

*Access to Justice in English Project*

**Theory, Practice, and Perception:  
Unreliable Access to Courts and  
Tribunals in Quebec Post-Bill 96**

Executive Summary and Recommendations

March 2024



# Executive Summary and Recommendations

## Overview

The Access to Justice in English project (“the Project”) is operated by the Quebec Community Groups Network and funded by Justice Canada. Its primary goal is to identify and investigate obstacles within the justice system and assess their impact on the English-speaking community of Quebec’s ability to assert their rights.

The fifth iteration of this project explores the discrepancy between what is theoretically and practically possible to do in English in Quebec’s courts and administrative tribunals following the enactment of Bill 96, *An Act respecting French, the official and common language of Quebec*. Despite ongoing confusion within the English-speaking community with regard to what can still be done in English post-Bill 96, this research confirmed that the majority of court activities remain, in large part, undisturbed.

However, a larger discrepancy emerged between the experience of accessing courts, versus accessing administrative tribunals, where a lack of clear and adapted guidelines pertaining to the use of English further impedes access to justice for English-speaking Quebecers. Without clear adapted policies, access to administrative tribunals for English-speaking Quebecers remains coincidental and piecemeal. This is particularly felt by self-represented litigants and litigants who are otherwise marginalized due to their class, race, or other intersecting factors of identity.

Furthermore, discrepancies emerged pertaining to access to court services and staff in English, versus access to an English-speaking judge – with the former being revealed as much less accessible. This was particularly felt in regions further from the Greater Montreal Area. This has a significant dampening effect on individuals seeking justice, which was confirmed in both outreach and in our population survey. A lack of access to English court services therefore impedes meaningful access to Quebec’s courts and tribunals.

This project likewise uncovered widespread misunderstandings over what English-speaking Quebecers believe is possible in Quebec courts and tribunals, versus the reality. This points to an area for further education and resource dedication.

## Introduction

The fourth Access to Justice in English report, published in March 2023, shed light on systemic barriers to accessing Quebec's courts in English, with an emphasis on Quebec's civil courts.<sup>1</sup> These barriers were exacerbated by the adoption of Bill 96, which introduced new policies that restrict the use of the English language within the justice system. This legislation generated significant attention, leading to confusion among Quebec's English-speaking community regarding their rights when interacting with the justice system and governmental agencies. The Access to Justice in English Team ("the Team") discovered that this growing confusion, coupled with the pre-existing barriers highlighted in the project's fourth report, dissuaded English-speaking litigants from engaging with the justice system altogether. In light of the barriers highlighted in the Project's fourth report, the team decided to, in the fifth issue, build upon the previous report's findings with a focus on dispelling the misconception surrounding the effects and practical implications of Bill 96.

In contrast to the Project's *Access to Courts* report, the fifth issue focuses more heavily on access to administrative tribunals, rather than solely on civil courts. The rationale for this focus was threefold: Firstly, our project focused on everyday people and everyday legal problems, which range from housing, employment, human rights, immigration, and more. These problems are most often heard in the tribunal setting. Secondly, administrative tribunals are, by design, less formal in procedure. As a result of less formalized procedures in the tribunal context, we hypothesized that certain procedural safeguards that are utilized in the courtroom setting get left out in the tribunal setting, ultimately resulting in reduced access for English speakers. Lastly, there is less *prima facie* information available about what can and cannot be done in English in front of administrative tribunals. Therefore, we hypothesized that there would be more general confusion over what can or cannot still be done in English in the tribunal setting. Furthermore, as individuals are more likely to self-represent in front of an administrative tribunal than they are in court, the availability of information to guide them in these processes is ever more important.

The Project highlights the discrepancy between what can be done in English, **in theory**, in Quebec's courts and tribunals, and what can be done **in practice**. Lastly, the report contrasts this with what English-speaking Quebecers **perceive to still be possible** in English in Quebec's courts and tribunals.

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<sup>1</sup> Quebec Community Groups Network, *Access to Justice in English Project: Access to the Courts of Quebec in English*, Executive Summary and Recommendations (Montreal: 2023).

## Methodology

Our findings are based on a mixed methodology, that consists of the following research components:

- Preliminary legal research, uncovering existing research, case law, legislation, and policy that is relevant to accessing courts in English in Quebec;
- Analysis of the organization and administration of Quebec's courts and court services, with a particular focus on administrative tribunals and Quebec's civil courts;
- An external legal opinion prepared by Alexeev Avocats, delivered on February 9, 2024;
- Thirty-two in-depth, qualitative interviews with members of the legal community, legal experts, and community stakeholders;
- A quantitative survey, fielded by Léger, of 1,500 English-speaking Quebecers' perceptions of the accessibility of Quebec's courts and administrative tribunals;
- First-person observations at a selection of hearings at various courts and tribunals located in the Greater Montreal Area.

These research components formed the basis of the four research dimensions of this project, namely: Law and Policy, Organization and Administration of Services, System Navigation, and Population Experience.

## Research Highlights

### Theory

This report is designed to highlight the discrepancy between theory, practice, and perception, as it pertains to access to Quebec's courts and tribunals in English. This section of the report is grounded in research on Law and Policy, Organization and Administration of Services, and System Navigation.

#### *Law and Policy*

Protections for access to courts and tribunals in English in Quebec stem from different constitutional, quasi-constitutional, and legislative sources.

The primary constitutional source for this access is located in section 133 of the Canadian *Constitution Act, 1867*, which provides the right to use and express oneself in either French or English in court proceedings. Section 133 applies to federal courts (which includes the Supreme Court of Canada, Federal Court, Federal Court of Appeal and the Tax Court of Canada), Quebec judicial courts (which includes the Superior Court of Quebec, Court of Quebec, Municipal Courts and the Court of Appeal of Quebec) as well as Quebec judicial/quasi-judicial tribunals (including the Tribunal administratif du Québec, Tribunal administratif du travail, the Tribunal administratif du logement, and the Tribunal des droits de la personne). Some provincial commissions have a more administrative than judicial role. However, section 133's protections could likewise be argued to apply to some provincial commissions, such as the *Commission des normes, de l'équité, et de la santé et de la sécurité du travail* (the CNESST), and the *Commission des droits de la personne et de la protection de la jeunesse* (the CDPDJ), due to the nature of

their relationship with quasi-judicial bodies (the Tribunal administratif du logement and the Tribunal des droits de la personne, respectively). While these commissions exercise primarily administrative functions, they are, for many, the first point of contact that a litigant has with an adjudicative body, and thus act as gatekeepers for many before they can access the judicial and quasi-judicial services of a tribunal which are protected by section 133. However, this has not yet been formally established by legislation or jurisprudence.

The *Canadian Charter of Rights and Freedoms* offers additional protections relating to accessing courts in English, including various protections ranging from the right to the assistance of an interpreter during proceedings;<sup>2</sup> the affirmation that English and French are the official languages of Canada and the assertion of the importance of the advancement of the equal status or use of both languages;<sup>3</sup> and the protection of the right to use either official language in any pleading or process issued from any court established by Parliament.<sup>4</sup> Section 15 of the *Canadian Charter*, which protects against discrimination on either enumerated or analogous grounds, could likewise form a legal basis for access to Quebec courts in English. However, language has not yet been recognized as an analogous ground of discrimination.

On a federal level, further protection for access to justice in English is found in the *Official Languages Act* (“OLA”). The OLA applies to all federal institutions, including federal courts and tribunals,<sup>5</sup> and can be used by any person, in any pleading or process issuing from any federal court or tribunal.<sup>6</sup> Federal Courts and tribunals have a duty to hear witnesses in the official language of the parties’ choice,<sup>7</sup> and to provide simultaneous interpretation in any proceeding conducted before the court, upon request by a party.<sup>8</sup> Furthermore, any form issued by any federal institution in a federal court proceeding must be in both official languages.<sup>9</sup> The OLA additionally provides that every federal court or tribunal has the duty, in its adjudicative functions, to ensure every judge or other officer who hears a proceeding in an official language is able to understand the official language in which the proceeding takes place without the assistance of an interpreter.<sup>10</sup> Furthermore, the OLA provides that the federal government has a duty to ensure that judicial appointments to federal courts and tribunals are able to meet this obligation.<sup>11</sup>

Provincially, protections for access to courts in English are found in Quebec’s *Charter of Human Rights and Freedoms* (the “Quebec Charter”), and the *Charter of the French Language* (the “CFL”). The Quebec *Charter* protects against discrimination, exclusion, and preference based on various characteristics,

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<sup>2</sup> *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11, s 14 [*Canadian Charter*].

<sup>3</sup> *Ibid*, at s 16.

<sup>4</sup> *Ibid*, at s 19.

<sup>5</sup> *Official Languages Act*, RSC 1985, c 31 (4<sup>th</sup> Supp.), at s 3(1)d [OLA].

<sup>6</sup> *Ibid*, at s 14(1).

<sup>7</sup> *Ibid*, at s 15(1).

<sup>8</sup> OLA, *supra* note 5 at s 15(2).

<sup>9</sup> *Official Languages Act*, s 19(1).

<sup>10</sup> *Ibid*, at ss 16(1)(a)–(b).

<sup>11</sup> *Ibid*, at s 16(3).

which, in contrast to the Canadian *Charter*, include language.<sup>12</sup> Specifically, the Quebec *Charter* prohibits discrimination based on language when it creates a distinction, exclusion, or preference that interferes with an individual's rights as protected by sections 1-9 of the same *Charter*. Equality arguments, grounded in either section 15 of the Canadian *Charter*, or s.10 of the Quebec *Charter*, are complicated by amendments to the Quebec *Charter* implemented by Bill 96, which severely limit legal arguments based on equality due to its use of the notwithstanding clause. The Quebec *Charter* provides additional protections in the criminal law context.<sup>13</sup>

The CFL is primarily occupied with the protection of the French language within Quebec. However, section 7(4) of the CFL mirrors section 133 of the *Constitution*.

Bill 96 made significant changes to the Quebec linguistic landscape and has important consequences on access to justice in English. The Bill impacts access to justice in three major ways: Firstly, the Bill amends bilingualism requirements for certain judicial appointments within the province.<sup>14</sup> This is the subject of ongoing litigation initiated by the *Conseil de la magistrature*. Secondly, the Bill requires all court documents provided by a legal person in a proceeding to be translated into French, at the cost of the party.<sup>15</sup> An application challenging these provisions in the Bill has been stayed pending the final outcome of the case, and therefore these provisions are not currently in force.<sup>16</sup> Bill 96 also implemented the requirement that French translations be provided, at the request of any person, whether they are a party to the proceeding or not. In contrast, English translations of judgments are only available upon request by a party to a proceeding.<sup>17</sup> Finally, Bill 96 gives priority to the French version of a statute, regulation, or other act, if there is a discrepancy between French and English versions.<sup>18</sup> As English-speaking litigants rely on the English version of such documents, this provision could have profound consequences on their ability to access and exercise their legal rights.

A further source of protection for access to justice in English in Quebec is the principle of procedural fairness. Procedural fairness is enshrined in common law, the Canadian *Charter*,<sup>19</sup> and the Quebec *Charter*.<sup>20</sup> Linguistically, Bill 96 explicitly acknowledged these pre-existing rights by stating that government institutions will communicate in English when natural justice (also known as procedural fairness) must be respected.<sup>21</sup> Procedural fairness requirements include, for example, the requirement

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<sup>12</sup> *Charter of Human Rights and Freedoms*, CQLR c C-12, s 10 [Quebec Charter].

<sup>13</sup> *Ibid*, at ss 28, 36.

<sup>14</sup> Bill 96, *An Act respecting French, the official and common language of Québec*, 1<sup>st</sup> Sess, 42<sup>nd</sup> Leg, Quebec, 2022 (assented to 1 June 2022), SQ 2022, c 14, at s 12 [Bill 96].

<sup>15</sup> Bill 96, *supra* note 14, at s 9.

<sup>16</sup> Suspension as result of the Superior Court judgment in *Mitchell v Procureur general du Québec*, 2022 QCCS 2983.

<sup>17</sup> Bill 96, *supra* note 14, at s 10.

<sup>18</sup> *Ibid*, at s 5.

<sup>19</sup> *Canadian Charter*, *supra* note 2, at s 7.

<sup>20</sup> *Quebec Charter*, *supra* note 12, at s 23.

<sup>21</sup> *Charter of the French Language*, CQLR c C-11, at s 22.3(1) [CFL].

that judges ensure litigants understand what is going on during a trial by summarizing French to English where necessary<sup>22</sup> and understand the party's testimonies during trial.<sup>23</sup> Notably, bodies that render judicial or adjudicatory decisions – such as judicial and quasi-judicial bodies, like courts and administrative tribunals – will be subject to stricter procedural fairness obligations than bodies that render administrative decisions (such as commissions, like the CNESST or the CDPDJ).<sup>24</sup>

### *Organization and Administration of Services*

To contextualize barriers and friction points that appear throughout the report, the team summarized the standard steps in the judicial process. They are, generally, as follows:

1. **Information gathering.** The party or parties research information relevant to their legal issue. This may include the court website, online resources (such as Éducaloi), and speaking with court staff, such as clerks.
2. **Finding a lawyer.** Many will begin their legal journey by consulting a lawyer.
3. **Filing.** The claimant will then file their claim with the relevant court or tribunal using the court forms that are available and including any supporting documentation. This may also be done in person with a court clerk, depending on the court or tribunal.
4. **Notices.** The party, or the court/tribunal, then notifies those involved in the proceeding that there has been a case filed, and sometimes this notice will summon them to appear at court for a specific date or time.
5. **Case management or conference.** In some cases, the parties sit down with a judge and establish a timeline for the proceeding. This may include setting deadlines for evidence filing, narrowing the scope of legal issues, etc.
6. **Conciliation.** This optional process allows the parties to meet with a judge and try to come to an agreement. The judge will help both sides try to come to a consensus without proceeding to a formal trial or hearing.
7. **Mediation.** Throughout the process, the parties may have a mediator sit down with them to attempt to come to an agreement. Some areas of law – such as family and employment law – tend to use mediators to come to a long-term solution. Some small claims matters now require mandatory mediation before going to trial.<sup>25</sup>
8. **Experts and other witnesses.** Some cases may use witness testimony or expert reports. The use of an expert is useful to establish evidence for a case and may be required in some circumstances (e.g., at the CNESST, or in matters pertaining to custody).
9. **Hearing or Trial.** If no resolution is reached, parties proceed to a trial or hearing, wherein a decision-maker hears the presented evidence and arguments before ruling on the issue.
10. **Decision.** A trial or hearing culminates in a decision, which is then given to the parties, either orally at trial or in writing at a later date.

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<sup>22</sup> *Bhaskaran v Tribunal administratif du travail*, 2020 QCCS 2878, at paras 130–132.

<sup>23</sup> *Desjardins Assurances générales inc. V 9330-8898 Québec inc.*, 2019 QCCA 523.

<sup>24</sup> *Act Respecting Administrative Justice*, CQLR c J-3, ss 9–13 [AAJ]; Art 17 CCP; *Quebec Charter*, *supra* note 12, at s 23.

<sup>25</sup> Government of Quebec, "Médiation obligatoire aux petites créances" (March 14, 2024), online: <[quebec.ca/en/justice-and-civil-status/small-claims/mediation-arbitration-small-claims/compulsory-mediation](https://quebec.ca/en/justice-and-civil-status/small-claims/mediation-arbitration-small-claims/compulsory-mediation)>.

Many institutions, most notably commissions, use simplified procedures that can avoid many of these steps.

### *System Navigation*

The below provides an overview of the Quebec legal system, with a focus on administrative tribunals and commissions relevant to our report.

The Supreme Court of Canada	The Supreme Court of Canada hears appeals from the Quebec Court of Appeal and the Federal Court of Appeal.
The Quebec Court of Appeal	The Quebec Court of Appeal hears appeals from the Superior Court, Court of Quebec (for judgments over \$60,000), and the Human Rights Tribunal.
The Quebec Superior Court	The Superior Court is a court of inherent jurisdiction, and therefore hears all matters unless the jurisdiction is assigned to a different court or administrative tribunal. The Superior Court has exclusive jurisdiction for class actions and injunctions, as well as most family law matters. The Superior Court also has a general power of judicial review over all courts in Quebec (except the Court of Appeal), over public bodies, over legal persons established for a public interest, and over partnerships or associations.
The Court of Quebec	The Court of Quebec is composed of different divisions handling different matters. For example, the Court has a division that handles small claims (under \$15,000), for most civil matters \$15,000 – \$75,000, for youth and criminal cases, as well as for family adoption cases.
Municipal Court	The Municipal Court hears certain criminal proceedings, penal proceedings, and civil proceedings against municipalities.
La Commission des normes, de l'équité de la santé et de la sécurité au travail (CNESST)	The CNESST promotes work-related rights and obligations and ensures compliance by employees and employers in Quebec.
Tribunal Administratif du Travail (TAT)	The TAT hears matters relating to the Quebec Labour Code and employees not employed by the federal government.
Tribunal Administratif du Québec (TAQ)	The TAQ hears contestations of decisions rendered by provincial authorities and proceedings brought against administrative authorities.
Tribunal Administratif du Logement (TAL)	The TAL has exclusive jurisdiction over landlord-tenant disputes and other residential tenancy issues.
La Commission des droits de la personne et des droits de la jeunesse (CDPDJ)	The CDPDJ hears complaints from those seeking to bring another party before the Human Rights Tribunal. The CDPDJ investigates the complaint and uses its discretion on whether to bring a case before the Quebec Human Rights Tribunal (HRT) or another court. The Commission can either bring the claim and represent the victim or notify the complainant that the complaint must pursue the claim themselves and at their own expense.



Quebec Human Rights Tribunal	The Quebec Human Rights Tribunal hears human rights violation complaints brought by the CDPDJ or by individuals following a CDPDJ investigation.
The Federal Court	The Federal Court hears certain immigration cases, appeals from federal administrative tribunals, intellectual property cases, aboriginal law cases, and other issues under federal jurisdiction.
The Federal Court of Appeal	The Federal Court of Appeal hears appeals from the Federal Court and the Tax Court of Canada.
Federal Administrative Tribunals	Federal administrative tribunals are comprised of a variety of tribunals that hear matters falling under federal jurisdiction, including patents, transportation, immigration, federal employment, veterans affairs, and information or privacy.

The framework pertaining to the assignment of an English-speaking judge, English-language court services, and English-speaking court staff is outlined in the sections that follow.

### *Judicial appointments*

The judicial appointment process impacts the availability of English-speaking judges in Quebec’s courts and tribunals.

### **The Quebec Superior Court and Court of Appeal**

Quebec Superior Court and Court of Appeal judges are appointed by the Federal Government.<sup>26</sup> From our interaction with different lawyers and stakeholders, most of these judges in the Greater Montreal Area (GMA) are bilingual and receive continued English-language training.

### **The Court of Quebec and Municipal Court**

Judges for the Court of Quebec and municipal courts are appointed in accordance with the *Regulation respecting the selection procedure of candidates for the office of judge of the Court of Québec, municipal court judge and presiding justice of the peace*.<sup>27</sup> As discussed above, Bill 96 made significant changes to language requirements in hiring for certain judicial positions, which is the subject of ongoing litigation. The judicial appointment process for judges appointed to the Court of Quebec and Municipal Courts is the joint result of a selection committee – composed of the Chief Judge of the Court of Quebec (or designated by them), a member designated by the Batonnier du Québec, a lawyer or professor from a faculty of law, and two members of the Office des professions du Québec<sup>28</sup> – and input from the Minister of Justice, who makes the final selection from a narrowed pool of candidates. The Quebec government therefore has the capacity in question.<sup>29</sup>

<sup>26</sup> See *Judges Act*, RSC 1985, c J-1.

<sup>27</sup> See specifically *Regulation respecting the selection procedure of candidates for the office of judge of the Court of Québec, municipal court judge and presiding justice of the peace*, CQLR c T-16, r 4.1.

<sup>28</sup> Court of Quebec, “Selection of Judges and Presiding Justices of the Peace” (2020), online: <[courduquebec.ca/en/selection-process/selection-process](https://courduquebec.ca/en/selection-process/selection-process)>.

<sup>29</sup> See the CMQ contestation, *Conseil de la magistrature v Procureur général du Québec*, 2023 QCCS 151.

## Administrative Tribunals

Each administrative tribunal uses its own foundational act to guide the appointment of its administrative judges. Administrative judges generally do not need to be lawyers but must have adequate knowledge and 10 years of experience in a pertinent field.<sup>30</sup> Candidates for these positions are appointed by the Minister responsible from a short list of candidates created by a selection committee.<sup>31</sup> Here, again, the appointment process demonstrates that the bilingualism of the administrative tribunal judges is in large part determined by the Quebec government post-Bill 96.

### *Court services and staffing*

Court staff play a crucial role in a litigant's legal process and are charged with various roles such as client services, reception staff, and more. As section 7 of the *Charter of the French Language* suggests, French is the language of courts in Quebec, though one has the right to use any of the official languages in any pleading.<sup>32</sup>

Tribunals and commissions adhere to their own linguistic policies, all of which must align with the principles outlined in the Quebec *Charter* and the Charter of the French Language (CFL). Therefore, internally, French is the working language, and in external communications with natural persons. French is the default language, unless specific circumstances dictate otherwise. Such exceptional circumstances include the right of a service user to receive educational instruction in English, immigrants within six months of arrival, and certain Indigenous people. As a general guideline, initial contact by civil administration is conducted in French. For verbal communication, staff members may switch if the situation demands it, but are obliged to confirm the interlocutor's proficiency in French before doing so. In written correspondences, the courts and tribunals use French by default but may correspond in another language if requested or if in response to an initial message written in a different language.

Under the CFL, the agencies of the civil administration must create a language policy or directive that outlines in which situations they can use a language other than French.<sup>33</sup> The directive must be approved by the Minister. Tribunals and commissions run by the provincial government fall under these guidelines as part of the civil administration, and therefore they must create a language policy directive that is tailored to their duties. The directive is meant to guide their employees on when to use languages other than French, and on switching to another language. These language directives are therefore the final step in the regulatory framework governing institutions' abilities to provide services in English.

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<sup>30</sup> See for example *Act respecting the Administrative Housing Tribunal*, CQLR c T-15.01, at s 7, *Act to establish the Administrative Labour Tribunal*, CQLR c T-15.1, at s 52; *AAJ*, *supra* note 24, at s 41.

<sup>31</sup> See *Regulation respecting the procedure for the recruiting and selection of persons qualified for appointment as members of the Administrative Labour Tribunal and for the renewal of their term of office*, CQLR c T-15.1, r 1, at ss 22–24; *Regulation respecting the procedure for the recruitment and selection of persons apt for appointment as members of the Administrative Tribunal of Québec*, CQLR c J-3, r 2, at ss 22–24.

<sup>32</sup> *CFL*, *supra* note 21, at s 7(4).

<sup>33</sup> *Ibid*, at ss 29.15–29.18.

In what follows, we provide an overview of the directives currently guiding the tribunals of focus, as revealed by our access-to-information requests. These requests were made to the Conseil de la magistrature du Québec (“CMQ”), the Tribunal administratif du travail (“TAT”), the Tribunal administrative du Québec (“TAQ”), the Tribunal administrative du logement (“TAL”), the Commission des normes, de l’équité, de la santé et de la sécurité du travail (“CNESST”), and the Commission des droits de la personne et des droits de la jeunesse (“CDPDJ”). The following is the breakdown and analysis of their respective directives.

### **Directives**

In our access-to-information requests, we requested:

- i) documents and information concerning the respective body’s internal policies and guidelines concerning the provision of services in English;
- ii) information on the body’s requirement and evaluation of English-language fluency of tribunal staff;
- iii) information on any tools and/or incentives provided to employees and administrative judges to improve their English-language skills; and
- iv) data on the percentage of employees and administrative judges able to provide services or exercise their functions in English.

Unfortunately, the directives received were often insufficient in outlining in which circumstances their staff may speak in English, and most had not yet adopted their own adapted language policy and therefore relied on the directive issued by the government. Few acknowledged the constitutional or procedural rights to plead in English and understand one’s hearing.

Furthermore, when asked about data collected regarding English-language use by their service users or employees, the tribunals and commissions examined overwhelmingly failed to collect proper data and had few requirements or training for English positions. The results of the access-to-information requests are summarized in the table below.

<b>Table Summarizing Tribunal Directives and Language Policies</b>					
<b>Tribunal or other</b>	<b>Directive</b>	<b>S. 133 mentioned in directive</b>	<b>Natural justice mentioned in directive</b>	<b>Language data collected</b>	<b>Employee English requirement and training</b>
<b>TAQ</b>	S	Yes, both for oral and written submissions.	Yes. “Droit à une décision impartiale et au droit d’être entendu.”	No	No English requirement or training

<b>TAL</b>	N	No	No	No	No English requirement or training
<b>TAT</b>	S	Right to both oral and written submissions stated without reference	Yes. Also includes access to information requests and complaints against TAT.	No	Three bilingual job positions in GMA. Offers judges training
<b>CNESST</b>	N	No	No	No	No English requirement or training
<b>CDJDP</b>	N	No	No	Yes	English requirement for some jobs. Tested externally. No training provided
<b>CMQ</b>	N/A	N/A	N/A	No	English training offered to judges internally and externally. No requirement

S = Submitted to Minister, waiting for approval before being put in force.

N = No directive – use default administration instructions

N/A = Not applicable

## Practice

In theory, Quebec's courts and tribunals remain largely accessible to English-speaking litigants, as set out in the above section. However, community outreach revealed that accessibility varies across Quebec depending on different factors.

### **Financial barriers**

The biggest factor identified is cost related. The consensus is that persons represented by lawyers experience fewer barriers, especially when it comes to linguistic barriers, as lawyers often act as unofficial translators and interpreters for their English-speaking clients. However, lawyer fees are costly and beyond the financial means of many litigants. This financial burden is inordinately pronounced for Quebec's English-speaking community, along with other marginalized minority groups, as they have a higher percentage of members living in poverty.<sup>34</sup>

Additionally, accessibility of legal documentation and information in English is also variable, as many governmental websites have pages that do not exist in English or contain forms that are only available in

<sup>34</sup> Provincial Employment Roundtable (PERT), "A Snapshot of Poverty Among Québec's English-speaking Communities", online: < [https://pertquebec.ca/wp-content/uploads/2023/08/Snapshot\\_of\\_Poverty\\_Among\\_Quebecs\\_English\\_Speaking\\_Communities-1.pdf](https://pertquebec.ca/wp-content/uploads/2023/08/Snapshot_of_Poverty_Among_Quebecs_English_Speaking_Communities-1.pdf)>.

French.<sup>35</sup> Communication with these governmental bodies is habitually in French, which proves to be particularly problematic in issues that deal with tight deadlines, such as welfare matters or CNESST decisions, as there are extra delays for English speakers to get their correspondences translated.

### ***Court staff and judges***

Regarding linguistic accessibility in the courts, stakeholders reported that judges were typically bilingual, especially Superior Court and Court of Quebec judges. However, English-language proficiency varied in tribunal contexts, especially with regard to the TAL. Judges at the TAL were described as often having a better mastery of English comprehension, but struggling with English oral expression, at moments accidentally telling litigants information that was vastly different from what they had meant to say.

Larger issues persist in the court and tribunal staff's level of English. Given that the services offered by other court staff are perceived as being administrative, they are not held to the same standards and obligations as court and tribunal judges. Furthermore, the lack of clear directives for certain tribunals makes internal regulation and policy enforcement difficult and gives an excuse for potential bad-faith actors to act out. An example given during outreach is that of a courthouse where no court clerks were able or willing to speak in English, and dismissed English-speaking litigants even when they had a right to receive these services in English.

Certain stakeholders explained that, with regard to court staff's level of English, there has been a shift in attitude. Where previously there was proactive help and service in English, there are now either increasingly hostile behaviors or uncertainty as to whether a good faith employee can or cannot offer services in English.

### ***Cultural barriers***

Aside from strictly linguistic barriers, there are also other factors that affect a litigant's access to justice. For example, there are different cultural barriers that prevent members of different communities from assuring respect for their rights.

Specifically, many Indigenous communities' members distrust of the legal system dissuades them from using the court system. There is also a lack of familiarity and understanding of the judicial system for some. Members of the community expressed that many associated the courts solely with criminal law and thus avoided using their civil institutions.

Furthermore, many newly arrived immigrants' unfamiliarity with the Quebec legal system leaves them unable to access its services. Many community organizations in this field described the six-month deadline to receive government services in English left them practically unable to pursue their grievances in courts or tribunals. Aside from the fact that it is unreasonable to expect proficiency in French in six months, many newly arrived immigrants need to prioritize their livelihood and therefore do not have the

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<sup>35</sup> See especially Quebec Community Groups Network, *Access to Justice in English Project: Access to Quebec government websites in English*, Executive Summary and Recommendations (Montreal: 2023).

time to master the French language. Without this service, many immigrants were unaware of other organizations that could help them. A community organization for immigrants also voiced the issue that women from some countries were not previously empowered to use the judiciary, especially in issues of domestic violence or divorce. That same organization also mentioned a pattern of newly arrived immigrants being treated poorly and infantilized by their own lawyers, in part because of the language barrier between the lawyer and the client whose mastery of English is variable. Additionally, there can also exist an additional cultural barrier, as immigrants from countries where authorities and the judicial system could not be trusted experience a harder time adapting to Quebec's system.

Access to justice for older members of the English-speaking community of Quebec is also impeded by the court and tribunals to host most of their resources online, which represents a significant challenge to those less familiar with online navigation. Additionally, tribunals' phone lines have become increasingly difficult to navigate, as many find it hard to be put in touch with a live agent. As a result, given the difficulty to find information both online and via telephone, older members often resort to physically traveling to tribunals to gain information, despite various mobility issues. In some cases, this solution cannot work, as the onsite services have entirely been offloaded to their website. Such is the case of the TAL, where in-person services regarding filing cases have moved online since COVID-19.

Members of the 2SLGBTQIA+ express hesitation to seek out legal recourses due to past bad experiences of insensitivity or misgendering. There is also the added concern that issues such as name and gender-marker change require specialized lawyers and legal resources, which there are few of, restricting access to such services, especially for English-speaking members of the community.

### ***Remote communities***

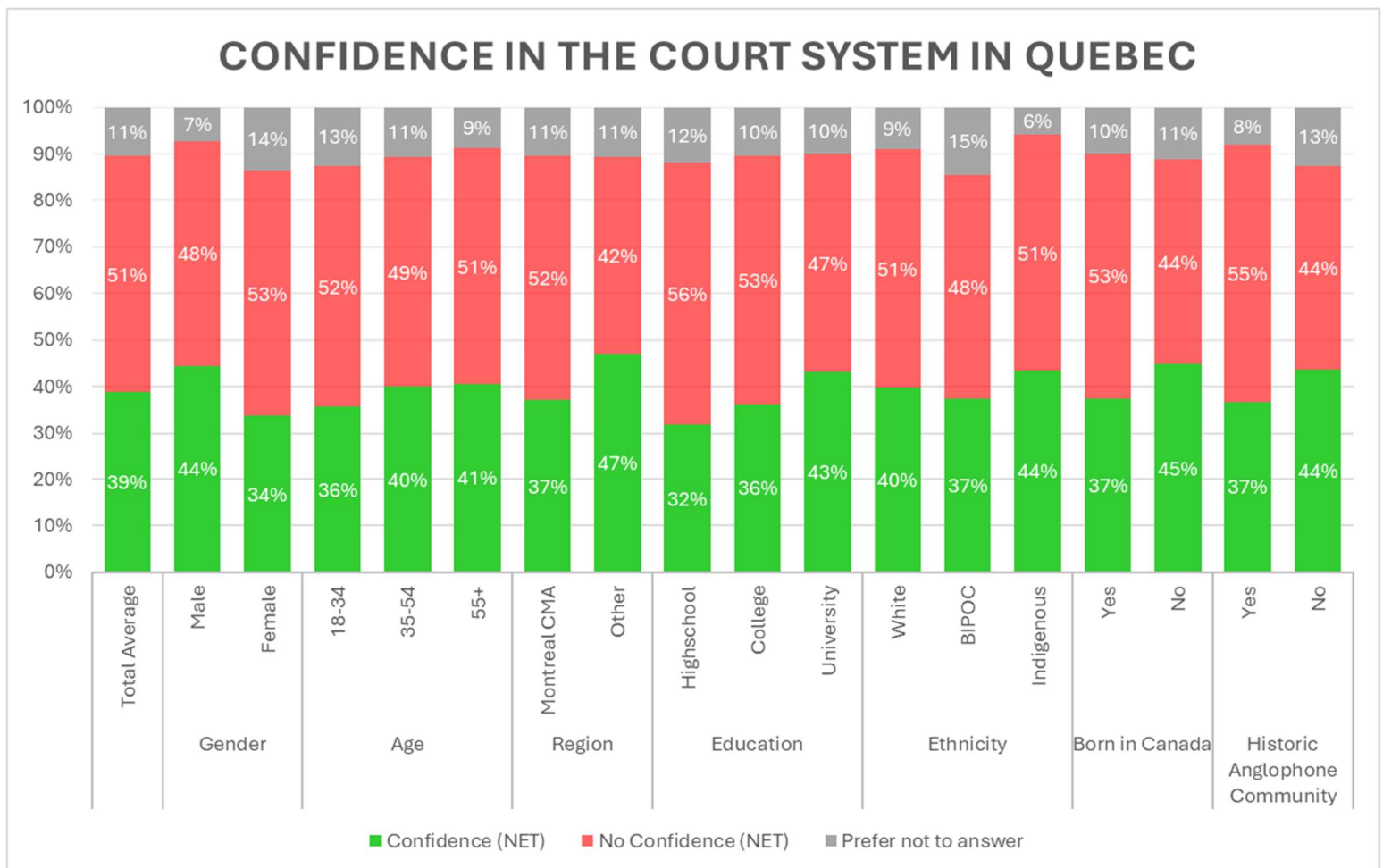
Physical remoteness also plays a significant role in a litigant's ability to properly access justice: many litigants living in remote areas have unreliable internet connections and must make long and sometimes costly trips just to go to their closest courthouse. This factor intersects with challenges faced by certain Indigenous communities, as they are more likely to experience remoteness-related barriers. Remoteness also affects access to justice in matters of availability of legal resources and services: courts are less equipped with staff that can offer services in English, and there are fewer English-speaking lawyers than in bigger cities, which is a considerable bottleneck in the justice system. One community organization specified that they had the possibility to include legal representation in their mandate but chose not to in order to serve the entire community, given the scarcity of legal information in the regions of Quebec.

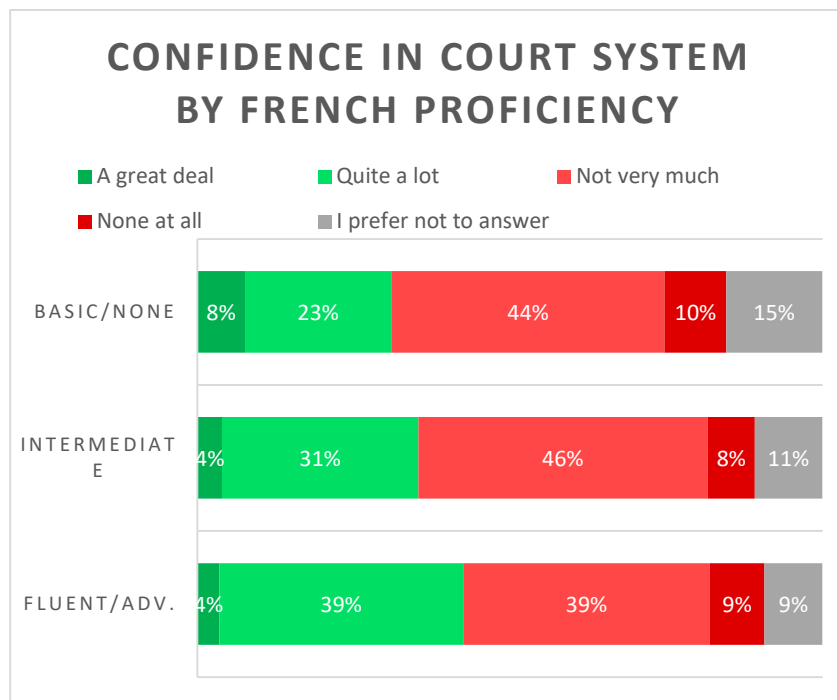
The above noted barriers revealed during the Community Outreach stage of the project indicate that, despite legislation and directives that are aimed at protecting access to justice in English, practical factors remain that have a significant impact on an English-speaking litigant's ability to access justice in Quebec.

## Perception

The final pillar of the analysis sought to uncover the perceptions of the English-speaking community with regard to access to courts. Some 1500 English-speaking Quebecers were polled on their perceptions of the court system, and on what they believe could be done to improve their confidence in the court system.

When asked to rank their confidence in Quebec's court system, English-speaking Quebecers were more likely to have negative perceptions than positive ones. This was the most pronounced for women, younger adults, and those with lower educational attainment. A summary of these results is outlined in the chart below.

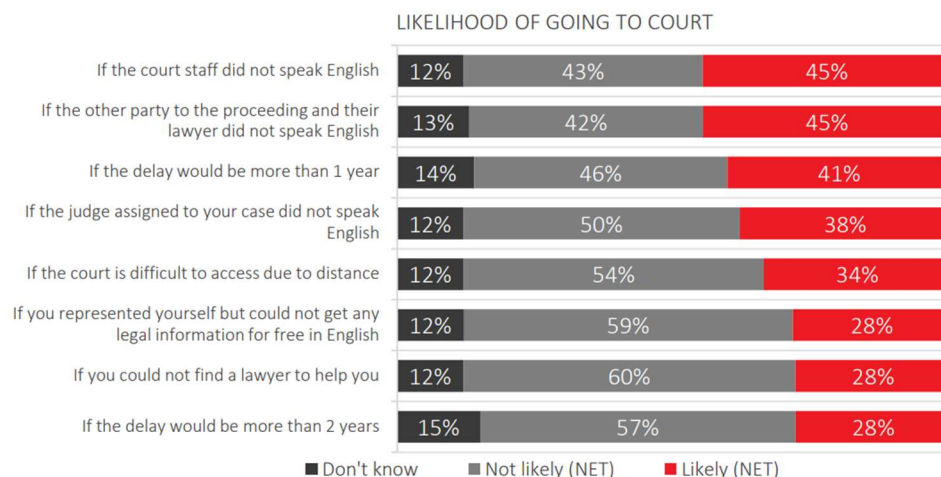




The confidence in the court system was most profoundly different between those with high and low levels of French proficiency. While 43 per cent of fluent or advanced French speakers had confidence in the courts, only 35 per cent of intermediate speakers had confidence and only 31 per cent of those with only basic or no French ability expressed confidence in the court system. Those with basic or no French proficiency had the lowest rate of confidence in the courts among all the demographics and categories surveyed.

When asked which measure would increase their faith in the judicial system the most, judicial bilingualism was the top choice at 43 per cent. One third (32%) of fluent/advanced French speakers, more than half (54%) of intermediate French speakers, and almost two-thirds (63%) of basic or non-French speakers chose judicial bilingualism as the primary measure that would increase their faith in the justice system.

#### Likelihood of Going to Court



English-speaking Quebecers are generally not very likely to go to court. When asked how likely they would be to go to court given different scenarios, none of the scenarios had a majority likely to go. Ultimately, the results demonstrate

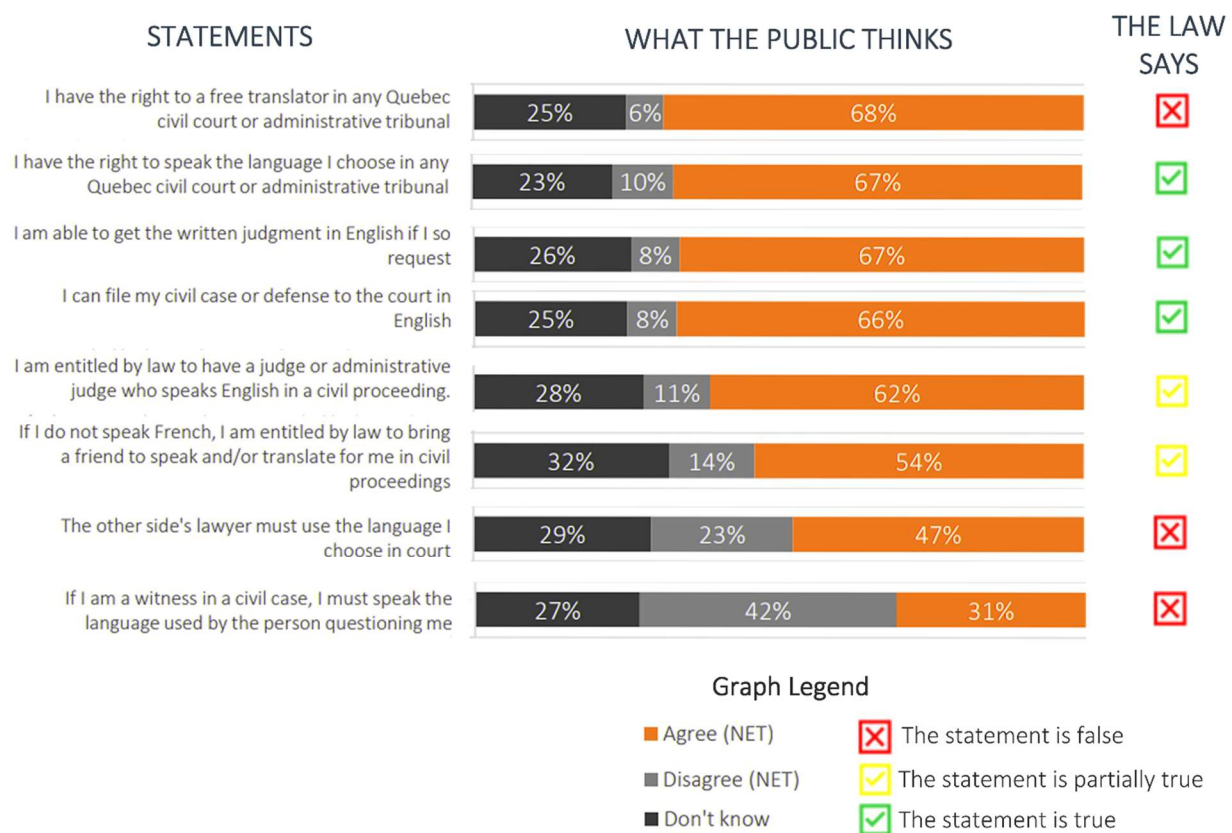
that other access to justice issues – notably pertaining to legal representation and delays – remain the main access to justice issues for English-speaking Quebecers. It appears that language issues are an additional barrier, but not the main barrier, preventing people from exercising their rights to go to court.



## Knowledge of Rights

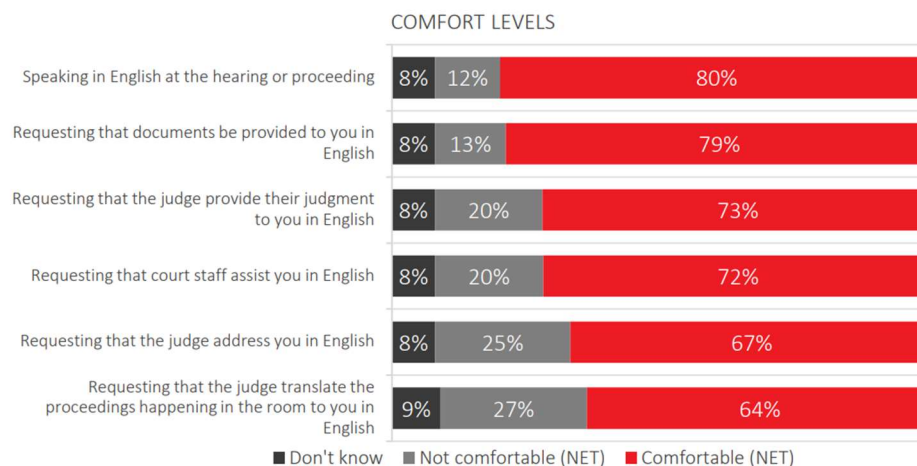
English-speaking Quebecers were asked a series of questions about linguistic rights in the context of legal proceedings. The questions were divided between Criminal Court, and Civil Court or Administrative Tribunals. The findings demonstrate that English speakers are more aware of their Criminal law procedural rights rather than their civil proceeding rights.

### Civil Courts and Administrative Tribunals



Unfortunately, these results signal that English-speaking Quebecers do not have a high-level understanding of their linguistic rights during civil and administrative proceedings. This indicates a need for increased education for English-speaking Quebecers pertaining to their linguistic rights.

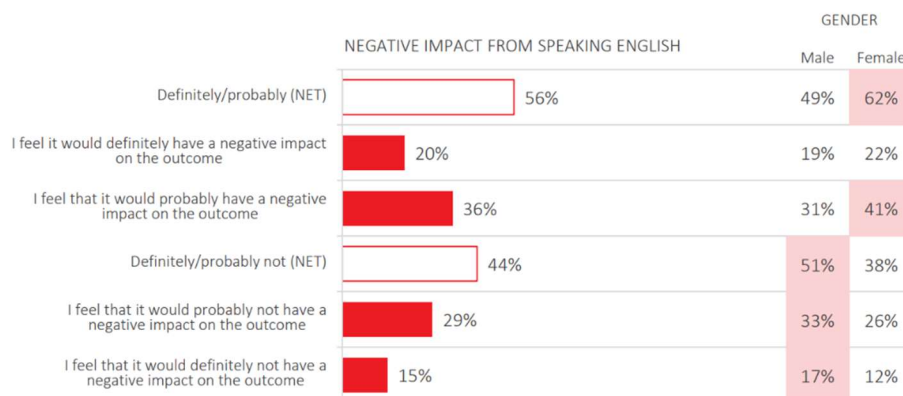
## Comfort Exercising Linguistic Rights or Requesting Accommodations



Despite an apprehension of bias, the majority of respondents would still feel comfortable speaking in English at a hearing or requesting English service in a court or tribunal setting. However, this comfort level diminishes when asking a judge to speak or translate into English.

As per the adjacent chart, the 20-36 per cent of the population who do not voice their linguistic rights or request accommodation are at a greater risk of not accessing justice due to linguistic reasons.

## Perceived Negative Outcome if English is used in Court



Respondents were asked if they believed that using English would have a negative impact on the outcome of their case. A majority of respondents across all categories, including those who self-identified as having full or advanced fluency in French, believed that

speaking English would definitely or probably have a negative impact on their proceedings. The one exception is gender, where only 49 per cent of men believe in this negative outcome, as compared to 62 per cent of women.

This finding at best reflects the fear that a judge would not fully understand one's English arguments, and at worst illustrates a perception of judicial bias based on language. Ultimately, however, the perceived negative impact associated with using English in a Quebec court or administrative tribunal is deeply concerning.

## Analysis

### Directives and Court Staff

Unclear language directives by Quebec tribunals can negatively impact English-speaking Quebecers' access to courts and tribunals. Only two of the five tribunals and commissions that were the subject of our inquiry – the TAQ and TAT – made reference to the constitutional right (as protected by s.133 of the *Constitution*) to plead in a Quebec court in English and provided the requirement of procedural fairness/natural justice in the tribunal's communications with its users. The latter is significant, as, although the Charter of the French Language allows for the use of English where necessary to maintain natural justice (or procedural fairness), the directives fail to clearly explain what this concept means. Similarly, some directives allow exceptions to the standardized use of the French language in situations where such use would “compromise the carrying out of their missions”, though what it entails is not clarified. Since these directives are the most practical and on-the-ground source of guidance on English-language use for administrative tribunal employees, failing to include these definitions risks the violation of English-speaking Quebecer's access rights.

For example, stakeholder reports revealed numerous instances where tribunal and court staff failed to provide proper English-language documentation or forms, despite such documents being requested. It is not possible to say whether these instances are due to employees following unclear directives, a lack of adequate staff training, or malice.

Further exacerbating these issues is the lack of data recorded and maintained with regard to the number of English-speaking service users and staff at courts, tribunals, and commissions within the province. In the past, tribunals tracked how many self-proclaimed “anglophones” were employed, with none of them having more than four employees (or 1.5%) who are “anglophone”.<sup>36</sup> The failure to record the number of English-speaking service users or employees – and therefore the demand for service in English – results in a significant risk that English-speaking litigants' means that access to justice in English

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<sup>36</sup> See Tribunal administrative du Logement, *Rapport Annuel de Gestion 2021-2022* (Quebec : TAL, 2022) online : < tal.gouv.qc.ca/sites/default/files/Rapport\_annuel\_2021-2022.pdf>;

Tribunal administratif du travail, *Rapport annuel de gestion 2021-2022* (Quebec : TAT, 2022) online : <tat.gouv.qc.ca/fileadmin/tat/6Le\_Tribunal/Publications\_et\_documents/Rapports\_annuels/TAT\_RA\_21-22\_EFinale-WEB.pdf>;

Commission des droits de la personne et des droits de la jeunesse Québec, *Rapport d'activités et de gestion 2021-2022* (Quebec : CDPDJ, 2022) online :

<cdpdj.qc.ca/storage/app/media/publications/RA\_2021\_2022.pdf>;

Tribunal administrative du Québec, *Rapport annuel de gestion du Tribunal administratif du Québec 2021-2022* (Quebec : TAQ, 2022) online : <taq.gouv.qc.ca/documents/file/publications/RAG/RAG-2122.pdf>;

Tribunal administrative du Québec, *Rapport annuel de gestion du Tribunal administratif du Québec 2019-2020* (Quebec : TAQ, 2020) online : <taq.gouv.qc.ca/documents/file/publications/RAG/RAG-TAQ\_19-20.pdf>.

will remain coincidental, depending on the luck of a litigant or service user happening upon English-speaking staff. The impact of this on access to justice cannot be understated.

### **Judges**

In our outreach, no instances of inadequate English-language proficiency by a Superior Court judge were uncovered. Likewise, the Court of Quebec did not pose any apparent issues, according to community stakeholders consulted. This may be due to the stance that the Conseil de la Magistrature has taken in recent years in providing English-language training to their provincial judges, and their defence of the hiring of bilingual judges in Quebec. As revealed in their response to our access-to-information request, the CMQ utilizes various training programs to ensure that the judges that fall under their purview have access to English-language improvement. Regardless, judicial bilingualism in hiring at this level is threatened by measures introduced by Bill 96, as discussed above.

Administrative judges do not fall under the purview of the CMQ. English-language advancement and improvement were not available at the administrative tribunal level of any of the tribunals or commissions under study, save for the TAT. Our outreach uncovered numerous situations in which administrative judges were unable or refused to accommodate litigants in English, therefore violating protections provided by s. 133, as well as procedural fairness.

### **Self-Represented Litigants**

Every lawyer, expert, and community organization we spoke to confirmed that hiring representation was the great equalizer for procedural and linguistic issues. As most lawyers practicing in Quebec are bilingual, hiring a lawyer circumvents many of the linguistic issues uncovered throughout our research.

Unfortunately, the number of self-represented litigants is on the rise, due in large part to litigants' inability to meet the high financial burden of hiring legal representation, with estimates suggesting that 50 per cent of litigants will go through the legal processes without a lawyer.<sup>37</sup> Additionally, unlike other Canadian provinces' law societies, Quebec law students are not legally permitted to appear before the

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<sup>37</sup> See for example Supreme Court of Canada, *Budget des dépenses 2010-2011: Un rapport sur les plans et les priorités* (Ottawa: CSC, 2010) at 9;

Michel Robert, "La magistrature à l'ère du jugement sur mesure" (2010) *Dire le droit pour être compris*, Actes du colloque Éducaloi 10;

Emmanuelle Bernheim, "Seul-e devant la justice: état de la situation québécoise" (2016) 16 C du Socialisme (Nouv) 61;

Kenza Sassi, *Les personnes non-représentées par avocat devant les tribunaux judiciaires civils* (Quebec : Université de Laval, 2018) online : <[corpus.ulaval.ca/server/api/core/bitstreams/2ab22009-8b8f-49ac-8ba1-776361c489ee/content](http://corpus.ulaval.ca/server/api/core/bitstreams/2ab22009-8b8f-49ac-8ba1-776361c489ee/content)>;

Infras, *Enquête sur le sentiment d'accès et la perception de la justice au Québec*, for the Ministère de la Justice (Québec : Infras, 2016).;

Statistics Canada, *Profile of family law cases in Canada, 2019/2020*, by Lyndsay Ciavaglia Burns, Catalogue no. 85-002-X, issue no 1209-6393 (Ottawa: Statistics Canada, 28 June 2021) online: <[www150.statcan.gc.ca/n1/en/pub/85-002-x/2021001/article/00011-eng.pdf?st=W1YbmVJd](http://www150.statcan.gc.ca/n1/en/pub/85-002-x/2021001/article/00011-eng.pdf?st=W1YbmVJd)>.

court and represent, and they were only recently allowed to give legal advice in certain circumstances under the supervision of a lawyer. Self-representing in a court or tribunal is associated with a range of negative outcomes, with self-represented litigants being less likely to obtain a favorable judgment due to a lack of familiarity with procedures, rules, and deadlines.<sup>38</sup> Self-represented litigants also have to balance their time, personal, family, and other obligations with the preparation of their case, a burden which is often compounded for vulnerable groups.<sup>39</sup> Lastly, self-representing in a proceeding that is not in your language has been shown to leave litigants with a worse impression of the courts.<sup>40</sup>

English-speaking Quebecers are more likely to self-represent than their French-speaking counterparts.<sup>41</sup> This was confirmed in a 2021 survey funded by the Quebec Ministry of Justice, which found that 28 per cent of English speakers believed they would self-represent if they had to go to court or tribunal for a civil matter, as compared to 19 per cent of French speakers.<sup>42</sup> As the judicial system is increasingly being pressured away from bilingualism, this has intense ramifications for self-represented Anglophones. As a result of this move away from bilingualism, English-speaking litigants have resorted to being accompanied by a friend or family member who can help interpret tribunal hearings. However, given the fact that there is no official policy allowing accompaniment for assistance and interpretation, this, in practice, ends up being dependent on the judge's discretion. As such, whereas in some cases litigants were allowed to have accompaniment for interpretation, allowing them to understand the proceedings without having to hire a lawyer or interpreter, litigants in other but similar cases were only allowed to have a friend or family member as moral support.

Litigants are entitled to plead in English, file in English, be understood by the judge, and understand what is happening throughout the proceeding even if much of their case is proceeding in French. Jurisprudence is clear that litigants are required to speak-up in order to exercise their linguistic rights and request translation or other accommodations.<sup>43</sup> By remaining silent, many of these rights are relinquished. The unrealistic burden that this places on self-represented litigants is highlighted by our survey data, which revealed that English speakers are often unaware of their rights. For example, 68 per cent of our respondents believed that they were entitled to a free translator in civil court or tribunal, and

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<sup>38</sup> Richard-Alexandre Laniel, Alexandra Bahary-Dionne & Emmanuelle Bernheim, "Agir seul en justice : du droit au choix—État de la jurisprudence sur les droits des justiciables non représentés" (2018) 59 :3 C de D 495 [].

<sup>39</sup> David Lundgren, *Inaccessible Justice: A qualitative and quantitative analysis into the Demographics, Socioeconomics, and Experiences of Self-Represented Litigants* (Toronto: University of Toronto, 2023) at 15 online: <representingyourselfcanada.com/wp-content/uploads/2023/05/Inaccessible-Justice-David-Lundgren.pdf>.

<sup>40</sup> *Ibid*, generally.

<sup>41</sup> Académie de la transformation numérique, *Présentation des résultats : Enquête sur l'accessibilité et la confiance envers le système de justice québécoise, Édition 2021*, (2021) at 44 online : <cdn-contenu.quebec.ca/cdn-contenu/adm/min/justice/publications-adm/rapports/RA\_MJQ\_Enquete\_Acces\_Justice\_\_Resultats\_2021.pdf>.

<sup>42</sup> *Ibid*.

<sup>43</sup> See for example *Auto Airlie inc. et Lavallée*, 2023 QCTAT 1413.

47 per cent believed that the opposing party must use English if they were asked to.<sup>44</sup> As Quebecers are confused and unsure about what rights they possess in a courtroom, it is therefore unrealistic to ask them to voice them.

Even if they do understand their rights, self-represented litigants are not always comfortable speaking up and asking for their rightful accommodation, especially to a judge on their case. For example, although case law has required judges to summarize and translate the other side's French arguments for English speakers, only 64 per cent of English-speaking Quebecers would be comfortable requesting this accommodation.<sup>45</sup>

### **Intersectionality**

Challenges that are faced by the English-speaking community in Quebec are often amplified for members of this population who are also a part of other marginalized communities. Stakeholder reports confirmed that racialized people, immigrants, seniors, indigenous people, women, and members of the 2SLGBTQIA+ community faced increased and unique challenges in their access to Quebec's courts and tribunals.

As mentioned previously, stakeholders reported that English-speaking seniors faced increased barriers due to reduced online literacy. As methods of receiving legal information and assistance have, in large part, moved to a digital format, many seniors face increased challenges in access. These challenges are exacerbated by the fact that many government websites and other sources of legal information are not available in English or have reduced English-language content. Stakeholders likewise reported that seniors have limited energy and time to face delays associated with accessing justice generally and accessing justice in English specifically. The Léger survey confirmed that seniors have significantly lower rates of French proficiency compared to younger demographics. Furthermore, seniors above the age of 65 were generally less likely to go to court, especially if faced with a linguistic barrier.

English-speaking Indigenous persons likewise faced increased barriers. These barriers were more felt by those living on reserve, of whom approximately 40 per cent speak English (and do not speak French).<sup>46</sup> Stakeholders reported that Indigenous communities located in remote regions face more general access to justice issues, not relating specifically to language - ranging from a lack of nearby courts and tribunals to a general mistrust of the colonial court system due to intergenerational trauma and historical events. Furthermore, French-language proficiency requirements introduced in recent years were cited as an additional barrier interfering with the accessibility of culturally appropriate legal services for Indigenous peoples, as these requirements effectively bar access to the legal profession for members of English-speaking indigenous communities.

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<sup>44</sup> Léger, *Quebec Community Groups Network Access to Justice for Anglophones Report*, for the Quebec Community Groups Network (Montreal: Léger, 2024).

<sup>45</sup> *Ibid.*

<sup>46</sup> Statistics Canada, *Indigenous Population Profile. 2021 Census of Population*, Catalogue No 98-510-X2021001 (Ottawa: Statistics Canada, 21 June 2023).

New immigrants to Quebec reported facing increased barriers in accessing justice, as this community is often unfamiliar with their rights, court procedures, and available legal resources. This community has been particularly impacted by Bill 96, due to the six-month requirement introduced wherein new immigrants can receive services in English. This six-month period was unanimously reported by stakeholders as unrealistic, unfair, and negatively impacting new immigrant's access to justice and government services. Stakeholders highlighted that, due to the unique challenges associated with immigration, new immigrants are often focused on meeting their basic survival needs, rather than on mastering French, making use of available legal resources, or pursuing their rights in court. Additionally, given these barriers between the litigants and the judicial system, or even those between the litigants and their own lawyers, members of immigrant communities often depend on lawyers who speak their mother tongue, who are few and far between at times, or the accompaniment of a friend or family member, in cases where judges allow it.

Members of the 2SLGBTQIA+ community reported general hesitation associated with previous bad experiences in legal matters, such as deadnaming or misgendering. A major obstacle that was identified by stakeholders pertained to measures introduced by Bill 96<sup>47</sup> requiring civil documents - such as birth certificates - originating from outside of Quebec to be translated into French by a Quebec translator. This was identified as imposing an increased cost on those trying to confirm their gender in the courts.

Finally, our data revealed that female English speakers are particularly distrustful of the legal system. They are less likely to go to court, are more uncomfortable requesting English accommodation, and are more likely to believe that using English will prejudice them in court. As women face particular legal needs, especially in civil and family law contexts,<sup>48</sup> this distrust is concerning and demonstrates a need for further research.

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<sup>47</sup> *Bill 96*, *supra* note 14, art 126.

<sup>48</sup> Suzy Flader, *Alleviating the Access to Justice Gap in Canada: Justice Factors, Influencers, and Agenda for Moving Forward* (Victoria: University of Victoria, 2019) online: [dspace.library.uvic.ca/server/api/core/bitstreams/5968b023-5c97-43ef-87b5-b9cd2a92033e/content](https://dspace.library.uvic.ca/server/api/core/bitstreams/5968b023-5c97-43ef-87b5-b9cd2a92033e/content).

## Recommendations

This iteration of our research into the interactions of English-speaking Quebecers with Quebec's Courts and administrative tribunals has allowed us to develop the recommendations that follow. These aim to ensure more equitable access to courts and tribunals and to legal information and court services. We recommend:

### *Administrative Tribunals and Courts*

- 1) That all administrative tribunals prepare and adopt directives and policies relating to the use of a language other than French, in both their administrative and judicial capacities, which minimally include the following:
  - a. Clarification of the application and scope of exceptions pertaining to the use of a language other than French where such use is deemed to compromise the carrying out of their missions;
  - b. Reference to the constitutional guarantees laid out in s.133 of the *Constitution Act 1867*, in particular for the *Tribunal administrative du logement* and the *Tribunal administrative du travail* for which this is notably missing;
  - c. Mention of and clarification of the definition and scope of 'principles of natural justice,' as it pertains to each body and their particular contexts;
  - d. Clear inclusion of exceptions pertaining to the use of a language other than French for those with special English-language rights, such as persons who have received English-language schooling, are First Nations and are new immigrants.
- 2) That all policies and directives pertaining to the use of a language other than French be publicly accessible, both online and in person, in the English language;
- 3) That administrative tribunals collect, record, and maintain statistics on the linguistic needs of the litigants and members of the public they serve, on a regional level;
- 4) That administrative tribunals gather, record, and maintain statistics on the English-language proficiency of their employees and administrative judges, on both individual and regional levels;
- 5) That all administrative tribunals provide and incentivize English-language training for their employees and administrative judges, following the example of the *Tribunal administratif du travail*;
- 6) That all administrative tribunals adopt policies ensuring that judges proactively inform all self-represented litigants of their linguistic rights before the commencement of a proceeding, in accordance with s.133 of the Canadian constitution, the Supreme Court of Canada approved *Statement of Principles of Self represented Litigants and Accused persons*, and s.12(3) of the *Act respecting administrative justice*;
- 7) That all courts and tribunals adopt policies that facilitate the accompaniment of vulnerable parties for assistance, interpretation, and guidance throughout their legal procedure;
- 8) That virtual solutions be explored to increase the availability of English-speaking judges, administrative judges, and court staff across Quebec, with a particular focus on regions outside of the greater Montreal area.



### *Ministère de la justice*

- 9) That all informational materials produced by courts, tribunals, and the Ministère de la justice on the legal process and court services (including legal aid, court programs, and youth protection) be made available in English;
- 10) That all forms and documents required to institute a legal action be made available in English on all relevant Quebec government websites, at courthouses and administrative tribunals, and at government points of service;
- 11) That the Ministère de la justice collects and maintains data on the availability of court services in English;
- 12) That the Ministère de la justice dedicates resources to provide increased access to judicial and administrative services in English, such as access to English-speaking
  - i) justices and judges,
  - ii) court clerks,
  - iii) public-facing court staff (including telephone services),
  - iv) stenographers,
  - v) mediators, and
  - vi) the provision of assistance materials for self-represented litigants;
- 13) That judicial independence be maintained, allowing for bilingualism in the linguistic profile of candidates considered for appointment to Quebec courts.

### *Barreau du Québec*

- 14) That the Barreau du Québec explores the possibility of following the example set out by other Canadian Law Societies by allowing law students the right to appear before the court in certain matters, such as small claims, and before administrative tribunals such as the *Tribunal administratif du logement*, the *Tribunal administratif du travail*, and the *Tribunal administratif du Québec*;
- 15) That the Barreau du Québec explores the possibility of including, on their website, a search tool that allows potential clients to search for lawyers who can serve them in their language of choice, a tool which should not be limited solely to English or French, as it now is;
- 16) That the Barreau du Québec explores the possibility of developing and maintaining its *Fondation du Barreau du Québec* website in English, and publishes and makes easily accessible all of its *Guides juridiques* in both English and French, including, notably the “Seul devant la cour” materials;
- 17) That the Barreau du Québec encourages and incorporates, in their *Formation continue* offerings, training on how to navigate linguistic barriers in court, in client interactions, and on constitutional linguistic rights in the courtroom;
- 18) That the Barreau du Québec explores the possibility of adopting the *Canadian Lawyer Model Code* sections on Language Rights (at section 22 3.2-2B), which have been adopted by most other Canadian provinces, and which include the following obligations: i) that a lawyer must advise their client of their language rights as soon as possible, ii) that the choice of official

language is that of the client and not the lawyer, and iii) that a lawyer must be aware of relevant statutory and Constitutional law relating to language rights;

- 19) That the Barreau du Québec enters into dialogue with members of First Nations communities in order to explore ways to address the linguistic barriers to entering the legal profession that are faced by that community.

#### *Conseil de la magistrature*

- 20) That the Conseil de la magistrature continues to promote and make accessible their voluntary English-language courses to improve English-language proficiency for members of the judiciary;
- 21) That the Conseil de la magistrature explores the possibility of updating the *Code de déontologie de la magistrature* to include an obligation that judges ensure a proper understanding of court proceedings where there are self-represented litigants involved.

Finally,

- 22) **We invite the Ministère de la justice as well as the Secrétariat for relations with English-speaking Quebecers to explore tangible collaboration with QCGN and its partner organizations** to identify community groups with the capacity to complement the offer of English-language legal information and support needed by English-speakers across all regions of Quebec, with a particular focus on regions outside the greater Montreal area.