



**Case in Brief: Quebec (Commission des droits de la personne et des droits de la jeunesse) v. Directrice de la protection de la jeunesse du CISSS A**

Judgment of December 20, 2024 | On appeal from the Court of Appeal of Quebec  
Neutral citation: 2024 SCC 43

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***The Supreme Court clarifies the Court of Québec’s power to order corrective measures when a child’s rights have been encroached upon.***

Following a young person’s stay in a rehabilitation centre, she and her parents filed an application with the Youth Division of the Court of Québec (“tribunal”) for a declaration of encroachment upon rights under s. 91 para. 4 of the *Youth Protection Act* (“YPA”). This provision states that the tribunal can order that a situation encroaching upon the rights of a child in difficulty be corrected. An encroachment upon rights occurs when a child’s rights are not respected. The tribunal identified four situations that had encroached upon the young person’s rights, and it recommended and ordered a series of corrective measures. Four of them were challenged by the director of youth protection (“DYP”), who took the view that these measures went beyond the corrective powers conferred on the tribunal because they did not relate directly to the young person’s situation. The first two orders were directed at individualized treatment units where the young person had stayed, and the other two orders were directed at the Centre intégré de santé et de services sociaux A (“CISSS A”). The tribunal ordered that the youth workers, educators and intervention officers who worked in the individualized treatment units be able to receive specific training on mental health and that these units be able to obtain support from a healthcare professional specializing in mental health. It also ordered the CISSS A to implement a protocol within a reasonable time period to set out the steps to be taken when a child spits during an intervention, and to adapt all isolation rooms so that they were safer and their walls were covered with a material that prevented injury.

The Superior Court allowed the DYP’s appeal in part, finding that the four challenged orders went beyond the powers conferred on the tribunal by the legislature because they applied to children other than the young person involved in this matter. The Superior Court judge varied the tribunal’s orders so that they applied specifically to the young person’s situation. That decision was appealed by the young person, by her parents and by the Commission des droits de la personne et des droits de la jeunesse (“Commission”). Like the Superior Court judge, the majority of the Court of Appeal found that the four challenged orders were general in nature, went beyond the situation of the child that was the subject of the proceedings and therefore had to be narrowed. The Commission appealed to the Supreme Court of Canada.

The Supreme Court has allowed the appeal in part.

**The purpose of the corrective measures must be to put an end to and remedy the effects of the encroachment upon rights on the child who is before the tribunal.**

Writing for the Court, Chief Justice Wagner determined that the legislature intended to confer on the tribunal the corrective powers needed to ensure the fullest protection of the interests and rights of the child whose situation has been referred to it. According to Chief Justice Wagner, this protection must apply to both the present and the future and must take account of the circumstances at the source of the encroachment upon rights as well as the impact of the encroachment on the child’s psychological and physical state. The tribunal can order corrective measures whose purpose is to put an end to the situation of encroachment where it is still encroaching upon the child’s rights, to remedy the

psychological or physical consequences for the child resulting from the encroachment upon rights, and to prevent the recurrence of the situation of encroachment for the child. A preventive corrective measure can be ordered only if the child whose rights have been encroached upon is at risk of being subjected to the situation of encroachment again, if the corrective measure can effectively help to prevent the recurrence of the situation of encroachment, and if the measure is related to the protection of the interests and rights of the child whose situation has been referred to the tribunal.

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**Breakdown of the decision: *Unanimous*:** Chief Justice [Wagner](#) allowed the appeal in part (Justices [Karakatsanis](#), [Côté](#), [Rowe](#), [Martin](#), [Kasirer](#), [Jamal](#), [O'Bonsawin](#) and [Moreau](#) agreed)

**More information:** [Decision](#) | [Case information](#)

**Lower court rulings:** [Protection de la jeunesse — 193763](#) (Court of Quebec) (in French only) | [Protection de la jeunesse — 212644](#) (Superior Court of Quebec) (in French only) | [Protection de la jeunesse — 226231](#) (Court of Appeal of Québec)

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