

SUMMARY¹

The Ethics Commissioner's Inquiry Report on Mr. Jean-François Lisée,
Leader of the Official Opposition and Member for Rosemont

February 25, 2019

CONTEXT AND FACTS

On August 2, 2018, Mr. Claude Surprenant, Member for Groulx ("the Member"), filed an inquiry request with the Commissioner in which he claimed to have reasonable grounds to believe that Mr. Jean-François Lisée, Leader of the Official Opposition and Member for Rosemont ("the Leader of the Official Opposition"), may have violated sections 15, 16(1) and 36 of the *Code of ethics and conduct of the Members of the National Assembly* ("the Code").²

The Member alleged that the Leader of the Official Opposition used National Assembly property to conduct partisan business by holding the vote for the Parti québécois leadership race on the laptop supplied by the National Assembly in his National Assembly office.

When asked to comment on the situation, the Leader of the Official Opposition confirmed that he had used the laptop supplied by the National Assembly in his office in the Parliament Building, when he held the Parti québécois leadership race vote on October 5, 2016.

ANALYSIS OF THE FACTS AND APPLICABLE LAW

For the purposes of the inquiry request received, the Commissioner first had to determine whether the Leader of the Official Opposition had, by reason of his act, placed himself "in a situation where his [...]private interests might impair his independence of judgment in carrying out the duties of office",³ thereby contravening section 15 of the Code, and/or whether he "attempt[ed] to act or refrain[ed] from acting, so as to further his [...] private interests or those of a family member or non-dependent child, or to improperly further another person's private interests", thereby contravening section 16(1) of the Code.

The Member did not submit elements in support of his inquiry request that substantiated the allegations made against the Leader of the Official Opposition regarding a conflict of interest. In fact, the inquiry request established no links between the facts submitted and the alleged violations of sections 15 and 16(1) of the Code.

Consequently, the Commissioner concluded that the allegations submitted by the Member in his inquiry request regarding violations the Leader of the Official Opposition may have committed under these sections were unfounded.

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1. The Ethics Commissioner's official positions and conclusions appear in the inquiry report. Should the content of the summary report and inquiry report differ, the latter shall prevail.
 2. CQLR, chapter C-23.1.
 3. Section 15 of the *Code of ethics and conduct of the Members of the National Assembly* (Code).

In the context of this inquiry request, the Commissioner then had to determine whether, by holding the vote for the Parti Québécois leadership race on the laptop supplied by the National Assembly in his National Assembly office on October 5, 2016, the Leader of the Official Opposition had “use[d], and allow[ed] the use of, State property, including property leased by the State and services made available to the Member by the State,⁴ for activities other than those related to the carrying out of the duties of office”, thereby contravening section 36 of the Code.

The National Assembly makes various property and services available to Members, including a laptop and an office in the Parliament Building, to carry out their parliamentary duties. The latter can therefore be considered State property and services within the meaning of section 36 of the Code. Holding a vote in the context of a political party’s leadership race is a partisan activity and, as such, can be considered an activity that is unrelated to the duties of office.

The Commissioner therefore had to assess whether, by conducting the Parti québécois leadership race vote on October 5, 2016 using the laptop supplied by the National Assembly in his National Assembly office, the Leader of the Official Opposition used State property and services in a manner that constituted a violation of section 36 of the Code.

Ethics Commissioner jurisprudence and Committee on Institutions debates held during the clause-by-clause consideration of Bill 48, Code of ethics and conduct of the Members of the National Assembly,⁵ both tend to show that section 36 of the Code must not be interpreted as having too broad a scope. This provision of the Code must be analyzed in light of the Code’s general scheme, in particular in keeping with the National Assembly’s values.⁶ Section 36 of the Code must be applied *in concreto*, based on the circumstances specific to each case.

This provision’s purpose is to prevent and avoid abusive use of State property and services.⁷ If section 36 of the Code is interpreted too restrictively in the case at hand, the public interest would not be served and Members’ work would needlessly become more complicated.

Seen in this light, the Commissioner does not consider that the Leader of the Official Opposition used State property and services in an abnormal, improper, irregular or abusive manner when, on October 5, 2016, he held the Parti québécois leadership race vote using the laptop provided by the National Assembly in his National Assembly office. His conduct, under these circumstances, did not undermine the public’s expectations regarding a Member’s conduct or contravene National Assembly values.

4. Section 36 of the Code.

5. Bill 48, Code of ethics and conduct of the Members of the National Assembly, passed on December 3, 2010, assented to on December 8, 2010 and available online at <http://www.assnat.qc.ca/en/travaux-parlementaires/projets-loi/projet-loi-48-39-1.html>

6. Sections 6 to 9 of the Code.

7. *Journal des débats (Hansard) for the Committee on Institutions*, 1st sess., 39th Legis., May 31, 2010, “Étude détaillée du projet de loi n^o 48, Code d’éthique et de déontologie des membres de l’Assemblée nationale” (clause-by-clause consideration of Bill 48) (in French only), CI-77, pp. 33-34.

CONCLUSION

Consequently, in this case, the Commissioner concludes that the Leader of the Official Opposition did not violate sections 15, 16(1) or 36 of the Code by holding the Parti québécois leadership race vote using the laptop supplied by the National Assembly in his National Assembly office.