

LAST MINUTE FINE TUNING – QUÉBEC GOVERNMENT TRIES TO SOFTEN THE BLOW OF SOME OF THE MORE FAR-REACHING REQUIREMENTS UNDER BILL 96, AS APPLICABLE TO GOVERNMENT INTERACTIONS

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It has now been almost a year since Bill 96, an *Act respecting French, the official and common language of Québec*, was passed (June 1, 2022), introducing sweeping changes to the existing Charter of the French Language (the “**Charter**”). As we had [highlighted at the time](#), many such changes were not immediately adopted but were and are continuing to be implemented in the months and years to come. Notably, the requirement for the Government of Québec, or civil administration (the “**Administration**”), to be exemplary in its use of French, and, correspondingly, imposing extensive limitations as to when private businesses and individuals may interact with the Administration in a language other than French, had an entry into force date of June 1, 2023.

As the June 1, 2023 entry into force of these new requirements approaches, the proposed *Regulation respecting the language of the civil administration* (the “**RLCA**”) and *Regulation respecting the derogations to the duty of exemplarity of the civil administration and the documents drawn up or used in research* (the “**Derogations and Research Regulation**”) were tabled and are slated to come into force at that same time, acknowledging certain situations where the Administration may need to and be permitted to continue using languages other than French.

Communications

Under the Charter, the Administration may not communicate in a language other than French, either verbally or in writing, except in limited circumstances, and even in those circumstances, where the use of French proved impossible^[1]. The RLCA provides some guidance as to when another language could be used, which notably includes communications “*addressed to the head office or an establishment of the legal person [...] outside Québec*”^[2].

Contracts

Despite a blanket requirement to exclusively use French in its contracts and related documentations (with limited exemption under the Charter [\[3\]](#)), the Administration will now be permitted to also use a non-French version in parallel in many more situations [\[4\]](#), notably including:

- To encourage foreign participation in public tenders;
- Where the Administration interacted with the foreign establishment or head office of a counterparty in order to conclude the agreement;
- In certain educational or scientific contexts, or with respect to technological licenses that do not exist in French;
- Where the product or services thus obtained may not otherwise be obtained in due time or for a reasonable cost.

In addition, the parties may choose which version of the contract will prevail in case of divergence. [\[5\]](#)

Permits

Bill 96 notably will require entities applying for a permit from a Québec authority to do so in French, with some such authorities having already removed the English versions of certain application forms that were previously available in such language. The RLCA provides for an exemption for some supporting documents [\[6\]](#), such as:

- Documents originating from an establishment of a company outside of Québec (for instance, Articles of a corporation which need to be submitted as supporting documentation to a permit application will not need to be translated into French before submission to the extent the corporation is established outside of Québec);
- In context where the Administration would be entitled to have communications in a language other than French with the company (see above);
- In certain research contexts.

Grace Periods

In addition to the above, the Government has also created more general exemptions, allowing its continued use of languages other than French for a few more years while they adapt to Bill 96 [\[7\]](#):

- **Until June 2025** – the Administration will be able to continue communicating in a language other than French, and receive documents seeking a permit, where the exclusive use of French would “*compromise the carrying out of the mission of the agency of the civil administration and the agency has taken all reasonable means to communicate only in the official language*”;
- **Until June 2026** – the Administration will be able to enter into contracts with companies that are offside

on their obligations related to the Francization, (i) in cases of emergency, and (ii) if such companies are the only ones able to deliver the product or service.

Further Regulation

The Derogations and Research Regulation provides for situations^[8] in which the Administration may use another language in writing in addition to French (and thus derogate from its duty of exemplarity)^[9] on the one hand, and on the other, for situations where specific documents drawn up and used in research can be written only in a language other than French^[10].

Similar to the RLCA, until June 2025:

- the Administration will be able to continue to use another language in addition to French when writing to perform a function related with its mission, where the exclusive use of French would “*compromise the carrying out of the mission and the agency of the civil administration has taken all reasonable means to communicate only in the official language.*”^[11]
- in addition to the specific document listed to the Derogations and Research Regulation, documents drawn up and used in research may be written only in a language other than French where the exclusive use of French would “*compromise the carrying out of the mission of the agency of the civil administration and the agency has taken all reasonable means to have the document drawn up only in French.*”^[12]

As further implementation dates draw close (i.e. June 1, 2024 and June 1, 2025), and even as businesses, individuals and government entities, alike grapple to adapt to the changes introduced by Bill-96 as they apply in a real world setting, it remains to be seen as to what further guidance and regulations will need to be implemented to soften the blow of some of the more onerous and controversial aspects of Bill-96.

[1] Charter, s. 13.2.

[2] RLCA, s. 2.

[3] Charter, s. 21, e.g. loan contracts and certain financial instruments.

[4] RLCA, s. 4. The situation where the Administration may use only English have not changed. See Charter s. 21.5 and RLCA, s. 5.

[5] RLCA, s. 14

[6] RLCA, s. 6.

[7] RLCA, s. 18.

[8] Derogations and Research Regulation, s.1

[9] Derogations to s. 13.2 (1) of the Charter

[10] Derogations and Research Regulation, s.2

[11] Derogations and Research Regulation, s.3

[12] Derogations and Research Regulation, s.3

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A Cautionary Note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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