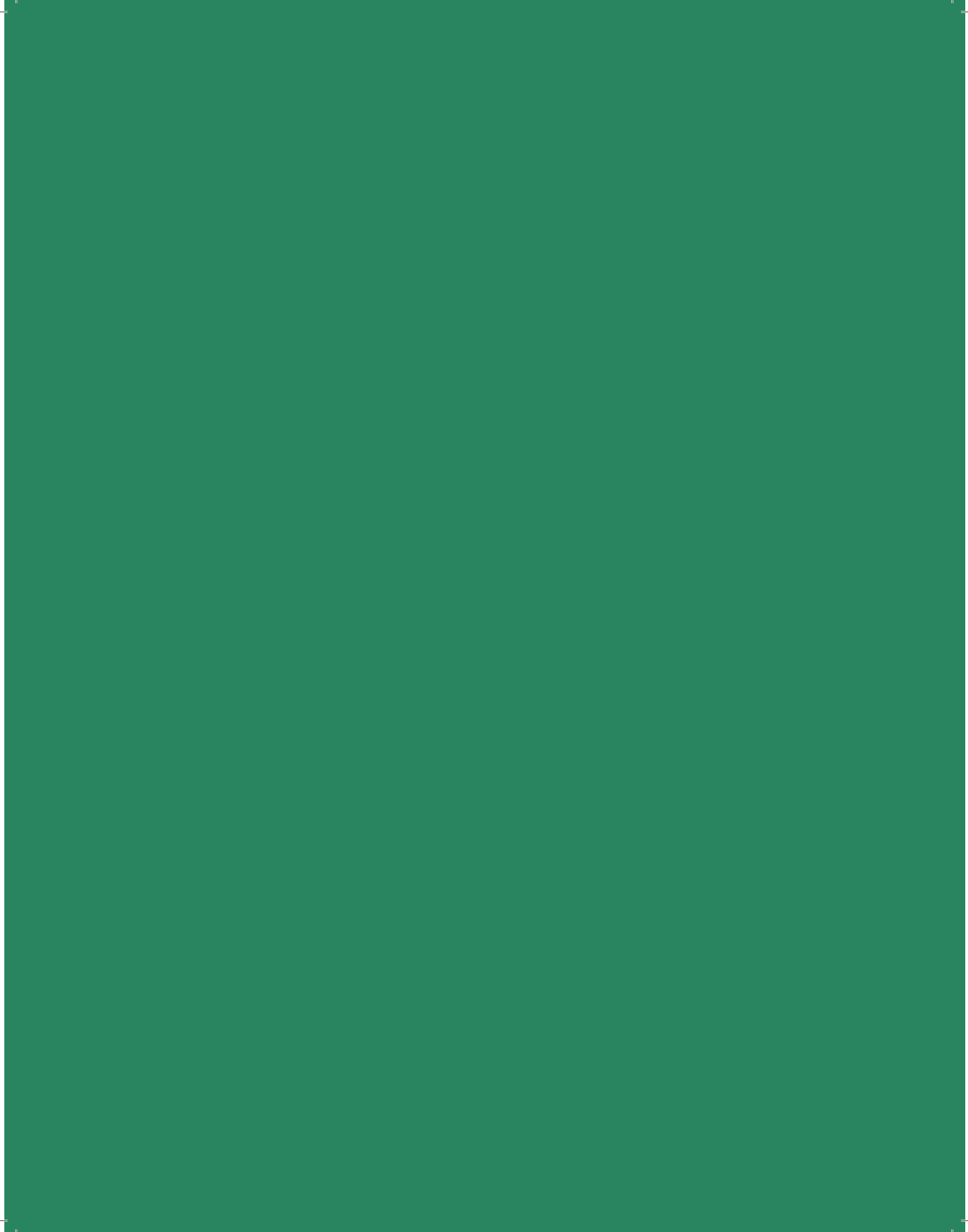
MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX – MENTAL HEALTH (CONTINUED)		
LEGISLATIVE FRAMEWORK AND CONTROL MEASURES IN MENTAL HEALTH		
RECOMMENDATIONS 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2010-2011
<b>That</b> the Ministère de la Santé et des Services sociaux formulate guidelines to direct and standardize the application of the legal framework governing all types of forced confinement.	–	<b>WORRIED ABOUT</b> the delay in follow-up to these recommendations, pending since December 31, 2010.
<b>That</b> it provide practitioners and workers with a standardized form to avoid the abusive interpretation of the rule of law and ensure it is able to monitor practices.	–	
<b>That</b> it require institutions to report on their practices, including the annual number of confinements, the reasons for them, and their duration.	–	
<b>That</b> it inform the Québec Ombudsman by December 31, 2010, of how it intends to implement these recommendations.	–	
<b>That</b> the Ministère de la Santé et des Services sociaux review the notion of isolation to define it more clearly in order to avoid abuse.	–	<b>SATISFIED</b> with the follow-up to this recommendation. <b>WILL MONITOR</b> its implementation.
<b>That</b> it supervise the use of chemical substances as a control measure.	–	<b>DISSATISFIED</b> with the follow-up to this recommendation.
<b>That</b> it ensure that institutions obtain consent from users or their representatives in instances where planned control measures are used.	–	<b>SATISFIED</b> with the follow-up to this recommendation. <b>WILL MONITOR</b> its implementation.
<b>That</b> it ensure that institutions fulfill their duty to provide users and their families with information on the use of control measures.	–	<b>SATISFIED</b> with the follow-up to this recommendation. <b>WILL MONITOR</b> its implementation.
<b>That</b> it ensure that professionals write down the reasons for the use of control measures in the user's file.	–	<b>SATISFIED</b> with the follow-up to this recommendation. <b>WILL MONITOR</b> implementation of the related framework.
<b>That</b> , as set out in its action plan, it design and implement a standardized data collection tool that must be completed by professionals every time a control measure is used, and that it suggest a method for data compilation and monitoring.	–	<b>WILL MONITOR</b> whether in the coming months the standardized tool is made available to those concerned.

MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX – MENTAL HEALTH (CONTINUED)		
LEGISLATIVE FRAMEWORK AND CONTROL MEASURES IN MENTAL HEALTH (CONTINUED)		
RECOMMENDATIONS 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2010-2011
<p><b>That</b> it develop guidelines to direct the health and social services agencies in the approval of the institutions' protocols for use of control measures.</p> <p><b>That</b> it ensure that the institutions' boards of directors receive all the information they need to enforce respect for users by monitoring the use of control measures within their institutions.</p> <p><b>That</b> it assess the impact of implementing its guidelines.</p> <p><b>The</b> Québec Ombudsman asks to be informed, by December 31, 2010, of the measures that the Ministère de la Santé et des Services sociaux intends to take in response to these recommendations, and the schedule for their implementation.</p>	<p>–</p> <p>–</p> <p>–</p> <p>–</p>	<p><b>SATISFIED</b> with the follow-up to this recommendation.</p> <p><b>WILL MONITOR</b> whether boards of directors have all the information they need to follow up on this recommendation.</p> <p><b>AWAITING</b> the decision expected from the Department's evaluation section.</p> <p><b>SATISFIED</b> with the information received so far.</p>

MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX – PHYSICAL HEALTH		
TREATMENT OF EMERGENCY SERVICE USERS		
RECOMMENDATION 2008-2009	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2010-2011
<p><b>That</b> the Ministère de la Santé et des Services sociaux plan temporary solutions for the interim period, so that users whose state of health is evaluated at priority level 4 or 5 can gain access to front-line services.</p>	<p><b>DISSATISFIED</b> at receiving no real response as follow-up to this recommendation.</p>	<p><b>WILL MONITOR</b> implementation of the solutions proposed by the Ministère de la Santé et des Services sociaux for ensuring access to front-line services.</p>
END-OF-LIFE PALLIATIVE CARE POLICY		
RECOMMENDATIONS 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2010-2011
<p><b>That</b> the Ministère de la Santé et des Services sociaux submit a report to the Québec Ombudsman, by December 2010, outlining the steps it intends to take to implement its End-of-Life Palliative Care Policy, particularly in terms of training.</p> <p><b>That</b> it inform the Québec Ombudsman of its results by December 1, 2011.</p>	<p>–</p> <p>–</p>	<p><b>SATISFIED</b> with the follow-up to this recommendation.</p> <p><b>SATISFIED</b> with the follow-up to this recommendation.</p>

MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX – IN-HOME CARE		
FOLLOW-UP ON WAITING LISTS		
RECOMMENDATION 2007-2008	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2010-2011
<p><b>That</b> social services centres establish time frames for communicating with users to update their status, notify them of their position on the waiting list, and advise them of the approximate delay before services will be available.</p>	<p><b>DISSATISFIED</b> with the delay in beginning work on the standards governing access to home support services.</p>	<p><b>SATISFIED</b> with the follow-up to this recommendation.</p>
IN-HOME CARE		
RECOMMENDATIONS 2008-2009	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2010-2011
<p><b>That</b>, in the home support service access plan it is about to develop, the Ministère de la Santé et des Services sociaux specify the prioritization criteria for access to service and that it instruct institutions to apply them with timelines and specific accountability, in order to ensure consistent handling of requests for home support, no matter which institution is approached by a person in need of such services.</p>	<p><b>DISSATISFIED</b> that the Department's efforts to follow up on these recommendations have not yet produced any real results.</p>	<p><b>LIKES</b> the proposals in the integrated service plan for seniors.</p> <p><b>WILL MONITOR</b> implementation outcomes.</p>





# SUMMARY OF RECOMMENDATIONS

## Summary of Recommendations in the 2010-2011 Annual Report

### PUBLIC SERVICE

#### COMMISSION ADMINISTRATIVE DES RÉGIMES DE RETRAITE ET D'ASSURANCES

WHEREAS the number of complaints received by the Québec Ombudsman concerning wait times at the Commission administrative des régimes de retraite et d'assurances has increased considerably in the past year;

WHEREAS these wait times may cause significant hardship;

The Québec Ombudsman recommends that the Commission administrative des régimes de retraite et d'assurances:

- take measures to reduce the surplus of files to be processed by the end of fall 2011, by increasing processing capacity, improving proficiency with the new computer system, speeding up pending application processing, and any other pertinent measures;
- continue its efforts to regularly inform contributors and beneficiaries about wait times for various services;
- inform the Québec Ombudsman quarterly of the ongoing results of its action plan beginning on September 30, 2011.

## MINISTÈRE DE L'EMPLOI ET DE LA SOLIDARITÉ SOCIALE

WHEREAS the objective of the discretionary power should be to correct a situation when the penalty is too severe so as to not exacerbate poverty;

WHEREAS the discretionary power is often exercised on behalf of those with low income or who receive social assistance;

WHEREAS application of the discretionary power also concerns vulnerable persons who have mental health problems, are psychologically fragile, or suffer from cognitive loss due to age or disease;

WHEREAS a penalty should be of reasonable length so as to foster the person's social reintegration;

The Québec Ombudsman recommends that:

- the Ministère de l'Emploi et de la Solidarité sociale establish criteria allowing it to expand the scope of application of the minister's discretionary power;
- the application of the minister's discretionary power allow debtors to stabilize their situation over a reasonable period of time.

## MINISTÈRE DE LA FAMILLE ET DES AÎNÉS

WHEREAS there are delays in developing childcare spaces, which affects parents;

WHEREAS delays in getting plans approved affect how long it takes applicants to obtain permits;

The Québec Ombudsman recommends that the Ministère de la Famille et des Aînés:

- make public and update—on its website in particular—project dates and date changes;
- establish means of abiding by the legislatively stipulated deadlines for approving plans;
- inform citizens about anticipated wait times for the approval of plans.

## REVENU QUÉBEC - TAXATION

WHEREAS Revenu Québec's position has a detrimental effect on certain persons in the event of succession;

WHEREAS it is unfair to double tax individuals' income;

WHEREAS Revenu Québec can agree to act on a change request entailing a decrease of the balance due when this decrease is related to a tax year ending during one of the ten calendar years preceding the request (*Dossier Équité*);

The Québec Ombudsman recommends that:

- Revenu Québec identify the files for which its restrictive interpretation of the *Taxation Act* led to double taxation of a deceased person's income due to reimbursements owed by the succession;
- the process encompass the past ten years;
- Revenu Québec process these files based on its new interpretation;
- the process allow the necessary corrective measures to be taken when taxpayers have paid more than what was due during the past ten years, as the *Dossier Équité* allows.

## TRIBUNAL ADMINISTRATIF DU QUÉBEC

WHEREAS section 1 of the *Act respecting administrative justice* defines the specificity of this area of justice and aims to ensure the quality, promptness, and accessibility of public services, as well as to guarantee respect for citizens' fundamental rights;

WHEREAS the Tribunal must take steps to ensure prompt decision-making;

WHEREAS the Tribunal pursues the goal of reducing the automobile insurance case inventory;

WHEREAS the automobile insurance case inventory has increased significantly since 2006;

WHEREAS average automobile insurance case processing time has increased to nearly two years;

WHEREAS the average automobile insurance case processing time is unreasonable and can be injurious to individuals;

WHEREAS the results observed as at March 31, 2010, clearly demonstrate that the measures implemented by the Tribunal over the past two years did not achieve the objective and that the situation continues to deteriorate;

The Québec Ombudsman recommends that with respect to the administrative responsibilities of the Tribunal administratif du Québec, it:

- take appropriate action to handle case volume and reduce the automobile insurance case inventory;

- implement mitigation measures, such as a temporary mechanism to systematically prioritize cases based on their seriousness and urgency, that would minimize processing times for the most critical road accident victim cases. This temporary mechanism, administered by the Tribunal, would make it possible to proactively examine all cases at the time of registration, unlike countermotions, which are exceptional measures;
- set short- and medium-term targets, particularly for the purposes of reducing inventory and average processing delays.

The Québec Ombudsman would like to be notified of the follow-up to its recommendations by September 30, 2011.

## HEALTH AND SOCIAL SERVICES: DEPARTMENT AND NETWORK INSTITUTIONS

### PHYSICAL DISABILITIES, INTELLECTUAL DISABILITIES AND PERVASIVE DEVELOPMENT DISORDERS

WHEREAS ensuring adequate delivery of services implies conducting activities that enable the Department to identify and rectify problems;

WHEREAS the quality assessment program advocates notifying intermediate and family-type resources that they will be visited and allowing them to refuse such visits, and that this inhibits assessment teams' ability to evaluate the true quality of services;

WHEREAS assessment visits are conducted within a very short time (total 24-48 hours for all visits), and that this inhibits the teams' ability to make a thorough assessment;

WHEREAS the teams that visit resources do not have all of the tools needed to obtain information that would be helpful to their assessment, in particular, information protected under the *Act respecting Access to documents held by public bodies and the Protection of personal information*;

The Québec Ombudsman recommends that the Ministère de la Santé et des Services sociaux:

- amend its quality assessment program such that visits to intermediate and family-type resources make it possible to ensure that every resident in a substitute living environment that is associated with or part of the public system receives suitable services and enjoys a quality physical environment;
- submit an action plan to that end to the Québec Ombudsman no later than December 31, 2011.