

Regulations and other Acts

Notice of Adoption

Charter of Human Rights and Freedoms
(chapter C-12)

Human Rights Tribunal

On 17 December 2015, the members of the Human Rights Tribunal unanimously adopted the Regulation of the Human Rights Tribunal, in French and in English, pursuant to section 110 of the Charter of Human Rights and Freedoms (chapter C-12). The Regulation of the Human Rights Tribunal is attached to this notice and it replaces the Rules of procedure and practice of the Human Rights Tribunal adopted on 18 May 2007.

The President of the Human Rights Tribunal,
THE HONOURABLE ANN-MARIE JONES, J.C.Q.

REGULATION OF THE HUMAN RIGHTS TRIBUNAL

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Regulation of the Human Rights Tribunal

Charter of Human Rights and Freedoms
(chapter C-12, s. 110)

CHAPTER I
GENERAL

1. The purpose of the Regulation is to simplify, facilitate and expedite application proceedings before the Tribunal. It must be construed and applied in a manner that will ensure efficient case management and expeditious processing of matters, within the framework of the proper administration of justice. It completes the rules of procedure and proof set out in the Charter of Human Rights and Freedoms (chapter C-12).

Except as provided in the Charter or this Regulation, the Code of Civil Procedure (chapter C-25.01) applies, with the necessary modifications, to proceedings brought before the Tribunal.

2. This Regulation is intended to set out the law and ensure it is carried out.

In a proceeding, a judge of the Tribunal may, considering the special circumstances of the case before the judge, modify a rule or exempt a party or a person from its application.

CHAPTER II CLERKS

3. The clerk of the Tribunal is a clerk of the Court of Québec appointed by order of the Minister of Justice and assigned to the Tribunal.

4. The clerk of the Tribunal verifies that the records are complete and, if they are not, asks the parties to complete them.

The clerk prepares the roll in accordance with the directives issued by the president.

5. The registers, records, orders and judgments related to the proceedings before the Tribunal are maintained in accordance with the Regulation of the Court of Québec (chapter C-25.01, r. 4), unless the president gives directives to the contrary.

6. The clerk of the Court of Québec receives and records proceedings and exhibits.

7. The clerk of the Court of Québec maintains a register containing:

- (1) the number of each case before the Tribunal;
- (2) the names of the parties;
- (3) the nature of the application;
- (4) a description and the date of receipt of each proceeding, exhibit or document filed with the court office of the Court of Québec;
- (5) the date and nature of all incidental decisions;
- (6) the date of the hearing;
- (7) the date on which the matter was taken under advisement;

(8) an indication of the manner in which the record was permanently closed, the date on which the record was closed and on which a certified copy of the decision was sent to the Superior Court, if applicable;

(9) the date on which the judgment was rendered on leave to appeal and the case number of the appeal;

(10) the date on which the record was sent to the office of the Court of Appeal;

(11) the date on which the record was returned from the office of the Court of Appeal; and

(12) the date and conclusions of the judgment of the Court of Appeal.

8. The clerk of the Court of Québec immediately informs the clerk of the Tribunal of all proceedings that have been filed and sends, forthwith, a copy to the clerk by messenger or any other method of delivery using information technology.

The clerk of the Court of Québec sends the copies of briefs received to the clerk of the Tribunal.

9. The clerk of the Court of Québec sets the indemnity and allowances of witnesses at the request of the Tribunal, the parties or the witnesses themselves.

10. The clerk of the Court of Québec homologates or, if opposition is notified, verifies the bill of costs.

11. Subject to an order from a judge of the Tribunal, any person may consult the registers, records, orders and judgments of the Tribunal at the court office of the Court of Québec, in accordance with the provisions of the Regulation of the Court of Québec applicable to the Civil Division.

CHAPTER III PROCEEDINGS

DIVISION I PROCEEDINGS AND EXHIBITS

12. Applications, other proceedings and exhibits are filed with the court office of the Court of Québec.

13. An application must include the name and domicile of each party. It includes the date of filing of the complaint with the Commission des droits de la personne et des droits de la jeunesse, the act complained of, the grounds and the conclusions sought.

14. In the case of a substitution in accordance with section 84 of the Charter, the applicant must attach to the application a copy of the notification received from the Commission and indicate the date of receipt of the notification.

15. Where the Commission ceases to act after referring an application to the Tribunal, it notifies its decision to the complainant and the victim and files a copy of the notification with the court office of the Court of Québec.

To continue the proceeding, the complainant or the victim must give a notice to all the parties and file a copy of the notice with the court office within 30 days of the notification.

If the proceeding is not continued within this time limit, the Tribunal convenes the parties to determine the steps to be taken.

16. The applicant's brief must include:

- (1) the facts and exhibits to be invoked;
- (2) the questions of law at issue;
- (3) the number of witnesses and the list of the expert evidence to be produced;
- (4) the conclusions sought;
- (5) the time required for presenting evidence and arguments.

17. If the applicant fails to file the brief within the 15-day period provided for in section 115 of the Charter, the Tribunal may direct the applicant to appear and show cause why the application should not be dismissed. Notice to appear is given to the parties.

18. Within 30 days after notification of the applicant's brief, the other parties may also file a brief containing the particulars required by section 16.

19. At the request of a party, a judge of the Tribunal may extend the time limits provided for in sections 17 and 18, if the judge considers that an extension is required in the best interest of justice.

20. Unless provided otherwise, an application during the course of proceedings is supported by an oath sworn by the person alleging the facts for which evidence has not been provided in the record. Such application may be contested orally.

The application is heard on a date set by the president or the judge to whom the application is referred.

An application during the course of proceedings may be submitted orally.

21. All proceedings must be legibly written on one side only of a sheet measuring 21.5 cm by 28 cm.

22. The number of the record, the names of the parties, the nature or object of the proceeding and any amount in dispute must be indicated on the reverse side.

A party's lawyer indicates on the back his or her name, address, postal code, telephone number, email address, fax number and computer code.

A party who is not represented indicates on the back his or her name, address, postal code, telephone number and, if available, email address and fax number.

23. The parties and their lawyers, if applicable, must immediately notify in writing the clerk of the Tribunal, the clerk of the Court of Québec and the other parties of their contact information and of any change thereafter.

24. All proceedings of a party are signed by the party's lawyer or by the partnership of which the lawyer is a member. The proceedings of a party that is not represented are signed by the party.

25. The allegations contained in a proceeding must be stated in separate, consecutively numbered paragraphs.

26. References to a statute or a regulation in proceedings must cite the title and reference and the provision referred to.

27. Exhibits cited in support of proceedings must be filed with the court office of the Court of Québec, together with a list of the exhibits, not later than 15 days before the scheduled hearing date.

A party that fails to comply with this requirement may, notably, be deprived of the right to invoke the exhibit.

28. Exhibits are listed and identified in the list of exhibits.

The list of exhibits bears the number of the application, the names of the parties and the date, nature and number of each exhibit.

Each exhibit bears a number preceded by an identifying letter specific to each party.

The record number and exhibit number appear on the front or back of each exhibit.

An amended list of exhibits is filed when additional documents are filed before the date of hearing.

29. Every proceeding and exhibit must be filed in 5 copies.

For a brief, the party must also file an additional copy for each of the other parties.

30. A party who intends to cite judgments or doctrine must produce a book of authorities where relevant passages are identified.

The book of authorities may be limited to the relevant excerpts of a source of doctrine or jurisprudence. In that case, the pages preceding and immediately following the excerpts must be produced or, in the case of a judgment, the reference and the summary of the decision or judgment.

A list of sources of doctrine and jurisprudence may be established following directives issued by the president. The parties are exempted from producing the sources again but must mention in their book of authorities the sources they cite and the relevant pages or paragraphs.

Printing on both sides is permitted.

31. A party that cites regulatory or legislative provisions other than those of the Charter, the Canadian Charter of Rights and Freedoms (Part I of the Constitution Act, 1982, Schedule B to the Canada Act 1982 (UK), 1982, c. 11), the Civil Code of Québec and the Code of Civil Procedure, must provide 4 copies to the Tribunal.

32. Where a change is made to a proceeding, all additions or substitutions must be underlined or indicated in the margin with a vertical stroke and all deletions must be indicated with a dotted line between parentheses.

Where it has been ordered that changes are to be made to a proceeding, a new proceeding incorporating those changes must be filed in the record within the prescribed time.

33. Where a judge of the Tribunal orders that certain documents be submitted, in whole or in part, on a technology-based medium rather than on paper, the document must, as essential functions, where the information it contains is in the form of words, allow a search by key words. If there is more than 1 document, the documents must, in the same file, be accompanied by an index containing hyperlinks between the index and each document submitted.

The party that files or submits a technology-based document must, in addition to the essential functions, disclose all other functions relevant to the use of the document.

DIVISION II NOTIFICATIONS

34. Notifications are made in accordance with the rules of the Code of Civil Procedure. Authorizations required by the Code are granted by a judge of the Tribunal or a clerk of the Court of Québec.

35. Proof of the notification of all proceedings, notices or other documents must be filed in the record.

DIVISION III EXAMINATIONS AND EXPERT TESTIMONY

36. Where parties do not agree, a judge of the Tribunal may authorize, on the conditions and according to the terms the judge determines, including by any technological means, a written or oral pre-trial examination, an examination on affidavit or an examination out of the presence of the tribunal.

37. Except with the authorization of a judge of the Tribunal, no expert witness is heard unless his or her written report is filed with the court office of the Court of Québec with a notice and a copy notified to the other parties at least 60 days prior to the scheduled hearing date.

The report is accompanied by the expert's résumé and, if the expert's fees are claimed as legal costs, the expert's up-to-date statement of fees as well as the statement of fees for attending the trial and testifying.

38. In all proceedings, a medical file and an expert report prepared by a physician, a psychologist or a social worker, or any other psychosocial expert report filed in a sealed envelope in the record are kept sealed and no person, except the parties and their lawyers, may have access thereto without the authorization of a judge of the Tribunal on the conditions determined by the judge. The nature of the documents thus filed must be written on the envelope.

Access to such documents includes the right to copy them at the person's expense.

DIVISION IV SUMMONING WITNESSES

39. The parties summon their witnesses to appear before the Tribunal by a subpoena issued by a judge of the Tribunal, a clerk of the Court of Québec or a lawyer and notified at least 10 days before their appearance.

In urgent cases, a judge of the Tribunal or a clerk of the Court of Québec may, by special order recorded on the subpoena, shorten the service time. The time between the notification and the appearance may not however be less than 24 hours.

DIVISION V CONDUCT OF PROCEEDINGS

§5.1. *Special case management*

40. When required by the nature or complexity of the proceeding, the president may, on his or her initiative or on request, order special case management. In such a case, the president or the judge designated by the president sees to the orderly conduct of the proceeding.

§5.2. *Pre-trial conference*

41. The president identifies the applications for which a pre-trial conference is required. In such a case, the president or the judge designated by the president sees to the orderly conduct of the conference, particularly by scheduling the conference using any means of communication based on information technology.

42. The purpose of the conference includes the following:

- (1) to define the issues to be argued at the hearing;
- (2) to assess the advisability of making amendments to the proceedings in order to clarify them or add more details;
- (3) to promote the exchange, between the parties, of documents to be produced at the hearing;
- (4) to plan the conduct of proceedings and proof at the hearing;
- (5) to examine the possibility of making admissions of facts or proof of facts by affidavit;
- (6) to examine any other issue that may simplify and expedite the hearing.

43. The president or designated judge records the matters on which the parties have reached agreement as well as the instructions given by the president or designated judge in the minutes of the management conference. The minutes are filed in the record and a copy is sent to the parties and their lawyers present at the conference.

§5.3. *Settlement conference*

44. At any stage of the proceeding, the president or the judge designated by the president may, at the request of the parties, conduct a settlement conference. In their request, the parties must present a summary of questions at issue.

The president or the designated judge may also, on his or her own initiative, recommend to the parties that a settlement conference be held.

§5.4. *Settlement*

45. Where a settlement is reached, the parties immediately notify the clerk of the Tribunal and file without delay a notice of settlement signed by the parties or their lawyers with the court office of the Court of Québec.

CHAPTER IV HEARING

DIVISION I SCHEDULING AND NOTICE OF HEARING

46. At the expiry of the time limit set out in section 18, the president or the judge designated by the president schedules the hearing date after consulting with the parties.

The parties and their lawyers are notified in accordance with section 120 of the Charter.

The Tribunal may proceed with a calling of the provisional roll to determine the hearing date.

47. Preliminary or incidental applications or applications under section 81 or 82 of the Charter are heard on the date scheduled by the president or the judge to whom the application has been referred.

48. Persons needing assistance by reason of illness or disability must so inform the clerk of the Tribunal as soon as possible to allow the Tribunal to decide on the measures to be taken if necessary.

If the illness or disability of a witness prevents the witness from attending the hearing, a judge of the Tribunal may order the examination of the witness at a distance using a technological means.

DIVISION II POSTPONEMENT OF A HEARING

49. Any application for postponement must state the grounds in support of it. The application is submitted to the president or the judge designated by the president at least 10 days before the scheduled hearing date.

The application is granted only on serious grounds. The consent of the parties is not in itself sufficient for granting an application for postponement.

An application for postponement made less than 10 days before the scheduled hearing date may be granted only on exceptional grounds.

DIVISION III HEARING, ORDER AND DECORUM

50. The hearings of the Tribunal are public.

A judge of the Tribunal may, on his or her own initiative or on request, make an exception to this principle if, in the judge's opinion, public order, in particular the preservation of the dignity of the persons involved, or the protection of substantial and legitimate interests requires that the hearing be held in camera, that access to a document or the disclosure or circulation of information or documents specified by the judge be prohibited or restricted, or that the anonymity of the persons involved be protected.

51. Hearings of the Tribunal begin at 9:30 a.m., unless otherwise indicated in the notice of hearing or by the presiding judge.

52. All persons present at a hearing must rise when the member or members of the Tribunal enter the room. They remain standing until the court bailiff asks them to be seated.

When the hearing ends or is suspended, the court usher invites the persons present to rise again and no person may leave their places until the member or members have retired.

53. At the opening of the session, the court usher says aloud:

“Silence! Please rise. The Human Rights Tribunal is now in session the Honourablepresiding, assisted by assessors.....”

54. For the hearing of an application on the merits, Tribunal members wear a black gown, a white shirt and bands, and dark clothing.

55. For the hearing of an application on the merits, lawyers wear a black gown, a white shirt and bands, and dark clothing.

The same rule, except for the white bands, applies to articling students.

Where the gown is not required, lawyers and articling students must be dressed plainly.

56. Every person present in the hearing room must be appropriately attired.

57. Any disruption of the decorum and orderly conduct of the hearing is prohibited.

Prohibited activities include the reading of newspapers, photography, filming, and radio and television broadcasting.

58. The security of the persons present at a hearing is ensured in accordance with the Regulation of the Court of Québec.

DIVISION IV AUDIO RECORDING, STENOGRAPHY AND MINUTES

59. The court clerk must make an audio recording of the hearing. The court clerk ensures, when required by the judge, the operation of any other technology-based means of communication.

60. The court clerk draws up the minutes of the hearing using the form provided for that purpose. The clerk also enters:

(1) the names and addresses of witnesses and the name of the party calling them to testify;

(2) the use of a technological means with respect to testimony;

(3) the presence and identification of an interpreter or any other person assisting a party or a witness;

(4) the classification code and the description of all the exhibits filed;

(5) the admissions;

(6) the objections to evidence;

(7) the grounds and conclusions of any decision of the tribunal during the hearing; and

(8) the various stages of the proceeding, indicating the time and, where applicable, the position numbers of the recording.

CHAPTER V MATTERS UNDER ADVISEMENT

61. The clerk of the Tribunal verifies that the record of the matter to be taken under advisement is complete before giving it to the judge. If the record is incomplete, the clerk informs the lawyers or the parties so that they may complete it.

No matter may be taken under advisement until the record has been duly completed, unless the judge decides otherwise.

62. It is not necessary to re-draft and re-sign on a separate sheet a written judgment recorded on a proceeding submitted to the judge and a certified true copy of the recorded judgment may be issued by the clerk of the Court of Québec.

63. An advisement may be suspended at the request of a party or on the judge's initiative for any reason considered valid.

64. In the first week of each month, the clerk of the Tribunal must inform the president of the applications that have been taken under advisement for more than 5 months. The president, with the consent of the parties, may decide to refer an application to another judge who, as regards the evidence, may rely on the transcripts of the testimony or rehear the application.

CHAPTER VI QUARRELSOME CONDUCT

65. If a person acts in a quarrelsome manner, namely by exercising the right to bring legal proceedings in an excessive or unreasonable manner, a judge of the Tribunal may prohibit the person from making an application or submitting a proceeding without prior authorization of the president. The unauthorized proceeding is then deemed not to exist.

A person may not be declared to be a quarrelsome complainant without having had an opportunity to be heard.

66. The clerk of the Tribunal sends to the Ministère de la Justice du Québec a copy of the prohibition order for registration in the public register of persons found to be quarrelsome, and so notifies the president.

CHAPTER VII FINAL AND TRANSITIONAL PROVISIONS

67. This Regulation replaces the Rules of procedure and practice of the Human Rights Tribunal adopted on 18 May 2007.

68. This Regulation comes into force on 1 January 2016.

It applies to proceedings pending on the above mentioned date.