

**INFORMATION DOCUMENT
FOR APPLICATIONS FOR EQUIVALENCE
RECOGNITION BY FOREIGN LAWYERS
OR JURISTS**

FOR MORE INFORMATION, DO NOT HESITATE TO CONTACT:

EQUIVALENCES COMMITTEE

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PART A INTRODUCTION: THE QUÉBEC LEGAL SYSTEM

For the sake of convenience, in the West, systems of law are classified into three general families: common law, Romano-Germanic (civil) law and other systems (such as Sharia, Hindu law, Japanese law, etc.). Throughout the world, there are nearly a hundred countries where some form of bijuralism exists, but only around fifteen where the two major legal systems (civil law and common law) can be found coexisting at all levels. Quebec is one of these rare jurisdictions. The two legal systems develop independently, but influence each other nonetheless.

Civil law and common law systems rest upon different philosophical foundations (for the former, the source of law is the written rule emanating from the legislature, whereas for the latter, it is case law precedents) giving rise to differences in the design of existing functions, methods, and drafting and interpretation techniques in regards to doctrine and case law within the two systems. They also determine certain features of the law (its ability to adapt, the nature of the rule of law, the substantive law/procedural law classification and its consequences).

In light of its history, two different sources of law can be identified in Quebec: one which originates before the conquest by the British and the other which follows this event.

From the 10th to the 16th century, France was governed by customs which varied depending on the region. In 1453, a royal edict ordered that these customs be set down in writing, a task that was completed in the 16th century. The *Custom of Paris*, which was applied in New-France (Canada), was published in 1510.

Following the conquest of Canada by Britain and the Treaty of Paris (1763), the English source of our law appeared, particularly in public law and criminal law, while at the same time, the French source of law was allowed to survive in regards to private law.

In 1857 the codification of laws and procedure in civil matters was begun. In 1866, the *Civil Code of Lower Canada* came into force. Although it was originally inspired by the Napoleonic Code, certain rules were, in fact, borrowed from the common law.

In 1867, Canada adopted a constitution providing for a division of legislative powers among the federal and provincial governments. Pursuant to this division of powers, the provinces retained the power to adopt laws, particularly in matters of:

- property and civil rights in the province;
- the administration of justice in the province;
- and all matters of a purely local or private nature in the province.

Historically, Quebec has been governed, on the one hand, by civil law (with certain rules having been borrowed from the common law) for matters falling within the province's sphere of jurisdiction and, on the other hand, by common law for matters falling within the sphere of jurisdiction of the federal government.

Thus, Quebec law has been influenced by common law principles in many areas. On this point, here is part of a speech given in 1945 by the Honourable Judge O.S. Tyndale of the Quebec Superior Court, which is still very much relevant today:

[TRANSLATION]

“Why bother with Common Law? First, let me suggest a few reasons of a purely practical nature:

- *A few provisions of our civil law itself come from England (for example, the provisions regarding the sale of businesses (bulk sales), trusts, maritime law and insurance law all come from the common law).*
- *We have borrowed a great deal of our commercial law from England.*
- *Our criminal law, including procedure, originates almost entirely from Britain.*

- *Our public law, including a large part of our administrative law, is also British.*
- *Proof and procedure before our courts are based on the English system, even in purely civil matters.*
- *Our statutory law, whether provincial or federal, is often inspired by British law; and for the interpretation of statutes, we rely on English authorities.*

Thus, the Quebec practitioner, as civilist as he may be, is necessarily in contact with certain parts of the common law. In order to better understand them, it is obviously advantageous to have a general idea of the system and of the manner in which it developed.”

PART B ADMISSION TO THE BARREAU DU QUÉBEC

The most common way for anyone to become a member of the Barreau du Québec is by obtaining an undergraduate degree in Quebec civil law issued by one of the six recognized universities: Université de Montréal, McGill University, Université du Québec à Montréal (UQAM), Université Laval, University of Ottawa, and Université de Sherbrooke. This degree is issued at the end of three years of studies. Candidates must then successfully complete the professional training program of the Québec Bar School as well as a six-month articling period.

However, candidates coming from outside Quebec can become members of the Barreau du Québec by way of the *Regulation respecting the standards for equivalence of diplomas and training of the Barreau du Québec* (CQLR, c. B-1, r. 16) (hereinafter the “Regulation”). After having examined your application, the Barreau du Québec’s Equivalences Committee will determine the conditions that will ultimately allow you to become a member.

1. Opening of your file

In order to submit your application to have your diploma or training equivalence recognized, please fill out the form entitled Application for equivalence recognition by a foreign lawyer or jurist and return it with all the required documents and the fee for the examination of your application.

According to a resolution duly adopted by the General Council of the Barreau du Québec, a fee of \$1,149.75\$ (including the applicable taxes, i.e., the G.S.T. and Q.S.T.) is required in order for the Equivalences Committee to examine a candidate’s application. This fee is not refundable.

In order to obtain the form to be filled out and find out which details and documents you must provide in support of your application, please consult the form available at: <https://www.barreau.qc.ca/media/1602/application-for-equivalence-recognition-by-a-foreign-lawyer-or-jurist.pdf>

2. Decision

Once your application for recognition has been duly completed, it will first be submitted to the Admissions Committee. Pursuant to the requirements of section 45 of *An Act respecting the Barreau du Québec* (CQLR, c. B-1), the Admissions Committee must inquire as to whether candidates have the required moral character, conduct, skills, knowledge and qualifications to practise the profession, and must decide on their admission.

Once your application has been approved by the Admissions Committee, it will next be submitted to the Equivalences Committee which will render a decision pursuant to Division 1 or Division 2 of the Regulation.

2.1 Division 1 of the Regulation (sections 1 to 12)

Pursuant to Division 1 of the Regulation, when ruling on a candidate's application for equivalence, the Equivalences Committee may decide to deny the diploma or training equivalence, to recognize the diploma or training equivalence or to recognize a partial diploma or training equivalence.

When the Equivalences Committee decides to partially recognize a candidate's diploma or training equivalence, it can impose a series of requirements on the candidate. These requirements will vary from one candidate to another and will target three different and cumulative levels of refresher training, namely:

- (1) University courses for a minimum of 30 credits up to a maximum of 90 credits (3 credits represent 45 hours of attendance in class plus homework). The great majority of decisions are around 45 credits. Certain credits will have to be earned in courses dealing with subjects determined by the Committee from among the following:

- Obligations (general theory)
- Obligations (civil liability)
- Civil evidence
- Administrative law
- Constitutional law
- Criminal law
- Property law
- Security instruments
- Business law
- Law of physical persons (family)
- Labour law
- Taxation law
- Bankruptcy law
- Dispute prevention and resolution
- Civil procedure
- Matrimonial regimes
- Human rights and freedoms (Charter of Rights)
- Nominate contracts
- Criminal evidence and procedure
- Performance and extinction of obligations

These courses must be taken in one of the following six law faculties:

- Université de Montréal: <http://fep.umontreal.ca/accueil/>
- McGill University: <https://www.mcgill.ca/law/mcgill-university-faculty-law>
- Université du Québec à Montréal (UQAM): <https://fspd.uqam.ca/>
- Université de Sherbrooke: <https://www.usherbrooke.ca/droit/>
- Université Laval: <http://www.fd.ulaval.ca/>
- University of Ottawa (Civil Law Section): <http://droitcivil.uottawa.ca/en>

For your information, consult the list of the courses recognized by the Equivalences Committee within the various universities: <https://www.barreau.qc.ca/media/1435/cours-reconnus.pdf>¹

¹ Please note that a new list of recognized courses is in effect as of November 1, 2020 and it applies to any application for equivalence submitted to the Committee as of that date. The old list of recognized courses remains in effect for the decisions rendered by the Committee under the old list. Any candidate who has obtained a decision from the Committee under the old list of recognized courses and who would like to take advantage of the new list is invited to request it by email to equivalence@barreau.qc.ca.

With the Equivalences Committee's decision in hand (or, for certain universities, with the confirmation that you have filed your application with the Equivalences Committee), registration at one of these universities should be easier than through a regular application for admission to the bachelor's program, particularly as regards application cut-off dates. However, please note that universities retain the exclusive power whether or not to admit you into their programs. Under no circumstances can or will the Barreau du Québec directly or indirectly interfere in a university's admission process.

PLEASE NOTE: The candidate must successfully complete the law study program prescribed by the Equivalences Committee within **five (5) years** from the date of the decision determining such program.

- (2) The obligation to successfully complete the professional training program offered by Québec's Bar School. For details regarding the admission period, tuition and textbook fees and the duration of the program, please visit the Bar School's website at <http://www.ecoledubarreau.qc.ca/>. **IMPORTANT:** There is only one admission period per year (usually in February for the following school year), whether you wish to register for the fall or the winter session.
- (3) Complete a six-month articling period. For details regarding the articling period, please visit the Bar School's website at <http://www.ecoledubarreau.qc.ca/>.

2.2 Division 2 of the Regulation (sections 13 to 22)

According to section 13 of the Regulation:

13. *A candidate who wishes to be exempted from the terms and conditions prescribed in the By-law respecting the professional training of advocates (chapter B-1, r. 14) shall apply therefor to the secretary of the committee and shall provide him with a certificate signed by an officer and establishing*

- (1) *that he is member of the bar of a State or of another province or territory of Canada; and*
- (2) *that advocates of Québec benefit from a similar exemption in that State or in that province or territory of Canada, or else that they do not have to complete a professional training program in that place.*

The committee's decision to grant the exemption from professional training shall be sent in writing to the candidate within 15 days following acceptance of the certificate by the committee.

In order for the Equivalences Committee to evaluate the possibility of granting this exemption, the candidate must file an official document issued by his bar of origin certifying that he is one of its members, explaining the conditions that a Quebec lawyer must meet in order to become a member of that bar and setting out the pertinent statutory provisions. We invite you to contact your bar of origin to this effect.

If you do not file this document or if the Equivalences Committee concludes that you are not eligible for this exemption (in particular if your bar of origin does not grant Quebec lawyers reciprocal privileges and exemptions), your application will only be studied under the provisions of Division 1 of the Regulation regarding recognition of a diploma or training equivalence.

A candidate who is granted the exemption mentioned in Division 2 will have to pass four tests, commonly referred to as "transfer exams". This candidate will therefore not have to attend the Bar School's professional training program or complete an articling period. By passing the transfer exams, he will be granted an attestation of training equivalence. With this attestation in hand, the candidate will be able to ask to be entered on the Roll of the Order

of Advocates.

Candidates authorized to write the transfer exams will receive a "Preparation Guide". The precise date of each test will be mentioned in the Preparation Guide. Usually, all the tests are held within two consecutive weeks every December. The questionnaires are bilingual (English and French) and can be answered in either language.

The registration fee for each test is \$1,149.75\$ (including the applicable taxes, i.e., the G.S.T. and Q.S.T.).

A candidate need not pass all the prescribed tests within the same year. However, please note that a failed test (mark below 60%) must be written again within three years; otherwise the candidate will have to submit a new application.

A candidate can ask for a failed test to be reviewed. There is a revision fee of \$300 (plus the applicable taxes) per test, which fee will be reimbursed if the review results in a minimum mark of 60% on the test.

The preparation required to write four tests is very demanding and can necessitate at least three months of full-time study. If you wish, you may also register for the Bar School's preparatory courses, which are available online.

3. Charter of the French Language

In addition to the requirements mentioned in the Regulation, all candidates must also meet the requirements of section 35 of the *Charter of the French Language* (CQLR, c. C-11) so that the Barreau can deliver a permit to practise. Consequently, any person who does not meet one of the following conditions will have to pass an examination:

- they have received, full-time, no less than three years of secondary or post-secondary instruction provided in French;
- they have passed the fourth or fifth year secondary level examinations in French as the first language; or
- from and after the 1985-86 school year, they have obtained a secondary school certificate in Québec.

Please note that it is your responsibility to ensure you comply with the requirements of the *Charter of the French Language*. We strongly recommend you inform yourself about the examination procedure, particularly the timeframe for taking the French language examination, by visiting the website of the Office québécois de la langue française at https://www.oqlf.gouv.qc.ca/francisation/ordres_prof/ordres.html or by calling the Office's Service de l'évaluation du français pour les ordres professionnels at 514-873-4734.

4. APPLICATION FOR ENTRY ON THE ROLL

After having met the requirements of the *Regulation respecting the standards for equivalence of diplomas and training of the Barreau du Québec* and of the *Charter of the French Language*, candidates must fill out a form entitled "Demande d'inscription au Tableau de l'Ordre" (Application for entry on the Roll of the Order) available only in French at <https://www.barreau.qc.ca/media/1189/demande-inscription-tableau-ordre.pdf>

Upon approval by the Admissions Committee, candidates will then be entered on the Roll after taking the oath of allegiance and the oath of office and paying the required annual contribution.

PART C RELEVANT LEGISLATIVE AND REGULATORY PROVISIONS

For purposes of information, here is a list of the relevant laws and regulations:

- *Charter of the French Language* (particularly section 35):
<http://www.legisquebec.gouv.qc.ca/en/showdoc/cs/C-11>
- *Code of Professional Conduct of Lawyers*:
<http://legisquebec.gouv.qc.ca/en/showdoc/cr/B-1,%20r.%203.1>
- *Professional Code* (particularly section 45):
<http://legisquebec.gouv.qc.ca/en/showdoc/cs/C-26>
- *An Act respecting the Barreau du Québec* (particularly section 45):
<http://legisquebec.gouv.qc.ca/en/ShowDoc/cs/B-1>
- *Regulation respecting the diplomas issued by designated educational institutions which give access to permits or specialist's certificates of professional orders* (particularly section 1.03):
<http://legisquebec.gouv.qc.ca/en/ShowDoc/cr/C-26,%20r.%202>
- *Regulation respecting the standards for equivalence of diplomas and training of the Barreau du Québec*:
<http://legisquebec.gouv.qc.ca/en/ShowDoc/cr/B-1,%20r.%2016>