

DIRECTIVE GOVERNING THE ISSUANCE OF A SPECIAL AUTHORIZATION TO PRACTICE OUTSIDE QUÉBEC (Section 42.4 of the *Professional Code*)¹

PREAMBLE

Due to the wording of the *Act respecting the Barreau du Québec*², the practice of law in Québec is reserved to the members entered on the Roll of the Order and to the holders of a special authorization.

This directive describes the conditions for the issuance of a special authorization to practice the profession outside Québec in accordance with Section 42.4 of the *Professional Code*³ (hereinafter, the “PC”):

Section 42.4

42.4. Despite sections 32, 36 and 37.2, the board of directors may issue a special authorization granting a person legally authorized to practise the profession outside Québec the right to use a title reserved for members of the order in Québec or to engage in Québec in professional activities reserved to them in Québec.

A special authorization is valid only for the activities or the title it specifies. Moreover, it must specify the person or group of persons for whom the activities may be engaged in, as well as any other applicable condition or restriction. It is valid for a period not exceeding one year and is renewable.

The board of directors may delegate to the president of the order the power to issue or renew a special authorization, in accordance with the conditions it determines.

1. The special authorization is valid for a specific file and for a specific client.
2. It is issued until a final judgment, an agreement or a settlement is reached, or the file is closed, for a maximum of twelve months. In accordance with Section 42.4 PC, the Board of Directors has delegated to the President of the Barreau du Québec, the power to grant a special authorization under the conditions set forth in this directive.

¹ For reference purposes, the French version of the DIRECTIVE GOVERNING THE ISSUANCE OF A SPECIAL AUTHORIZATION TO PRACTICE OUTSIDE QUÉBEC (Section 42.4 of the *Professional Code*) has been adopted by the Board of Directors of Barreau du Québec on April 20th, 2023 under minute 7.11.

² CQLR, c. B-1.

³ CQLR, c. C-26.

3. The special authorization may be renewed if necessary. The President of Barreau du Québec may renew it in accordance with the conditions set forth in this directive.
4. The special authorization is granted for a one-off practice in specific files. The lawyer who wishes to establish a practice beyond a one-off practice must obtain a permit to practice⁴ and be entered on the Roll of the Order.

MANDATORY ELIGIBILITY REQUIREMENTS

5. Applicants must provide a certificate of good standing issued by the appropriate officer of the bar of the province or territory in Canada or of the state(s) of which they are members (not exceeding six months of the application date), attesting that they have not been disbarred or that their right to practice law outside Québec has not been limited or suspended.
6. In the event of an ongoing disciplinary sanction or disciplinary investigation on serious grounds, the President of Barreau du Québec may refuse to issue the special authorization.
7. The applicant's professional domicile must be outside Québec and their main practice must be outside Québec.
8. Applicants must provide a professional liability insurance certificate covering professional services provided in Québec valid for the current year with a minimum coverage of \$1 million per claim and an aggregate limit of \$2 million.
9. The Secretary of the Order shall check the applicants' status regarding ongoing investigations or judgments for unlawful legal practice with the relevant authorities overseeing the regulation of unlawful legal practice.
10. The special authorization application form shall be duly completed, signed by the client and signed under oath by the lawyer filing the application. The lawyer shall indicate in the application the court file number and a brief description of the case. The client shall sign its authorization application after understanding the limits of such authorization and the protective measures in place.
11. The lawyer shall pay the fees⁵ by credit card via our website. Fees are subject to annual indexation as determined by the Board of Directors.
12. The special authorization shall be delivered within 10 to 15 business days.

⁴ Information on the various types of authorizations to practice is available on our website under [Prospective members](#).

⁵ The fees related to a special authorization under s. 42.4 PC are available on our website under [Prospective members](#), [Special authorization to practice in Québec](#).

ADDITIONAL CONDITIONS RELATED TO THE ISSUANCE OF THE TYPE OF SPECIAL AUTHORIZATION

a) Litigation files

- 13.** The President of Barreau du Québec may grant special authorization to a lawyer for representation of a client in a litigation file (before the courts or not) under the following conditions:
- a) If the lawyer demonstrates a connection with Québec. For example, criminal or penal proceedings against a client, damage sustained in Québec by non-Québec residents, a rogatory commission, etc.
 - b) Since this is a special authorization to occasionally practice in Québec without having to become a member of the Barreau du Québec, the lawyer may submit no more than ten applications a year. The Board of Directors has discretion to issue more authorizations if special circumstances warrant.
- 14.** Given the rules of civil procedure and the civil law applicable in certain cases, and to protect the public, the Barreau du Québec may request that the lawyer applying for special authorization be assisted by a legal counsel who shall be a member of the Barreau du Québec. This measure shall be implemented when the file encompasses a specific aspect of Québec law.
- 15.** The legal counsel must confirm in writing their agreement to act in this capacity.

b) Class action

- 16.** In addition to general eligibility requirements and to the specific conditions of a litigation file, for class actions, a special authorization is granted only if the following additional conditions are met:
- a) a lawyer who is a member of the Barreau du Québec must be uninterruptedly working on the case. The legal counsel must confirm in writing their agreement to act in this capacity.
 - b) having a Canadian lawyer on the case is justified given the national scope of the class action (parallel proceedings are filed in other provinces, class includes all Canadians, representation of a defendant company outside Québec, etc.). The Secretary of the Order shall check this information with the *Registre des actions collectives du Québec* and the Registrar of the Canadian Bar Association.

c) Immigration files

17. The President of Barreau du Québec may issue to a lawyer up to 50 special authorizations per year (including renewals) for immigration files.
18. The Board of Directors has discretion to issue more authorizations if the lawyer in question can demonstrate that the case is connected to Québec and if special circumstances warrant.
19. The files authorized by the Barreau du Québec for immigration purposes⁶ are as follows:
 - a) Québec Selection Certificates (CSQ – for residency);
 - b) Quebec acceptance certificates (CAQ – for studies and work);
 - c) Labour market impact assessment in Québec (LMIA);
 - d) The new Québec Experience Program (PEQ – for foreign students who graduated in Québec or temporary foreign workers).

d) Other files

20. The other files for which such special authorization could be issued are:
 - a) Role in corporate internal litigation (temporary);
 - b) Services offered to aboriginal communities;
 - c) Services offered to federal agencies;
 - d) Specific mandate for advisory, negotiation, or mediation services.

e) Practice in Québec must be invisible

21. Notwithstanding the foregoing, the practice of law in Québec is reserved to members duly entered on the Roll of the Order and to holders of a special authorization.

⁶ Canadian lawyers are exempt from requiring authorization for immigration-related files before the Immigration and Refugee Board of Canada, pursuant to section 91(2) of the [Immigration and Refugee Protection Act](#) (S.C. 2001, c. 27). Moreover, in *Law Society of British Columbia v. Mangat*, 2001 SCC 67, the Supreme Court of Canada confirmed that the Canadian ITA may contain provisions regarding the professional representation that prevail over the provincial legislation governing the profession. In light of the above, the Barreau du Québec does not require a special authorization under s. 42.4 PC for these files.

- 22.** Lawyers who physically practice in Quebec must have a special permit or authorization even if they practice for a Canadian company or firm located elsewhere in Canada, provide professional services exclusively to Canadian clients in the law of the province in question or in federal law and the only connecting factor is their physical location in Quebec.
- 23.** A Canadian or foreign lawyer could obtain authorization to practice in Québec after declaring under oath that their practice is invisible.
- 24.** To qualify as invisible practice, the only factor connecting the lawyers to Québec is the physical location where they practice. In all other respects, the lawyer's practice in Québec is invisible:
- a) The lawyer does not provide any services to Québec clients.
 - b) The lawyer does not practice Québec law (except for federal law for Canadian lawyers).
 - c) The lawyer does not represent clients before Québec courts, tribunals or agencies.
 - d) The lawyer does not use a professional (trust or general) bank account in Québec.
 - e) The lawyer does not charge any fees in Québec.
 - f) The lawyer's professional domicile is outside Québec.
 - g) There is no mention of a Québec address on the lawyer's professional correspondence or other documents produced during the course of their practice (letters, emails, invoices, proceedings, etc.).
 - h) The lawyer's clients are not notified that the lawyer practices in Québec.
 - i) The lawyer does not advertise or solicit clients in Québec.
 - j) The lawyer has notified the employer, if applicable, of that practice in Québec and obtained the employer's signature.
- 25.** Provided the lawyer meets the conditions mentioned in this section and all the mandatory eligibility requirements, this special authorization may be issued by the President of Barreau du Québec for a period of twelve months and may be renewed yearly upon request from the lawyer.

CONDITIONS FOR THE RENEWAL OF A SPECIAL AUTHORIZATION

- 26.** The lawyer wishing to renew a special authorization must send an application for renewal to the Secretary of the Order before its expiration date, i.e. before the date of issuance by the President of Barreau du Québec.
- 27.** The application for a special authorization under s. 42.4 PC shall be duly completed and signed under oath by the lawyer filing the application. The lawyer shall indicate in the application the court file number and a brief description of the case.
- 28.** The lawyer filing the application shall meet the mandatory eligibility requirements and comply with the conditions for the issuance of the special authorization related to the type of file, as applicable.
- 29.** The lawyer filing the application is primarily responsible for submitting it within a reasonable timeframe, i.e. at least one month before its expiration date.