

The Court of Québec

Court of Québec



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The artwork on the cover page was done by
the Honourable Jean La Rue, on the occasion of
the tenth anniversary of the Court of Québec in 1998.

This artwork represents the robe worn by the
judges and evokes the fact that the Court of Québec
was formed upon the unification of provincial courts:
the Provincial Court, the Court of Sessions of
the Peace and the Youth Court.

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Please note that throughout this publication, the masculine
gender has been used without any discrimination, but rather
solely for the purpose of easier reading.

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Message from the Chief Judge

The Court of Québec draws its strength from the competence, personal commitment and dynamic spirit of its judges, who give this Court all its meaning.

Through the Court's judges, their open-mindedness and their will to render the best possible justice, characterized by accessibility and diligence, the Court has become an institution of justice that is well recognized and well regarded, and all the more so, as it is one of the most important judicial institutions in Canada.

It is truly an honour to be the Chief Judge of the Court of Québec. In this capacity, I am proud to briefly present the history of this Court, its jurisdiction, its organizational structure, its territory, its activities, the training and development program for its judges as well as an overview of its three-year plan for 2005-2008¹.

I hope you will enjoy reading all about our Court.



The Honourable Guy Gagnon
Chief Judge of the Court of Québec

1. Further information may be found by consulting the Court's website, within the website of the courts of Québec (http://www.tribunaux.qc.ca/mjq_en/c-quebec/index-cq.html).





History

The Court of Québec owes its origins to the *Québec Act of 1774*, which re-established French law in civil matters and confirmed English law in criminal matters. At that time, the judicial system was comprised of the Court of Common Pleas, circuit courts, a Court of Appeal and the Court of King's Bench, for criminal cases.

Over the centuries, the Québec courts underwent many changes, having an impact on their organizational structure as well as on the scope of their jurisdiction. For instance, the Magistrate's Court, created in 1869, became the Provincial Court in 1962, when the Court of Sessions of the Peace was set up in 1908. The first court for children in Québec was created in 1910. It then became the Juvenile Court in 1932 and the Social Welfare Court in 1950. It was later replaced by the Youth Court in 1977. In 1969, the Labour Court came into being, with judges from the Provincial Court. In 1973, the Expropriation Tribunal was formed and some of its members were judges of the Provincial Court.

The Court of Québec came into existence in 1988, upon the unification of the Provincial Court – whose jurisdiction was strictly civil; the Court of Sessions of the Peace – in charge of hearing criminal cases; and the Youth Court – which had the responsibility of hearing all litigation involving minors.

In 1988, the Court consisted of two regional sections: one in Montréal and the other in Québec City. Each one had a civil division, a criminal and penal division as well as a youth division. At that time, the Court also had an expropriation division.

In those days, the Court was managed by a Chief Judge, who was assisted in each of the regional sections by a Senior Associate Chief Judge, who in turn benefited from the assistance of Associate Chief Judges (three in Québec City and four in Montréal). Nineteen Coordinating Judges, residing in the chief locations of the main judicial districts in Québec, completed this team.

At the request of the Court, in 1995, the legislator simplified its organization. The regional sections were abolished and the responsibilities of the Senior Associate Chief Judge and the Associate Chief Judges were redefined. To coordinate the Court's activities on its territory, ten Coordinating Judges were appointed. In some regions, the Coordinating Judge was assisted by one or more Associate Coordinating Judges.

In 1998, given the creation of the Administrative Tribunal of Québec, the Expropriation Division was abolished. Then in 2002, the Labour Relations Board was

replaced by the *Commission des relations du travail*. From then on, only penal matters of original jurisdiction, with regard to violations under the *Labour Code*, came under the competence of the Court of Québec's criminal and penal division, and only the judges appointed by the Chief Judge had authority to settle these matters.

In 2005, yet another type of judge was created, through the appointment of Presiding Justices of the Peace, who perform their responsibilities within the Court of Québec as well.

The Judges' Jurisdiction

The Court of Québec is the court of first instance that hears the largest volume of court cases in the province of Québec. It has jurisdiction over civil matters, criminal and penal matters as well as over youth matters. The Court sits in administrative matters as well, and in appeal, to settle cases provided for by the law. It is also a court of record.

Although the Professions Tribunal – which hears appeals relating to professional ethics – and the Human Rights Tribunal – which has the responsibility of hearing appeals based on discrimination – are not part of this Court, the judges who are members of these tribunals are judges of the Court of Québec.

The Civil Division

Under the *Courts of Justice Act*, in civil matters, the Court's judges have jurisdiction – within the limits provided for by the law – with regard to civil actions initiated under the *Code of Civil Procedure* or any other law.

The judges have authority to hear all plaintiff claims involving monetary value or interest – in relation to the object of the dispute – that are less than \$70,000, except claims for alimony and those reserved for the Federal Court of Canada.

The judges also have jurisdiction, under the law, to settle actions to recover municipal or school taxes and to annul or reverse municipal or school board assessment rolls. Their jurisdiction also extends to actions contesting a person taking office in a municipality or school board.

Moreover, the judges hear actions to have a person undergo a psychiatric examination or confined to an institution.

In administrative matters, the judges exercise powers granted to them by various laws. Court of Québec judges have exclusive jurisdiction to hear the appeals of decisions rendered, for example, by the commission for access to information, the rental board, the Administrative Tribunal of Québec, the police ethics committee and ethics committees formed under the *Act respecting the distribution of financial products and services* and the *Real Estate Brokerage Act*. Such jurisdiction to hear appeals, regardless of their monetary value, also applies to decisions of the Minister of *Revenu Québec*, with regard to tax matters.

In addition, the judges sit in the Small Claims Division to hear cases involving debts amounting to a maximum of \$7,000, payable by a person, and under certain conditions, by a legal entity, a partnership or an association. This division is different from the others, however, given the fact that the parties cannot be represented by a lawyer here, except upon special permission, when the dispute raises complex questions of law. There are no formalities in this division and the written procedure is simplified here. When circumstances so allow, the judges may try to bring the parties to an agreement, while explaining to them the rules of proof and procedure. They direct the proceedings, question witnesses, hear parties, decide on disputed matters as well as applicable rules of law. These judges give equitable and impartial assistance to each party, so as to render the substantive law effective and look after any legal consequences. The judgement rendered cannot be appealed. People under the jurisdiction of the Court may also file a summary appeal with the Small Claims Division in relation to tax matters.

The Criminal and Penal Division

The *Courts of Justice Act* establishes that the Court's judges have jurisdiction, within the limits stipulated by the law, in relation to actions taken under the *Criminal Code*, the *Code of Penal Procedure* or any other law of a criminal or penal nature.

In criminal matters, the judges preside over legal proceedings that come under the jurisdiction of a provincial court judge and a judge without a jury, with regard to charges laid under the *Criminal Code* or any other law of the same nature. They also preside over proceedings relating to offences punishable by summary conviction, pursuant to the provisions of Part XXVII of the Code. Only offences restricted to the exclusive jurisdiction of the Superior Court or to one of its judges – that is, those that are heard before a judge and a jury – are not handled by the judges of the Criminal and Penal Division.

In penal matters, the judges hear actions taken under the *Code of Penal Procedure* or any other penal legislation relating to offences concerning public welfare, as provided for in Québec and Federal legislation, pursuant to Part XXVII of the *Criminal Code*.

The judges also preside over preliminary inquiries to which people charged under the *Criminal Code* are entitled in order to determine whether there is a genuine issue for trial.

Depending on the nature of the offence in question, the appeal of a decision rendered in criminal or penal matters will be heard either in Superior Court or in the Court of Appeal.

Moreover, the judges of the Court exercise powers of Justice of the Peace.

The Youth Division

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

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

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

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

The judges also hear all cases of adoption, including those involving international adoption, declarations of eligibility for adoption, applications for a placement and adoption order as well as applications for recognition of an adoption order rendered outside Québec.

The Judges

In keeping with the *Courts of Justice Act*, the Court of Québec is made up of a maximum of 270 judges. When it was created in 1988, the Court had 17 female judges. By 2006, that number had climbed to 78.

According to the *Regulation respecting the procedure for the selection of persons apt for appointment as judges*, in order to qualify for such a position, a person must be a member of the Barreau du Québec, with at least 10 years of membership, and submit his application in writing, following publication of such a vacancy notice, either in a newspaper or in the Barreau du Québec's journal. A thorough selection process is subsequently conducted by a committee consisting of a judge of the Court, a representative of the Barreau du Québec and a representative of the public. This committee then submits recommendations to the Minister of Justice, who in turn, on this basis, makes his own recommendations to Cabinet.

Each judge in the Court of Québec may exercise the Court's entire jurisdiction, throughout the province, regardless of the division to which he is assigned.

The judges are appointed "during good behaviour", pursuant to the *Courts of Justice Act*. In matters of training and ethics, they are subject to the *Conseil de la magistrature du Québec*, Québec's judicial council.

Assistant (Supernumerary) Judges

Over the past few years, the Court has been benefiting from a certain number of supernumerary judges (called "assistant judges" in the *Courts of Justice Act*). In recent years, this number has ranged from 18 to 26.

Occasionally, such Assistant Judges may be assigned in order to offset delays until vacant positions have been filled. The need to have recourse to Assistant Judges is also due to certain judges' extended absence from the bench or from a temporary increase in the workload, which cannot be handled otherwise.

Assistant Judges are retired Court of Québec judges who perform such judicial duties for a set period of time, as determined by an order.

Judges in Management Positions

A court with such a large number of judges and called upon to serve such a vast territory as the province of Québec must have an organization structure so that its members can carry out their responsibilities efficiently, in order to serve the people who are subject to the jurisdiction of the Courts, and society in general.

And that is why the *Courts of Justice Act* provides for the Government's appointment of judges to hold management positions:

- ♦ the Chief Judge, who is in charge of managing the Court and who, in particular, has the responsibility of ensuring compliance with the Judicial Code of Ethics
- ♦ the Senior Associate Chief Judge, who assists and advises the Chief Judge, in performing all his responsibilities
- ♦ three Associate Chief Judges, who also assist the Chief Judge and advise him; however, in these cases, they do so in relation to the matters coming under the division to which they are assigned (civil, criminal and penal or youth)
- ♦ an Associate Chief Judge responsible for municipal courts.

From among the Court judges, the Chief Judge also appoints 10 Coordinating Judges and 8 Associate Coordinating Judges. The Coordinating Judge for the Montréal region, and the one for the Québec City region, are usually each provided with the support of three Associate Coordinating Judges; moreover, one Associate Coordinating Judge is appointed to the Laval-Laurentides-Lanaudière region, and another to the Montérégie region.

The Coordinating Judges and Associate Coordinating Judges look after efficiently running the day-to-day judicial activities within their territory or respective division.

It is within the greatest respect of judicial independence that judges in management positions perform their responsibilities in relation to judges.

Presiding Justices of the Peace

Presiding Justices of the Peace have been performing their responsibilities within the Court since 2005. At the present time, there are 33 Presiding Justices of the Peace, who benefit from the guarantees of independence that are necessary in their work. They carry out the functions and exercise the powers specified under the *Courts of Justice Act*, which mainly include hearing penal cases and following up on requests for authorization from various parties within the justice system and the police force.

Presiding Justices of the Peace are accessible day and night, all year long, throughout the territory of the province of Québec. To be so available, they have state-of-the-art communication technology at their disposal.

The Regulation respecting the procedure for the selection of persons apt for appointment as judges applies to Presiding Justices of the Peace.

Regional Organization

To make it easier to coordinate the Court's activities, its territory is divided into 10 regions:

Abitibi-Témiscamingue – Nord-du-Québec
Bas-Saint-Laurent – Côte-Nord – Gaspésie – Îles-de-la-Madeleine
Estrie
Laval – Laurentides – Lanaudière
Mauricie – Bois-Francs
Montréal
Montréal
Outaouais
Québec – Chaudière-Appalaches
Saguenay – Lac-Saint-Jean.

As for the aboriginal communities in Québec's Far North (Hudson Bay, James Bay and Ungava Bay) as well as those on the North Shore, they benefit from the judges' services as well, through an itinerant court.

All in all, the judges of this Court sit in 36 judicial districts, serving 98 court houses and points of service.

Administration

From an administrative point of view, the Court is partially independent. In fact, through an agreement reached in 2002 with the *Ministère de la Justice du Québec*, it manages certain administrative and financial resources. This agreement has also made it possible to set up an administrative entity: the Office of the Chief Judge.

Managed by the Administrative Director, who reports to the Chief Judge, the Office of the Chief Judge controls expenses related to salaries and remuneration, to travelling and to meetings as well as expenses incidental to the judges' functions, furnishings, personalized stationery, supplies and services for the Court judges, the Presiding Justices of the Peace and the Office's staff. In addition, the Office is in charge of the activities related to the Research Department and the Training Secretariat, updating the judicial council's Intranet and the Court's website and also updating and maintaining the Court's management information system.

The Research Department

The Research Department is located at two points of service – one in Montréal and the other in Québec City. All the Court judges may seek assistance from either of these points of service.

The Research Department is made up of 7 researchists, 2 paralegals and 3 research trainees.

The Research Department's role is to conduct research for the cases to which the judges are referred and also to develop thematic files, to collaborate on specific research related to judges' training and development, to provide research support for the activities within the Office of the Chief Judge and to manage the Court's libraries. To do so, the various members of the team have expertise in vast fields of law.

The requests that the Research Department receives from the judges generally fall into two categories: requests requiring substantial research covering analysis and legal opinion, or documentation searches – into the laws, regulations, orders, judgements or legal doctrine, for example.

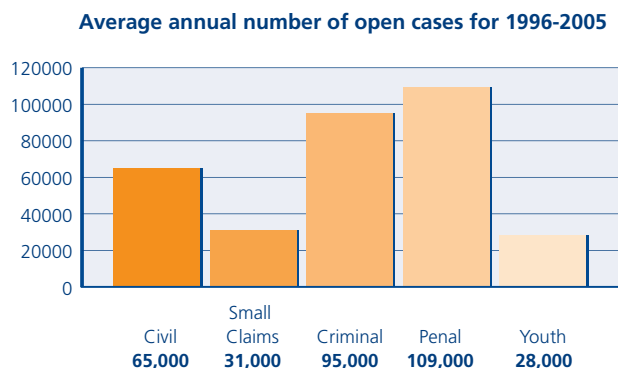
Judicial Activity

A judge's essential function is to hear cases and render judgements.

In concrete terms, as a result of the judges' proceedings, approximately 100 court rooms are open on a daily basis, all over Québec. The cases coming under the Court of Québec's jurisdiction are heard here.

It is generally recognized that the number of open cases, the number of cases on a roll and the number of hearing hours held are moreover the data, which although incomplete, make it possible to provide a general picture of the activities of a court of justice; however, hearing cases in a court room is only part of the judges' workload.

Between 1996 and 2005, there was an annual average of some 65,000 open cases in civil matters and approximately 31,000 in the Small Claims Division, in addition to approximately 95,000 open cases in criminal matters, 109,000 penal and 28,000 in youth matters.



During the same period of time, an average of 9,000 cases was annually entered on the rolls² in civil matters, 22,000 in the Small Claims Division, 490,000 in criminal matters, 152,000 in penal matters and 90,000 in youth matters.

It should be noted that in addition to their judicial duties, a good many judges personally get involved on various Court committees and, from time to time, take part in activities of interest to the Court, to the judges or to the people subject to the jurisdiction of the courts.

2. For cases entered on the roll, the results indicated are the number of times that the case has been listed on the roll.



Training and Development

Aware of the fact that training and development are essential to performing judicial responsibilities, and in order for the judges to be able to render quality justice to which everyone subject to the jurisdiction of the courts is entitled, the Court has adopted a policy and a master program on training and development.

Two appointments were made following the implementation of this policy: a judge in charge of training and development as well as another judge responsible for national and international matters. They are given administrative support by a permanent administrative secretariat, which is attached to the Office of the Chief Judge. In addition, an advisory committee has been set up to provide the Court advice on training and development matters.

The master program specifies the nature of the training sessions offered to the judges and provides them with opportunities to benefit from sustained support, from the time of their appointment until their retirement.

Between a training session for new judges and a retirement planning session, a judge consequently attends specialized sessions, particularly with regard to the various matters (civil, criminal and penal, etc.) and also sessions on judgements, on conducting trials and on social realities. A training session is also held annually in each region, to meet specific needs expressed by the judges.

Judges' training includes programs that help them further their legal knowledge, as well as their understanding of technical and scientific aspects concerning the litigation heard, in addition to social and cultural aspects of a diversified, multi-cultural society.

The success and quality of the training in the Court of Québec are due to the combined effort of the judges, a number of whom play a role in designing or organizing training sessions or serving as a committee member, a training leader or guest speaker.

Judicial Ethics

Pursuant to the *Courts of Justice Act*, Québec's judicial council (*Conseil de la magistrature du Québec*) is made up of 15 members, including the Chief Judge of the Court, who is an ex-officio member and serves as Chairman.

This council has adopted a *Code of Ethics for Judges*, which reads as follows:

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

In addition, this judicial council has the responsibility of receiving and examining all complaints filed against a Court judge.

The Three-Year Plan for 2005-2008

The Court has adopted a three-year plan establishing the priorities for 2005-2008. This plan bears witness to the Court's will to actively take part in improving the judicial system. It contains four types of measures:

Measures focusing on people subject to the jurisdiction of the Court:

- ♦ Drug Treatment Court
- ♦ alternate methods of settling disputes
- ♦ the Court's jurisdiction in matters of administrative law
- ♦ caseload management
- ♦ the judicial process in criminal matters
- ♦ the website of Québec's judicial council (*Conseil de la magistrature du Québec*)
- ♦ justice in remote aboriginal communities.

Measures focusing on more efficient organization of the Court:

- ♦ the change in a judge's place of residence
- ♦ Presiding Justices of the Peace
- ♦ management resources
- ♦ assistant (supernumerary) judges
- ♦ the Research Department
- ♦ the training of Coordinating Judges and Associate Coordinating Judges
- ♦ the administrative structure of the master program for judges' training

Measures focusing on extending the influence of the Court:

- ♦ the publication of a public report
- ♦ updating the presentation publication

Other measures:

- ♦ administrative independence
- ♦ the *Regulation respecting the procedure for the selection of persons apt for appointment as judges*
- ♦ the *Regulation of the Court of Québec*.

