

**SUPREME COURT OF CANADA**

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| **Citation:** Barreau du Québec *v.* Quebec (Attorney General), 2017 SCC 56, [2017] 2 S.C.R. 488 | **Appeal heard:** March 27, 2017  **Judgment rendered:** November 10, 2017  **Docket:** 37034 |

Between:

Barreau du Québec

Appellant

and

Attorney General of Quebec

Respondent

- and -

Administrative Tribunal of Québec, Ordre des comptables professionnels agréés du Québec and Chartered Professional Accountants of Canada

Interveners

**Official English Translation**

**Coram:** McLachlin C.J. and Abella, Moldaver, Karakatsanis, Wagner, Gascon, Côté, Brown and Rowe JJ.

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| **Reasons for Judgment:**  (paras. 1 to 41): | Brown J. (McLachlin C.J. and Abella, Moldaver, Karakatsanis, Wagner, Gascon and Rowe JJ. concurring) |

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| **Dissenting reasons:**  (paras. 42 to 99): | Côté J. |

Barreau du Québec *v.* Quebec (Attorney General), 2017 SCC 56, [2017] 2 S.C.R. 488

Barreau du Québec Appellant

v.

Attorney General of Quebec Respondent

and

Administrative Tribunal of Québec,

Ordre des comptables professionnels agréés du Québec and

Chartered Professional Accountants of Canada Interveners

**Indexed as:** Barreau du Québec ***v.* Quebec (**Attorney General)

2017 SCC 56

File No.: 37034.

2017: March 27; 2017: November 10.

Present: McLachlin C.J. and Abella, Moldaver, Karakatsanis, Wagner, Gascon, Côté, Brown and Rowe JJ.

on appeal from the court of appeal for quebec

*Administrative law — Judicial review — Standard of review — Statutory provisions establishing exception to monopoly on practice of advocates for certain proceedings under Act respecting administrative justice — Administrative Tribunal of Québec concluding that its enabling statute authorizes person who is not advocate to prepare and draw up written proceedings in name of Minister of Employment and Social Solidarity and that that power is not in conflict with Act respecting the Barreau du Québec* *— Standard of review applicable to that decision* *— Act respecting administrative justice, CQLR, c. J‑3, s. 102 — Act respecting the Barreau du Québec, CQLR, c. B‑1, ss. 128(2)(a)(5), 129(b).*

*Administrative law — Boards and tribunals — Procedure — Representation by advocate — Statutory provisions establishing exception to monopoly on practice of advocates for certain proceedings under Act respecting administrative justice — Written proceedings prepared, drawn up, signed and filed by person who was not advocate in name of Minister of Employment and Social Solidarity for cases before social affairs division of Administrative Tribunal of Québec — Whether Minister’s right “to be represented by the person of his . . . choice” encompasses both oral and written representation — Act respecting administrative justice, CQLR, c. J‑3, s. 102 — Act respecting the Barreau du Québec, CQLR, c. B‑1, ss. 128(2)(a)(5), 129(b).*

In cases relating to social aid in which the opposing parties were the Minister of Employment and Social Solidarity (“Minister”) and individuals, the Minister applied for a review of decisions rendered by the Administrative Tribunal of Québec (“ATQ”) by presenting motions for review that had been prepared, drawn up, signed and filed by a person who was not an advocate. In both those cases, the individuals in question brought a motion to dismiss on the ground that the Minister’s written proceedings had not been prepared and drawn up by a practising advocate entered on the Roll of the Order of the Barreau du Québec.

The right to represent others before a court or tribunal is generally reserved to lawyers. Section 128 of the *Act respecting the Barreau du Québec* provides that certain activities, including preparing and drawing up motions and other written proceedings, are the “exclusive prerogative” of advocates and solicitors. It reserves “plead[ing] or act[ing]” before courts or tribunals to practising advocates. However, the *Act respecting the Barreau du Québec* establishes certain exceptions to the monopoly on practice of advocates and gives the Minister the right “to be represented to plead or act in his . . . name” before the social affairs division of the ATQ (s. 128(2)(a)(5)). Further, s. 129(b) provides that s. 128 does not limit rights that are specifically defined and granted to any person by another law. Section 102 of the *Act respecting administrative justice* grants the Minister the right to “be represented by the person of his . . . choice before the social affairs division” of the ATQ.

The ATQ dismissed the individual litigants’ motions to dismiss, concluding that under s. 102 of the *Act respecting administrative justice*, a person who is not an advocate may do everything that is needed for the representation of the Minister, both oral and written, before that tribunal’s social affairs divisionand that this power is not in conflict with the *Act respecting the Barreau du Québec*. The Superior Court granted applications for judicial review of those decisions, but the Court of Appeal set aside that judgment, concluding that, regardless of the applicable standard of review, the ATQ’s decisions should not have been reversed.

*Held* (Côté J. dissenting): The appeal should be dismissed.

*Per* McLachlin C.J. and Abella, Moldaver, Karakatsanis, Wagner, Gascon, Brown and Rowe JJ.: The central issue before the ATQ was whether the Minister’s right to “be represented” that is provided for in s. 102 of the *Act respecting administrative justice* includes the preparation and drawing up of written proceedings or motions intended for use before the ATQ’s social affairs division. The reasonableness standard must be presumed to apply, given that this issue entails the interpretation of s. 102, which is in the ATQ’s enabling statute and which sets out procedural rules that apply in proceedings before it. Although the ATQ had to bear the *Act respecting the Barreau du Québec* in mind in interpreting s. 102 of the *Act respecting administrative justice*, this does not have the effect of removing the issue from the ATQ’s jurisdiction and expertise. Rather, it shows that the *Act respecting the Barreau du Québec* has a close connection to the ATQ’s function. Moreover, s. 128(2)(a)(5) of that Act, which grants the Minister the right to be represented by a person who is not an advocate, refers expressly to the ATQ and establishes a procedural rule that applies in proceedings before it.

The issue to be resolved in this case is not a question that is of central importance to the legal system as a whole and lies outside the ATQ’s specialized area of expertise; if it were, that would rebut the presumption in favour of the reasonableness standard. The Barreau’s role in regulating the representation of others before a court or tribunal is of obvious importance, but this does not mean that every question touching on this subject is automatically one of central importance to the legal system as a whole. The issue in this case concerns only the scope of a narrow exception that was established by the Quebec legislature in order to allow the Minister to be represented by a person who is not an advocate in certain proceedings before the ATQ’s social affairs division. Moreover, the interpretation of s. 102 of the *Act respecting administrative justice* falls squarely within the ATQ’s expertise. The presumption in favour of the reasonableness standard is therefore not rebutted, as the legislature intended the ATQ to be able to decide any question related to proceedings pertaining to social aid, including the issue in this case.

The ATQ’s conclusion on the scope of s. 102 of the *Act respecting administrative justice* is reasonable. That section grants the Minister a right to “be represented”. Read in the grammatical and ordinary sense of its words, it grants the Minister the right to be represented before the social affairs division of the ATQ both for the purpose of preparing and drawing up motions and other written proceedings and for that of oral representation. This interpretation, according to which the Minister’s representative may do everything that is needed for the representation of others before the ATQ, is also consistent with the broader context of the legislation and with the legislature’s intent, in particular its intention to promote the introduction of non‑judicial processes into administrative justice. The legislative history of the exception for the Minister is also relevant, and it confirms what the legislature intended in this regard.

Although s. 102 of the *Act respecting administrative justice* authorizes a person who is not an advocate to represent the Minister in writing, it does not conflict with s. 128(1) of the *Act respecting the Barreau du Québec*, which gives practising advocates and solicitors the exclusive right to prepare and draw up documents for use in a court or tribunal. This “conflict” is resolved by s. 129(b) of the *Act respecting the Barreau du Québec*, which provides that s. 128 of that Act neither limits nor restricts rights that are specifically defined and granted to any person by any public or private law. The Minister’s right under s. 102 of the *Act respecting administrative justice* to be represented by a person of his or her choice is thus not diminished in the least by s. 128 of the *Act respecting the Barreau du Québec*.

*Per* Côté J. (dissenting): Whenever a question relates to the representation of others by a person who is not an advocate, it is necessary to interpret and apply the *Act respecting the Barreau du Québec* and, subsidiarily, any related legislation that sets out how the exceptions provided for in the *Act respecting the Barreau du Québec* are to operate. The issue in this case is a question of central importance to the legal system as a whole and lies outside the ATQ’s specialized area of expertise. It therefore falls within an established category of questions to which the correctness standard applies. Because of the impact that an inconsistent application of ss. 128 and 129 of the *Act respecting the Barreau du Québec* could have on the administration of justice as a whole, only one interpretation of these provisions is possible.

Because the question before the ATQ necessarily involved the interpretation of the *Act respecting the Barreau du Québec*, the presumption in favour of the reasonableness standard does not apply. Furthermore, that presumption can be rebutted by a contextual analysis based on the *Dunsmuir* factors, which means that it is the correctness standard that must be applied. Although the ATQ is protected by a strong privative clause, it was considering a question of law that had nothing to do with the purpose of the ATQ’s social affairs division. The *Act respecting the Barreau du Québec* is not the ATQ’s enabling statute, nor is it a statute that has a close connection to the ATQ’s function and with which it has particular familiarity. Deference is thus not warranted here.

A conclusion that the Minister can have a person who is neither an advocate nor a solicitor prepare and draw up a written proceeding or other similar document that is intended for use in a case before the ATQ’s social affairs division is based on an interpretation that is inconsistent with the words of the statutes in question and with the intention of the legislature. Such an interpretation also disregards the object of the *Act respecting the Barreau du Québec*. Section 102 of the *Act respecting administrative justice* does not grant the Minister the right to have recourse for that purpose to the services of a person who is neither an advocate nor a solicitor.

The exception to the monopoly on practice of advocates that is provided for in s. 102 of the *Act respecting administrative justice* and the one provided for in s. 128(2)(a)(5) of the *Act respecting the Barreau du Québec* were enacted simultaneously for purposes of concordance. The word “represented” used in these two provisions must therefore be understood to have the same meaning in both of them. Whereas subparas. (3), (5) and (7) of s. 128(2)(a) of the *Act respecting the Barreau du Québec* establish exceptions that authorize people who are not advocates to plead or act for others before the ATQ’s social affairs division in proceedings specified in them, s. 102 of the *Act respecting administrative justice* has a different and complementary purpose, namely to indicate who may represent the parties to whom those exceptions apply, including the Minister, in such proceedings and to limit the scope of such representation. This interpretation is supported by the fact that, when the legislature established the exceptions provided for in s. 128(2)(a) of the *Act respecting the Barreau du Québec*, it also amended the relevant related statutes to indicate how the exceptions it had just established would operate. Section 128(2)(a)(5) of the *Act respecting the Barreau du Québec* and s. 102 of the *Act respecting administrative justice* are an example of this.

The legislature’s intention in enacting s. 129(b) of the *Act respecting the Barreau du Québec* was to preserve its ability to establish exceptions to the rules set out in s. 128 of that Actin other statutes. But what it did in enacting s. 102 of the *Act respecting administrative justice* was merely to specify how the exception it had just established under s. 128(2)(a) of the *Act respecting the Barreau du Québec* would operate. Had the legislature so intended, it could also have accompanied the exclusive power of advocates and solicitors under s. 128(1)(b) “to prepare and draw up a notice, motion, proceeding or other similar document intended for use in a case before the courts” with an exception for people other than advocates, which it in fact did in s. 128(2)(a). That it omitted to do so must be viewed as a relevant factor in determining the legislature’s actual intent. It may be tempting to reach a different conclusion, particularly because it may seem simpler if a single person can both represent the Minister before a tribunal and prepare and draw up for him or her the written proceedings needed for that purpose. But the pursuit of simpler solutions is not a principle of statutory interpretation. Legislation must be interpreted in accordance with the relevant principles and applied, not changed.

**Cases Cited**

By Brown J.

**Distinguished:** *Lévis (City) v. Fraternité des policiers de Lévis Inc.*, 2007 SCC 14, [2007] 1 S.C.R. 591; **considered:** *Fortin v. Chrétien*, 2001 SCC 45, [2001] 2 S.C.R. 500; **referred to:** *Ontario (Community Safety and Correctional Services) v. Ontario (Information and Privacy Commissioner)*, 2014 SCC 31, [2014] 1 S.C.R. 674; *Dunsmuir v. New Brunswick*, 2008 SCC 9, [2008] 1 S.C.R. 190; *Alberta (Information and Privacy Commissioner) v. Alberta Teachers’ Association*, 2011 SCC 61, [2011] 3 S.C.R. 654; *Harvey v. Guerreiro*, [2005] R.J.Q. 1817; *P.S. v. Québec (Emploi et Solidarité sociale)*, 2010 QCTAQ 11404, 2010 CanLII 70683; *Alberta (Information and Privacy Commissioner) v. University of Calgary*, 2016 SCC 53, [2016] 2 S.C.R. 555; *Bélanger v. Saint‑Marcel (Municipalité)*, 2013 QCTAQ 01912, 2013 CanLII 5734; *Wilson v. Atomic Energy of Canada Ltd.*, 2016 SCC 29, [2016] 1 S.C.R. 770; *Mouvement laïque québécois v. Saguenay (City)*, 2015 SCC 16, [2015] 2 S.C.R. 3; *Edmonton (City) v. Edmonton East (Capilano) Shopping Centres Ltd.*, 2016 SCC 47, [2016] 2 S.C.R. 293; *Rogers Communications Inc. v. Society of Composers, Authors and Music Publishers of Canada*, 2012 SCC 35, [2012] 2 S.C.R. 283; *Okwuobi v. Lester B. Pearson School Board*, 2005 SCC 16, [2005] 1 S.C.R. 257; *Bell ExpressVu Limited Partnership v. Rex*, 2002 SCC 42, [2002] 2 S.C.R. 559; *Rizzo & Rizzo Shoes Ltd. (Re)*, [1998] 1 S.C.R. 27.

By Côté J. (dissenting)

*Mouvement laïque québécois v. Saguenay (City)*, 2015 SCC 16, [2015] 2 S.C.R. 3; *Fortin v. Chrétien*, 2001 SCC 45, [2001] 2 S.C.R. 500; *Dunsmuir v. New Brunswick*, 2008 SCC 9, [2008] 1 S.C.R. 190; *Reference re Secession of Quebec*, [1998] 2 S.C.R. 217; *Canada (Director of Investigation and Research) v. Southam Inc.*, [1997] 1 S.C.R. 748; *Toronto (City) Board of Education v. O.S.S.T.F., District 15*, [1997] 1 S.C.R. 487; *Canadian Broadcasting Corp. v. Canada (Labour Relations Board)*, [1995] 1 S.C.R. 157; *9175‑1503* *Québec inc. v. Montréal (Ville)*, 2012 QCTAQ 07491, 2012 CanLII 48176; *117437 Canada inc. v. Lévis (Ville)*, 2014 QCTAQ 0159, 2014 CanLII 1318; *Canadian National Railway Co. v. Canada (Attorney General)*, 2014 SCC 40, [2014] 2 S.C.R. 135; *Alberta (Information and Privacy Commissioner) v. Alberta Teachers’ Association*, 2011 SCC 61, [2011] 3 S.C.R. 654; *McLean v. British Columbia (Securities Commission)*, 2013 SCC 67, [2013] 3 S.C.R. 895; *Rogers Communications Inc. v. Society of Composers, Authors and Music Publishers of Canada*, 2012 SCC 35, [2012] 2 S.C.R. 283; *Edmonton (City) v. Edmonton East (Capilano) Shopping Centres Ltd.*,2016 SCC 47, [2016] 2 S.C.R. 293; *Packer v. Packer*, [1953] 2 All E.R. 127; *Bell ExpressVu Limited Partnership v. Rex*, 2002 SCC 42, [2002] 2 S.C.R. 559; *Rizzo & Rizzo Shoes Ltd. (Re)*, [1998] 1 S.C.R. 27; *Agraira v. Canada (Public Safety and Emergency Preparedness)*, 2013 SCC 36, [2013] 2 S.C.R. 559; *Finney v. Barreau du Québec*, 2004 SCC 36, [2004] 2 S.C.R. 17; *Pharmascience Inc. v. Binet*, 2006 SCC 48, [2006] 2 S.C.R. 513; *Tremblay v. Québec (Tribunal des professions)*, 2006 QCCA 1441, 61 Admin. L.R. (4th) 67.

**Statutes and Regulations Cited**

*Act respecting administrative justice*, CQLR, c. J‑3, ss. 1, 14, 15, 18, 102, 154, 158.

*Act respecting occupational health and safety*, S.Q. 1979, c. 63, ss. 274, 283.

*Act respecting the Barreau du Québec*, CQLR, c. B‑1, ss. 128, 129, 141.

*Act respecting the Commission des affaires sociales*, R.S.Q., c. C‑34 [rep. 1997, c. 43, s. 184], s. 38.

*Act respecting the implementation of the Act respecting administrative justice*, S.Q. 1997, c. 43.

*Act respecting the Régie du logement*, CQLR, c. R‑8.1, ss. 72, 74, 91.

*Act to amend the Bar Act*, S.Q. 1973, c. 44, s. 72.

*Act to amend various legislation*, S.Q. 1984, c. 27, ss. 49, 51.

*Act to establish the Régie du logement and to amend the Civil Code and other legislation*, S.Q. 1979, c. 48, ss. 72, 127.

*Interpretation Act*, CQLR, c. I‑16, ss. 41, 41.1.

*Law Society Act, 1999*, S.N.L. 1999, c. L‑9.1, s. 2(2)(b), (c)(ii).

*Legal Profession Act*, C.C.S.M., c. L107, s. 20(2)(b), (3)(a)(ii).

*Legal Profession Act*, R.S.N.W.T. 1988, c. L‑2, s. 1 “practice of law” paras. (a), (b)(ii).

*Legal Profession Act*, R.S.N.W.T. (Nu.) 1988, c. L‑2, s. 1 “practice of law” paras. (a), (b)(ii).

*Legal Profession Act*, R.S.P.E.I. 1988, c. L‑6.1, s. 21(1)(d), (e).

*Legal Profession Act*, R.S.Y. 2002, c. 134, s. 1(1) “practice of law” paras. (a), (b)(ii).

*Legal Profession Act*, S.B.C. 1998, c. 9, s. 1(1) “practice of law” paras. (a), (b).

*Professional Code*, CQLR, c. C‑26, ss. 23, 26.

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Quebec. Assemblée nationale. *Journal des débats*, vol. 27, no 107, 4e sess., 32e lég., 14 juin 1984, p. 7095.

APPEAL from a judgment of the Quebec Court of Appeal (Bich, Morin and Bouchard JJ.A.), 2016 QCCA 536, [2016] AZ‑51267764, [2016] J.Q. no2576 (QL), 2016 CarswellQue 2440 (WL Can.), setting aside a decision of Gendreau J., 2014 QCCS 2226, [2014] AZ‑51076682, [2014] J.Q. no4819 (QL), 2014 CarswellQue 4955 (WL Can.), granting motions for judicial review of decisions of the Administrative Tribunal of Québec, 2012 QCTAQ 12689, 2013 CanLII 2328, [2012] AZ‑50928694, 2013 LNQCTAQ 3 (QL), and 2012 QCTAQ 12713, 2013 CanLII 9887, [2012] AZ‑50928693. Appeal dismissed, Côté J. dissenting.

Michel Paradis, Sylvie Champagne and Gaston Gauthier, for the appellant.

Alexandre Ouellet, for the respondent.

No one appeared for the intervener the Administrative Tribunal of Québec.

François Barette, Érik Morissette and Maxime‑Arnaud Keable, for the intervener Ordre des comptables professionnels agréés du Québec.

Dominic C. Belley, for the intervener the Chartered Professional Accountants of Canada.

English version of the judgment of McLachlin C.J. and Abella, Moldaver, Karakatsanis, Wagner, Gascon, Brown and Rowe  JJ. delivered by

Brown J. —

1. Introduction
2. This appeal concerns the statutory right of the Minister of Employment and Social Solidarity (“Minister”) to “be represented” before the social affairs division of the Administrative Tribunal of Québec (“ATQ”) by a person who is not an advocate. In particular, the Court must determine whether it was reasonable for the ATQ to conclude that a person who is not an advocate may, on the Minister’s behalf, prepare, draw up and sign motions or other written proceedings intended for use in certain proceedings before that tribunal. For the reasons that follow, I am of the view that it was reasonable for the ATQ to conclude that, under the *Act respecting administrative justice*, CQLR, c. J‑3, a person who is not an advocate may, in certain proceedings, do everything that is needed for the representation of the Minister before that tribunal’s social affairs divisionand that this power is not in conflict with the *Act respecting the Barreau du Québec*,CQLR, c. B‑1.
3. Overview of the Facts and the Decisions Below
   1. Facts
4. The ATQ is a tribunal established by the *Act respecting administrative justice*. Its function is to make determinations in respect of various proceedings brought against administrative authorities in Quebec (s. 14 of the *Act respecting administrative justice*). The social affairs division of the ATQ is responsible for making determinations in respect of proceedings pertaining, *inter alia*, to matters of income security or support, and of social aid and allowances (s. 18 of the *Act respecting administrative justice*). The ATQ may, on an application and on certain conditions, review any decision it has made (s. 154 of the *Act respecting administrative justice*).
5. In January and February 2011, the ATQ’s social affairs division made decisions on the granting of social aid in two cases in which the opposing parties were the Minister and individuals. The Minister subsequently applied for a review of those two decisions under s. 154 of the *Act respecting administrative justice*, presenting to the ATQ motions for review that had been prepared, drawn up, signed and filed in the Minister’s name by a person who was not an advocate. In both those cases, the individuals in question brought a motion to dismiss on the ground that the Minister’s written proceedings had not been prepared by a practising advocate entered on the Roll of the Order of the Barreau du Québec.
6. The Barreau du Québec intervened in the proceedings before the ATQ and in the courts below to present its interpretation of the scope of the Minister’s right to be represented before the ATQ’s social affairs division, and it was granted leave to be substituted for the individual litigants in this Court. The Minister has been represented by the Attorney General of Quebec in this Court and in the courts below.
   1. Legislative Provisions
      1. *Act respecting the Barreau du Québec*
7. The right to represent others before a court or tribunal is generally reserved to lawyers. In Quebec, the provision of legal services is governed by the *Act respecting the Barreau du Québec*. Section 128 of that Act provides that certain activities, including preparing and drawing up motions and other written proceedings, are the “exclusive prerogative” of advocates and solicitors. It reserves “plead[ing] or act[ing]” before courts or tribunals to practising advocates:

**128.** (1) The following acts, performed for others, shall be the exclusive prerogative of the practising advocate or solicitor:

*(a)* to give legal advice and consultations on legal matters;

*(b)* to prepare and draw up a notice, motion, proceeding or other similar document intended for use in a case before the courts;

*(c)* to prepare and draw up an agreement, petition, by‑law, resolution or other similar document relating to the constitution, organization, reorganization or winding‑up of a legal person governed by federal or provincial laws respecting legal persons, or the amalgamation of several legal persons or the surrender of a charter.

(2) The following acts, performed for others, shall be the exclusive prerogative of the practising advocate and not of the solicitor:

*(a)* to plead or act before any tribunal, except before:

(1) a conciliation officer or an arbitrator of disputes or grievances, within the meaning of the Labour Code (chapter C‑27);

(2) the Administrative Labour Tribunal;

(3) the Commission des normes, de l’équité, de la santé et de la sécurité du travail established by the Act respecting occupational health and safety (chapter S‑2.1), a review board established under the Workers’ Compensation Act (chapter A‑3) or the social affairs division of the Administrative Tribunal of Québec, instituted under the Act respecting administrative justice (chapter J‑3), in the case of a proceeding pertaining to compensation for rescuers and victims of crime, a proceeding brought under section 65 of the Workers’ Compensation Act or a proceeding brought under section 12 of the Act respecting indemnities for victims of asbestosis and silicosis in mines and quarries (chapter I‑7);

(4) the Régie du logement established under the Act respecting the Régie du logement (chapter R‑8.1);

**(**5) the social affairs division of the Administrative Tribunal of Québec, to the extent that the Minister of Employment and Social Solidarity or a body which is his delegatee as regards the application of the Individual and Family Assistance Act (chapter A‑13.1.1) is to be represented to plead or act in his or its name;

(6) an arbitration officer, a conciliation officer, a council of arbitration or an investigator within the meaning of the Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R‑20);

(7) in matters of immigration, the social affairs division of the Administrative Tribunal of Québec, in the case and subject to the conditions set out in the third paragraph of section 102 of the Act respecting administrative justice;

*(b)* to prepare and draw up a will or codicil or a discharge or any contract or document, except leases, affecting immovable property and requiring registration or cancellation of a registration in Québec;

*(c)* to prepare, draw up and file the declaration of value of an estate, required by the taxation laws; this paragraph *c* shall not apply to legal persons authorized by law to act as liquidators of successions or as trustees;

*(d)* to prepare and draw up a document or proceeding, for registration as prescribed by law, of a person or partnership carrying on a business or operating an industry;

*(e)* to make collections or make any claim with costs or to imply that judicial proceedings will be taken.

However, the *Act respecting the Barreau du Québec* establishes certain exceptions to the monopoly on practice of advocates and gives the Minister the right “to be represented to plead or act in his . . . name” before the social affairs division of the ATQ (s. 128(2)(a)(5)). Further, s. 129(b) provides that s. 128 does not limit rights that are specifically defined and granted to any person by another law:

**129.** None of the provisions of section 128 shall limit or restrict:

*(a)* the right of an advocate to perform any other act not expressly forbidden by this Act or the by‑laws of the Bar;

*(b)* the rights specifically defined and granted to any person by any public or private law;

*(c)* the right of public or private bodies to be represented by their officers, except for the purpose of pleading, before any organization having a quasi‑judicial function;

*(d)* the right of secretaries or assistant‑secretaries of legal persons established for a private interest or in the public interest to draw up the minutes of meetings of directors or shareholders and all other documents which they are authorized to draw up in virtue of federal or provincial laws;

*(e)* the right of a practising notary to perform the acts therein set forth except those contemplated in paragraph *b* of subsection 1, other than in non‑contentious matters, and in paragraphs *a* and *e* of subsection 2; but a practising notary may imply that judicial proceedings will be taken.

* + 1. *Act respecting administrative justice*

1. The second paragraph of s. 102 of the *Act respecting administrative justice* grants the Minister the right to “be represented by the person of his . . . choice before the social affairs division” of the ATQ:

**102.** The parties may be represented by the person of their choice before the social affairs division, in the case of a proceeding pertaining to compensation for rescuers and victims of crime, a proceeding under section 65 of the Workmen’s Compensation Act (chapter A‑3) or a proceeding under section 12 of the Act respecting indemnities for victims of asbestosis and silicosis in mines and quarries (chapter I‑7); however, a professional who has been removed from the roll or declared disqualified to practise, or whose right to engage in professional activities has been restricted or suspended in accordance with the Professional Code (chapter C‑26) or any legislation governing a profession may not act as a representative.

The Minister of Employment and Social Solidarity or a body which is the Minister’s delegatee for the purposes of the Individual and Family Assistance Act (chapter A‑13.1.1) may be represented by the person of his or its choice before the social affairs division in the case of a proceeding brought under that Act or this Act in a matter of income security or support or social aid and allowances.

The applicant may, before the social affairs division in the case of a proceeding in a matter of immigration, be represented by a relative or by a non‑profit organization devoted to the defense or interests of immigrants, if he is unable to be present himself by reason of absence from Québec. In the latter case, the mandatary must provide the Tribunal with a mandate in writing, signed by the person represented, indicating the gratuitous nature of the mandate.

* 1. Judicial History
     1. Decisions of the ATQ — 2012 QCTAQ 12713, 2013 CanLII 9887, and 2012 QCTAQ 12689, 2013 CanLII 2328

1. The ATQ dismissed the two motions to dismiss concerning the motions for review that had been filed in the Minister’s name. It concluded that a person representing the Minister who is not an advocate has the power to prepare motions for review under s. 102 of the *Act respecting administrative justice* and that this power is not limited by the *Act respecting the Barreau du Québec*, because the Minister’s right to be represented for the purpose of “plead[ing] or act[ing]” under s. 128(2)(a)(5) of the *Act respecting the Barreau du Québec* encompasses both oral and written representation (2012 QCTAQ 12689, at paras. 20‑26). Moreover, s. 102 of the *Act respecting administrative justice* must be interpreted in light of s. 129(b) of the *Act respecting the Barreau du Québec*, and the wording of s. 102 is broader than that of s. 128(2)(a)(5) of the *Act respecting the Barreau du Québec* (2012 QCTAQ 12689, at paras. 28‑29). The ATQ concluded that the power of a person who is not an advocate to represent the Minister under s. 102 includes all acts that are normally within the prerogative of an advocate who represents a client before a court or tribunal, including drawing up and preparing motions or other written proceedings.
   * 1. Judgment of the Quebec Superior Court — 2014 QCCS 2226
2. The individuals involved in the cases before the ATQ applied, with the Barreau’s support, to the Quebec Superior Court for judicial review of the ATQ’s decisions. The Superior Court began by considering the standard of review, and it concluded that the standard applicable to the ATQ’s decisions was correctness. It noted that there was a privative clause, but decided that the question before it created a conflict between the *Act respecting administrative justice* and the *Act respecting the Barreau du Québec*, a statute of public order. In its view, the fundamental issue concerned the interpretation of the exception established by s. 128(2)(a)(5) of the *Act respecting the Barreau du Québec*. The Superior Court found that this issue was [translation] “outside the context of the ATQ’s exclusive jurisdiction” (para. 33 (CanLII)) and that such an exception to the *Act respecting the Barreau du Québec* must be interpreted “narrowly, consistently and uniformly” (para. 37). In its view, the ATQ “has no special expertise or experience in this area” (para. 35).
3. On the scope of the “represent[ation]” provided for in s. 102 of the *Act respecting administrative justice*, the Superior Court focused its analysis on s. 128 of the *Act respecting the Barreau du Québec*, which distinguishes two classes of activities: “prepar[ing] and draw[ing] up” documents intended for use before the courts, which is dealt with in s. 128(1), and “plead[ing] or act[ing] before any tribunal”, which is dealt with in s. 128(2). This second class has seven exceptions, one of which is the Minister’s right under s. 128(2)(a)(5) to be represented by a person who is not an advocate for the purpose of pleading or acting before the social affairs division of the ATQ. The first class, on the other hand, the one that includes the preparation and drawing up of motions, [translation] “has no exceptions” (para. 45). On this basis, the Superior Court concluded that the power of a person chosen to represent the Minister who is not an advocate, “which must be narrowly construed, can concern only the power to plead or act before the ATQ’s social affairs division, that is, [s. 128(2)] of the *Act respecting the Barreau du Québec*” (para. 47), and that the act of “plead[ing] or act[ing]” before a court or tribunal does not include the preparation and drawing up of motions. On the subject of s. 129(b) of the *Act respecting the Barreau du Québec*, which concerns rights that are “specifically defined and granted” by any other law, the Superior Court was of the view that the only *specific* right granted to the Minister is based on s. 128(2)(a)(5) of that Act.
4. In short, the Superior Court held that a person chosen by the Minister to represent him or her who is not an advocate may plead or act orally before the ATQ’s social affairs division, but that only an advocate or a solicitor may prepare and draw up the related written proceedings. It accordingly dismissed the motions for review filed in the Minister’s name in the two cases in question, declaring them to be null.
   * 1. Judgment of the Quebec Court of Appeal — 2016 QCCA 536
5. The Attorney General of Quebec appealed the Superior Court’s judgment to the Quebec Court of Appeal, arguing that the Superior Court had erred on the standard of review and on the scope of the Minister’s right to be represented by a person of his or her choice. The Court of Appeal allowed the appeal and set aside the Superior Court’s judgment.
6. On the standard of review, the Court of Appeal was of the view that the Superior Court had erred in applying the correctness standard. It noted that the ATQ is protected by a privative clause, that it has exclusive jurisdiction over social aid and that s. 15 of the *Act respecting administrative justice* authorizes it “to decide any question of law or fact necessary for the exercise of its jurisdiction” (para. 31 (CanLII)). Citing *Ontario (Community Safety and Correctional Services) v. Ontario (Information and Privacy Commissioner)*, 2014 SCC 31, [2014] 1 S.C.R. 674, the Court of Appeal held that the fact that the ATQ had to [translation] “bear [the *Act respecting the Barreau du Québec*] in mind” in interpreting s. 102 of the *Act respecting administrative justice* did not have the effect of removing the issue from the tribunal’s jurisdiction (para. 32). The issue the ATQ had to resolve “is not a question of general law that is of central importance to the legal system as a whole and lies outside its specialized area of expertise” (para. 34).
7. The Court of Appeal also expressed the view that the Superior Court had erred in reversing the ATQ’s decisions. It identified two possible interpretations of the Minister’s right to be represented by a person who is not an advocate — one based on the extension of this right by a 1973 legislative amendment that had added the word “act” to the word “plead” in s. 128 of the *Act respecting the Barreau du Québec*, and the other based on s. 129 of that Act — and both of them led to the same result, that a person representing the Minister who is not an advocate *may* prepare, draw up and sign motions or written proceedings intended for use before the ATQ’s social affairs division. The Court of Appeal concluded that, regardless of the applicable standard of review, the decisions of the ATQ, which had in fact combined these two possible interpretations, were acceptable.
8. Analysis
   1. Standard of Review
9. The first issue is that of the applicable standard of review. The reason why the Superior Court and the Court of Appeal did not apply the same standard is that they characterized the subject matter of the case differently. In my view, this difference between the courts below stems from the fact that they approached their analysis of the question before them from different perspectives. The Superior Court found that the statutory interpretation issue pertained primarily to the *Act respecting the Barreau du Québec*, whereas the Court of Appeal considered that issue from the standpoint of s. 102 of the *Act respecting administrative justice*. With all due respect, I consider the latter approach to be the correct one. As I will explain, as a result of s. 129(b) of the *Act respecting the Barreau du Québec*, s. 128 of that Act in no way limits the scope of s. 102 of the *Act respecting administrative justice*. The central issue before the ATQ had been whether the Minister’s right to “be represented” that is provided for in s. 102 includes the preparation and drawing up of written proceedings or motions intended for use before the ATQ’s social affairs division. The applicable standard in this regard is reasonableness.
10. Unless the jurisprudence already contains a satisfactory determination of the applicable standard of review (*Dunsmuir v. New Brunswick*, 2008 SCC 9, [2008] 1 S.C.R. 190, at para. 62), a court must presume, in reviewing a decision in which a specialized administrative tribunal has interpreted and applied its enabling statute or a statute with a close connection to its function, that the reasonableness standard applies (*Alberta (Information and Privacy Commissioner) v. Alberta Teachers’ Association*, 2011 SCC 61, [2011] 3 S.C.R. 654, at para. 34). In the instant case, there is no satisfactory precedent. The decision cited by the Barreau on this point (*Harvey v. Guerreiro*, [2005] R.J.Q. 1817 (C.Q.)) is not applicable, as it concerned provisions of the *Act respecting the Régie du logement*, CQLR, c. R‑8.1, ss. 72 and 74, that differed from the ones at issue here and appeared in a statute that included a weaker privative clause than the one that applies to the ATQ (*ibid.*, s. 91; compare s. 158 of the *Act respecting administrative justice*).
11. The reasonableness standard must therefore be presumed to apply, given that the central issue entails the interpretation of s. 102 of the *Act respecting administrative justice*, which is in the ATQ’s enabling statute and which sets out procedural rules that apply in proceedings before it. It is true that, as the Court of Appeal put it, the ATQ had to bear the *Act respecting the Barreau du Québec* [translation] “in mind” in interpreting s. 102. But this does not have the effect of removing the issue from the ATQ’s jurisdiction and expertise; quite the contrary. It instead shows that the *Act respecting the Barreau du Québec* has a “close connection” to the ATQ’s function. Indeed, s. 128(2)(a)(5) of that Act refers expressly to the ATQ and establishes a procedural rule that applies in proceedings before it. Moreover, the ATQ clearly has to refer to the *Act respecting the Barreau du Québec* often in the performance of its function. As the Attorney General pointed out in this Court, the ATQ has had to interpret ss. 128 and 129 of the *Act respecting the Barreau du Québec* in many recent decisions, and it had to decide the very question that is raised in this appeal in *P.S. v. Québec (Emploi et Solidarité sociale)*, 2010 QCTAQ 11404, 2010 CanLII 70683.
12. The Barreau nonetheless argues that the issue to be resolved in the case at bar is a question that is of central importance to the legal system as a whole and lies outside the ATQ’s specialized area of expertise, which in its view rebuts the presumption in favour of the reasonableness standard. In so arguing, the Barreau likens that issue to the one related to solicitor‑client privilege that this Court found to be a question of central importance to the legal system as a whole in *Alberta (Information and Privacy Commissioner) v. University of Calgary*, 2016 SCC 53, [2016] 2 S.C.R. 555. The Barreau submits that the scope of the exceptions that authorize parties to have recourse to the services of persons who are not advocates in proceedings before a court or tribunal is of similar importance.
13. It is true that the Barreau’s role in regulating the representation of others before a court or tribunal is of obvious importance (*Fortin v. Chrétien*, 2001 SCC 45, [2001] 2 S.C.R. 500, at para. 21), but this does not mean that every question touching on this subject is automatically one of central importance to the legal system as a whole. In the instant case, what the ATQ had to do was not to determine the overall scope of the monopoly of advocates on the provision of legal services. Rather, it had to determine the scope of a narrow exception that had been established by the Quebec legislature in order to allow the Minister to be represented by a person who is not an advocate in certain proceedings before the ATQ’s social affairs division. The impact of this case is limited, and in the final analysis, the issue quite simply does not come close to being a question of central importance to the legal system as a whole. Moreover, the interpretation of s. 102 of the *Act respecting administrative justice* falls squarely within the ATQ’s expertise.
14. Furthermore, and with all due respect, I disagree with the opinion expressed by my colleague Côté J. at para. 52 of her reasons that the ATQ could render inconsistent decisions on the subject of the exceptions that authorize litigants to have recourse to the services of people who are not advocates. The opposite is in fact true, as the ATQ’s recent decisions with regard to such exceptions are consistent (see for example *Bélanger v. Saint‑Marcel (Municipalité)*, 2013 QCTAQ 01912, 2013 CanLII 5734; *P.S.*; and the two decisions in the instant case). No one is suggesting here that there is any divergence in the ATQ’s decisions on the question before us. In addition, the importance my colleague attaches to the mere possibility of the ATQ rendering conflicting decisions on this point is contrary to this Court’s recent jurisprudence (*Wilson v. Atomic Energy of Canada Ltd.*, 2016 SCC 29, [2016] 1 S.C.R. 770, at para. 17).
15. The Barreau also argues, citing *Lévis (City) v. Fraternité des policiers de Lévis Inc.*, 2007 SCC 14, [2007] 1 S.C.R. 591, that the issue the ATQ had to resolve entails an assessment of the compatibility of the *Act respecting administrative justice* and the *Act respecting the Barreau du Québec*, a question to which the standard of correctness should apply.
16. *Lévis* is of no assistance to the Barreau. In it, the Court was dealing with a decision of a grievance arbitrator who had had to consider two statutes that were actually in conflict in that each of them provided for different consequences for criminal conduct by municipal police officers in Quebec. On the one hand, s. 119 para. 2 of the *Police Act*, R.S.Q., c. P‑13.1, provided for the dismissal of any police officer who was convicted of a serious criminal offence unless the officer showed that specific circumstances justified another sanction. On the other hand, s. 116(6) of the *Cities and Towns Act*, R.S.Q., c. C‑19, provided that any person convicted of a similar type of offence was disqualified from municipal employment, and under it there was no exception. The Court applied the correctness standard to the issue of the “compatibility” of the two statutes (para. 23).
17. In the case at bar, however, the issue does not concern the compatibility of two conflicting statutes. As I will explain, as a result of s. 129(b) of the *Act respecting the Barreau du Québec*, there is no conflict between s. 102 of the *Act respecting administrative justice* and the *Act respecting the Barreau du Québec*. Section 102 grants the Minister a right to be represented before the ATQ’s social affairs division by a person who is not an advocate, and s. 129(b) confirms that such exceptions are acceptable under the *Act respecting the Barreau du Québec*.
18. Finally, the Court recently reiterated that the presumption in favour of the reasonableness standard can sometimes be rebutted “where a contextual analysis reveals that the legislature clearly intended not to protect the tribunal’s jurisdiction in relation to certain matters” (*Mouvement laïque québécois v. Saguenay (City)*, 2015 SCC 16, [2015] 2 S.C.R. 3, at para. 46; see also *Edmonton (City) v. Edmonton East (Capilano) Shopping Centres Ltd.*, 2016 SCC 47,[2016] 2 S.C.R. 293, at para. 32; *Rogers Communications Inc. v. Society of Composers, Authors and Music Publishers of Canada*, 2012 SCC 35, [2012] 2 S.C.R. 283, at para. 16). That being said, the presumption is not rebutted in the instant case. Aside from the foregoing (in paras. 14 et seq.), the Barreau advances no other arguments in this regard. This Court has pointed out in the past that the ATQ is a “highly sophisticated” administrative tribunal, “similar in many ways to Canadian courts of law” (*Okwuobi v. Lester B. Pearson School Board*, 2005 SCC 16, [2005] 1 S.C.R. 257, at para. 23). Its enabling statute authorizes it to “decide any question of law or fact necessary for the exercise of its jurisdiction” (s. 15 of the *Act respecting administrative justice*), and its jurisdiction includes proceedings pertaining to the granting of social aid (s. 18 of the *Act respecting administrative justice*). It is therefore clear that the legislature intended the ATQ to be able to decide any question related to proceedings pertaining to social aid, including any question related to the Minister’s right to “be represented” before the social affairs division.
19. I therefore agree with the Court of Appeal and the Attorney General that the standard of review applicable to the ATQ’s decisions is reasonableness.
    1. Minister’s Right to Be Represented by a Person of His or Her Choice
20. Section 102 of the *Act respecting administrative justice* grants the Minister the right to “be represented by the person of his . . . choice before the social affairs division in the case of a proceeding brought under [the *Individual and Family Assistance Act*, CQLR, c. A‑13.1.1] or [the *Act respecting administrative justice*] in a matter of income security or support or social aid and allowances”. As I explained above, this appeal concerns the scope of this right to “be represented”, and what must be determined is whether it was reasonable for the ATQ to conclude that the right in question includes, in addition to oral representation, the preparation and drawing up of motions or other written proceedings. In my view, the ATQ’s conclusion is reasonable, as it falls within “a range of possible, acceptable outcomes which are defensible in respect of the facts and law” (*Dunsmuir*, at para. 47), including in respect of the applicable principles of interpretation.
21. The words of an Act are to be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act and the intention of the legislature (*Bell ExpressVu Limited Partnership v. Rex*, 2002 SCC 42, [2002] 2 S.C.R. 559, at para. 26, and *Rizzo & Rizzo Shoes Ltd. (Re)*,[1998] 1 S.C.R. 27, at para. 21, quoting E. A. Driedger, *Construction of Statutes* (2nd ed. 1983), at p. 87). The interpretation of Quebec legislation is also governed by ss. 41 and 41.1 of the *Interpretation Act*,CQLR, c. I‑16:

**41.** Every provision of an Act is deemed to be enacted for the recognition of rights, the imposition of obligations or the furtherance of the exercise of rights, or for the remedying of some injustice or the securing of some benefit.

Such statute shall receive such fair, large and liberal construction as will ensure the attainment of its object and the carrying out of its provisions, according to their true intent, meaning and spirit.

**41.1.** The provisions of an Act are construed by one another, ascribing to each provision the meaning which results from the whole Act and which gives effect to the provision.

1. Section 102 of the *Act respecting administrative justice* grants the Minister a right to “be represented”. I am of the view that, in the legal context, the ordinary sense of the verb “represent” normally covers *all* aspects of the representation of others before a court or tribunal. For example, Cornu gives the following definition of “*représenter*” (“represent”): [translation] “To replace a person in the exercise of the person’s rights” (G. Cornu, ed., *Vocabulaire juridique* (10th ed. 2014), at p. 905). In this sense, representation includes both oral representation, such as pleading before a tribunal, and written representation, such as preparing and drawing up written proceedings. It follows that s. 102 of the *Act respecting administrative justice*, read in the grammatical and ordinary sense of its words, grants the Minister the right to be represented before the social affairs division of the ATQ both for the purpose of preparing and drawing up motions and other written proceedings and for that of oral representation. This interpretation, according to which the Minister’s representative may do everything that is needed for the representation of others before the ATQ, is also consistent with the broader context of the legislation and with the legislature’s intent.
2. Where s. 102 is located in the *Act respecting administrative justice* is instructive. It is in Division II — entitled “General Provisions” — of Chapter VI of that Act, which concerns the ATQ’s rules of evidence and procedure. The subsequent divisions correspond to the various stages of a proceeding before the ATQ, from “Division III — Introductory and Preliminary Procedure” to “Division X — Appeals”. This legislative context suggests that the right provided for in s. 102 of the *Act respecting administrative justice* applies at *every* stage of a proceeding.
3. It is generally the exclusive prerogative of lawyers to provide legal services for others. That monopoly is guaranteed in Quebec by the *Act respecting the Barreau du Québec*, which regulates the practice of the profession of advocate. These “special rules governing the practice of the legal profession” are justified by the importance of the acts performed by advocates, by the vulnerability of the litigants who entrust their rights to them, and by the need to preserve the relationship of trust between advocates and their clients (*Fortin*, at para. 17). These objectives should be borne in mind when interpreting exceptions to the recognized general monopoly on practice of advocates.
4. That being said, regard must also be had to the objectives of the *Act respecting administrative justice*, whose “purpose . . . is to affirm the specific character of administrative justice, to ensure its quality, promptness and accessibility and to safeguard the fundamental rights of citizens” (s. 1). The *Act respecting administrative justice* favours administrative proceedings that are simpler, expeditious and less costly for litigants (D. Lemieux, with M. Paré, *Justice administrative: Loi commentée* (3rd ed. 2009), at p. 47; H. de Kovachich, “Le Tribunal administratif du Québec au passé, au présent et au futur”, in Barreau du Québec, vol. 363, *Le TAQ d’hier, d’aujourd’hui et de demain — 15e anniversaire du TAQ* (2013), 1, at p. 33; Quebec, National Assembly, Commission des institutions, “Consultation générale dans le cadre de l'étude du projet de loi no 130 — Loi sur la justice administrative”, *Journal des débats de la Commission permanente des institutions*, vol. 34, No. 64, 1st Sess., 35th Leg., February 6, 1996 (Minister Paul Bégin)).
5. The legislative history of the exception for the Minister is also relevant, and it confirms what the legislature intended in this regard. Section 128(2)(a) of the *Act respecting the Barreau du Québec* used to merely state that it was the exclusive prerogative of an advocate, and not of a solicitor, “to plead before any tribunal” for others. In 1973, the legislature added the word “act” to the word “plead”, thereby giving s. 128(2)(a) its current scope (*An Act to amend the Bar Act*, S.Q. 1973, c. 44, s. 72).
6. A decade later, in 1984, the legislature established the exception for the Minister by making concurrent amendments to s. 128 of the *Act respecting the Barreau du Québec* and s. 38 of the *Act respecting the Commission des affaires sociales*, R.S.Q., c. C‑34, the predecessor of s. 102 of the *Act respecting administrative justice* (*An Act to amend various legislation*, S.Q. 1984, c. 27, ss. 49 and 51). It gave s. 128(2)(a)(5) its current wording to the effect that the Minister was entitled “to be represented to plead or act in his . . . name” before the Commission des affaires sociales, whereas s. 38 of the *Act respecting the Commission des affaires sociales* provided that “[a]t the proof and hearing before the social aid and allowances division, the Minister . . . is entitled to be represented, to plead or act in his . . . name, by the person of his . . . choice”. As can be seen, therefore, similar language was used in the two provisions at that time. The then Minister of Manpower and Income Security explained the purpose of the amendments as follows in the National Assembly:

[translation] What we are doing is to confirm a practice that already existed, whereby the Ministère . . . was represented by persons who were not necessarily members of the bar, so they might be professionals or welfare service providers, officers who have extensive experience in the application of the Social Aid Act and very good knowledge both of its provisions and of how it works in practice or how it is applied.

This also allows us to maintain another principle that we wanted to have in creating a number of commissions, like the Commission des affaires sociales, to make sure we avoid “over‑judicializing” these commissions, which are intended to be more open, which are ultimately intended, I would say, to be less “straitjacketing” or less rules‑based, which means that there can be greater flexibility, it seems to us, and a reduced judicialization of these bodies. We are thus confirming, by way of Bill 84 and the amendments in it, this practice that seemed like it was going to be held to be invalid.

(Quebec, National Assembly, *Journal des débats*, vol. 27, No. 107, 4th Sess., 32nd Leg., June 14, 1984, at p. 7095)

It is therefore clear that the legislature’s original intent was to permit people who are not advocates to represent the Minister before the Commission des affaires sociales in order to enhance the flexibility of that body and to avoid “over‑judicializing” its proceedings.

1. The legislature enacted the *Act respecting administrative justice*, thereby establishing the ATQ, in 1996, and it then repealed the *Act respecting the Commission des affaires sociales* in 1997, at which time the Commission des affaires sociales became the social affairs division of the ATQ. In the explanatory notes to the *Act respecting the implementation of the Act respecting administrative justice*, S.Q. 1997, c. 43, the legislature again expressed its intention to promote the introduction of “non‑judicial” processes into administrative justice. The exception allowing the Minister to be represented before the social affairs division was included in s. 102 of the *Act respecting administrative justice*, which now reads as follows:

The Minister of Employment and Social Solidarity or a body which is the Minister’s delegatee for the purposes of the Individual and Family Assistance Act (chapter A‑13.1.1) may be represented by the person of his or its choice before the social affairs division in the case of a proceeding brought under that Act or this Act in a matter of income security or support or social aid and allowances.

1. As the Court of Appeal pointed out, the Minister’s right was much narrower under the former s. 38 of the *Act respecting the Commission des affaires sociales*, which provided that the Minister could be represented by a person who is not an advocate solely *for the purpose of acting or pleading in his or her name at the proof and hearing*. Those constraints were eliminated with the repeal of the *Act respecting the Commission des affaires sociales* and the enactment of the *Act respecting administrative justice*, which simply provides that the Minister “may be represented by the person of his . . . choice” in certain proceedings before the social affairs division. The wording of s. 102 of the *Act respecting administrative justice* has thus become broader than that of s. 128(2)(a)(5) of the *Act respecting the Barreau du Québec*, which is limited to representation “to plead or act”. As a result, there is no longer the symmetry that existed between the wordings of the two statutes at the time of the *Act respecting the Commission des affaires sociales*.
2. Some might argue that the scope of s. 38 of the *Act respecting the Commission des affaires sociales* merely specified how s. 128(2)(a)(5) of the *Act respecting the Barreau du Québec* was to be applied by designating who could exercise a power of representation in the case of the acts excepted from the monopoly on practice of advocates. However, s. 129(b) of the *Act respecting the Barreau du Québec* gave the legislature the power to extend the scope of s. 38 of the *Act respecting the Commission des affaires sociales* to include written representation. This was the very power the legislature exercised when it enacted s. 102 of the *Act respecting administrative justice*. The fact that the legislature did not make a concurrent amendment to s. 128 of the *Act respecting the Barreau du Québec* cannot on its own negate the clear and unequivocal intention the legislature expressed in enacting s. 102 in its current form.
3. The Superior Court concluded, and this is what the Barreau argues in this case, that the right set out in s. 102 of the *Act respecting administrative justice* is limited by s. 128 of the *Act respecting the Barreau du Québec*. Section 128(2)(a)(5) provides that it is the exclusive prerogative of apractising advocate to “plead or act” for others before a tribunal, except before the ATQ’s social affairs division, to the extent that the Minister wishes “to be represented to plead or act in his . . . name”. Section 128(1)(b) — which states that it is the exclusive prerogative of practising advocates or solicitors to“prepare and draw up” notices, motions, proceedings or other similar documents for others — provides for no exceptions. Moreover, s. 102 of the *Act respecting administrative justice* and s. 128(2)(a)(5) of the *Act respecting the Barreau du Québec* were enacted simultaneously by the legislature. In the Barreau’s opinion, this means that the right established by s. 102 of the *Act respecting administrative justice* has the same scope as the one provided for in s. 128(2)(a)(5), which excludes the preparation and drawing up of motions or other written proceedings. In other words, the Minister’s right to be represented before the social affairs division by a person who is not an advocate is limited to oral representation.
4. With respect, I agree with the ATQ that this interpretation disregards the effect of s. 129(b) of the *Act respecting the Barreau du Québec* and is inconsistent with the ordinary sense of the words used in the relevant sections and with the legislative intent. And I agree with the Court of Appeal that the ATQ’s conclusion on the scope of s. 102 of the *Act respecting administrative justice* is reasonable.
5. The Barreau nonetheless argues that, insofar as s. 102 of the *Act respecting administrative justice* authorizes a person who is not an advocate to represent the Minister in writing, it *conflicts with* s. 128(1) of the *Act respecting the Barreau du Québec*, which gives practising advocates and solicitors the exclusive right to prepare and draw up documents for use in a court or tribunal. But this “conflict” is resolved by s. 129(b) of the *Act respecting the Barreau du Québec*, which provides that s. 128 of that Act neither limits nor restricts rights that are specifically defined and granted to any person by any public or private law. The Minister’s right under s. 102 of the *Act respecting administrative justice* to be represented by a person of his or her choice is thus not diminished in the least by s. 128 of the *Act respecting the Barreau du Québec*.
6. Furthermore, the Barreau relies on *Fortin*, a decision in which this Court, in considering the consequences of a breach of s. 128(1) of the *Act respecting the Barreau du Québec*, found that the preparation and drawing up of written proceedings and representation before a court or tribunal are two separate steps. This distinction is relevant only if it is accepted that s. 128 of the *Act respecting the Barreau du Québec* takes precedence over the *Act respecting administrative justice* where the Minister’s right to be represented is concerned. As I explained above, it is my view that, as a result of s. 129(b) of the *Act respecting the Barreau du Québec*, the nature of this right is instead defined in s. 102 of the *Act respecting administrative justice*, which grants the Minister the right to “be represented” by a person who is not an advocate. The steps identified in *Fortin* are both covered by the general sense of the concept of “representation”, which “includes both written and oral submissions” (*Fortin*, at para. 32).
7. In the Barreau’s opinion, the Court of Appeal [translation] “understood, interpreted and applied” the word “represented” as used in s. 102 of the *Act respecting administrative justice* differently than the same word as used in the *Act respecting the Barreau du Québec*. But it is actually the Barreau that is asking this Court to endorse an incoherent interpretation of the two statutes. It proposes that the same meaning be given to the word “represented” as to the words “represented to plead or act”, thus disregarding the restrictive effect of the underlined words and the significance of their absence from s. 102 of the *Act respecting administrative justice*. The Barreau refers to the common origin of s. 38 of the *Act respecting the Commission des affaires sociales* (the predecessor of s. 102 of the *Act respecting administrative justice*) and s. 128(2)(a)(5) and submits that the two provisions still have the same scope. This argument is based on the assumption that these two provisions originally applied only to oral representation. In my opinion, such a proposition is questionable, as it would deprive of any value the intention expressed by the legislature on several occasions to avert the “judicialization” of administrative justice by granting the Minister the right to be represented before the ATQ by a person who is not an advocate. Even if I were to accept that assumption, I find it difficult to reconcile the Barreau’s argument with the deliberate choice made by the National Assembly not to repeat the words “to plead or act” in s. 102 of the *Act respecting administrative justice*. If the legislature “does not speak gratuitously” (see P.‑A. Côté, in collaboration with S. Beaulac and M. Devinat, *The Interpretation of Legislation in Canada* (4th ed. 2011), at p. 295), it must be presumed that legislative omissions are also significant and that “[t]he same word is deemed to have the same meaning in related legislation” (*ibid.*, at p. 368). Because the ordinary sense of the words of s. 102 of the *Act respecting administrative justice* is perfectly consistent with the legislature’s intention to simplify procedure in social services cases, I cannot agree with the interpretation proposed by the Barreau.
8. Conclusion
9. The Court of Appeal did not err in applying the reasonableness standard, and the ATQ’s conclusion regarding the scope of the Minister’s right to be represented by a person of his or her own choice was reasonable. I would therefore dismiss the appeal, with costs.

English version of the reasons delivered by

1. Côté J. (dissenting) — I disagree with my colleague Brown J. on two points. First, I am of the opinion that the standard of review applicable to the decisions of the Administrative Tribunal of Québec (“ATQ”) in the present case is correctness (A). Second, I conclude that only advocates or solicitors may prepare and draw up a notice, motion, proceeding or other similar document intended for use before the ATQ’s social affairs division (B).
   1. Standard of Review Applicable to the ATQ’s Decisions in the Present Case
2. In the cases in question, the ATQ concluded that a representative of the Minister of Employment and Social Solidarity (“Minister”) has both the power to plead before its social affairs division and the power to prepare, draw up and sign written proceedings for use in a case before that division. To arrive at that conclusion, the ATQ had to interpret ss. 128 and 129 of the *Act respecting the Barreau du Québec*, CQLR, c. B‑1, and s. 102 of the *Act respecting administrative justice*, CQLR, c. J‑3.
3. On judicial review, the Superior Court held that the standard applicable to the ATQ’s decisions was correctness (2014 QCCS 2226, at para. 38 (CanLII)). The Quebec Court of Appeal was instead of the opinion that they should be reviewed on the standard of reasonableness (2016 QCCA 536, at para. 35 (CanLII)), and my colleague Brown J. is of the same view (reasons of the majority, at para. 24). I agree with the Superior Court that the correctness standard applies in this case.
4. The ATQ’s decisions are subject to judicial review, and “the choice of the applicable standard depends primarily on the nature of the questions that have been raised, which is why it is important to identify those questions correctly” (*Mouvement laïque québécois v. Saguenay (City)*, 2015 SCC 16, [2015] 2 S.C.R. 3, at para. 45).
5. In my view, the Superior Court correctly identified the question that had been before the ATQ as one of statutory interpretation that necessarily related to the *Act respecting the Barreau du Québec* and its interaction with the *Act respecting administrative justice*, the ATQ’s enabling legislation (2014 QCCS 2226, at paras. 28‑34).
6. Although the motions to dismiss that the ATQ had to decide required an interpretation of the word “represented” used in s. 102 of the *Act respecting administrative justice*, they were grounded in the *Act respecting the Barreau du Québec*:

[translation]

4. The said motion for review was signed on March 4, 2011 by a representative of the Ministère de l’Emploi et de la Solidarité sociale who is not a practising advocate entered on the Roll of the Order of the Barreau du Québec;

5. In addition to signing the said motion, the representative of the Ministère duly prepared the motion for review presented to the Tribunal, as will be shown at the hearing;

6. Under section [128(1)] of the Act respecting the Barreau du Québec, it is the exclusive prerogative of a practising advocate to prepare and draw up a motion or other proceeding intended for use in a case before a court or tribunal;

7. The Act respecting the Barreau du Québec draws a clear distinction between the preparation and signing of proceedings for others and representation to plead or act before a court or tribunal;

8. Moreover, the exception provided for in section 102 of the Act respecting administrative justice to the effect that the Minister of Employment and Social Solidarity may be represented by any person of his or her choice before the Administrative Tribunal of Québec applies only to representation;

9. In addition, section 129 of the Act respecting the Barreau du Québec, in paragraph (b), refers specifically to the exception set out in section 102 of the Act respecting administrative justice, which clearly distinguishes the Minister’s option of being represented by any person of his or her choice;

10. Accordingly, the motion for review prepared, drawn up and signed by a representative of the Minister who is not a practising advocate is contrary to the Act respecting the Barreau du Québec and should be dismissed; [Emphasis added; emphasis in original deleted.]

(Motions to dismiss, reproduced in 2012 QCTAQ 12689, 2013 CanLII 2328, at para. 7; 2012 QCTAQ 12713, 2013 CanLII 9887, at para. 5.)

1. To decide these motions, the ATQ had to do much more than simply bear the *Act respecting the Barreau du Québec* [translation] “in mind”. The *Act respecting the Barreau du Québec* establishes what acts are reserved exclusively to advocates and solicitors. These reserved acts and their exceptions were provided for by the legislature to ensure the protection of the public (*Professional Code*, CQLR, c. C‑26, ss. 23 and 26; *Fortin v. Chrétien*, 2001 SCC 45, [2001] 2 S.C.R. 500, at paras. 18 and 21). This means that whenever a question relates to the representation of others by a person who is not an advocate, it is necessary to interpret and apply the *Act respecting the Barreau du Québec* and, subsidiarily, any related legislation that sets out how the exceptions provided for in the *Act respecting the Barreau du Québec* are to operate.
2. In determining what standard of review is applicable to the issue in the instant case, the Superior Court was justified in applying the principles enunciated in *Dunsmuir v. New Brunswick*, 2008 SCC 9, [2008] 1 S.C.R. 190, in which the following two possibilities were identified:

First, courts ascertain whether the jurisprudence has already determined in a satisfactory manner the degree of deference to be accorded with regard to a particular category of question. Second, where the first inquiry proves unfruitful, courts must proceed to an analysis of the factors making it possible to identify the proper standard of review. [para. 62]

1. As was explained in *Dunsmuir*, the second possibility involves a contextual analysis of the following factors: “. . . (1) the presence or absence of a privative clause; (2) the purpose of the tribunal as determined by interpretation of enabling legislation; (3) the nature of the question at issue, and; (4) the expertise of the tribunal” (*Dunsmuir*, at para. 64).
2. In the case at bar, in my view, the outcome of either of these possibilities is the same: it is the correctness standard that must be applied to the review of the ATQ’s decisions.
3. First of all, it is necessary to identify the category of questions to which the issue in this case belongs. That issue is a question of central importance to the legal system as a whole and lies outside the decision maker’s specialized area of expertise. It therefore falls within an established category of questions to which, according to *Dunsmuir*, the correctness standard applies. In my opinion, it is essential that ss. 128 and 129 of the *Act respecting the Barreau du Québec*, a statute of public order, be interpreted and applied uniformly and consistently. Likewise, the exceptions that allow litigants to have recourse to the services of persons who are not advocates in proceedings before a court or tribunal must be applied uniformly and consistently. After all, the rule of law requires that there be only “one law for all” (*Reference re Secession of Quebec*, [1998] 2 S.C.R. 217, at para. 71). This is all the more important in the context of a question that is of central importance to the legal system. How can it be accepted, for example, that the ATQ concluded in the instant case that the Minister’s representative may plead before its social affairs division and may also prepare, draw up and sign written proceedings for use in a case before that division, but that it could decide in another casethat only an advocate may do so and that failure to comply with this legislative requirement means that the proceeding must be dismissed? To ask the question is to answer it.
4. On this point, one clarification is in order in light of my colleague’s comment that I am suggesting that “the ATQ could render inconsistent decisions” and his criticism of the importance I attach “to the mere possibility of the ATQ rendering conflicting decisions” (para. 19). I am not saying that the correctness standard must be applied *because* the ATQ could render inconsistent decisions. My colleague’s comment distorts my reasoning. Although the existence of inconsistent decisions may have the effect of making a question of law one of central importance to the legal system, such inconsistency in the case law is not required for a question to be so characterized. There are questions of law whose importance does not necessarily depend on how they are dealt with by the courts; it would be absurd to have to wait for them to result in an inconsistent application of the law before being able to review them for correctness. Therefore, at the risk of repeating myself, my reasoning is instead as follows: in accordance with the principles laid down by this Court in *Dunsmuir*, the correctness standard must be applied to questions that, like the one in the instant case, are of central importance to the legal system (and lie outside the administrative decision maker’s specialized area of expertise), *because* such questions require uniform and consistent answers *owing* to their impact on the administration of justice as a whole (*Dunsmuir*, at paras. 50, 55 and 60). In my opinion, because of the impact that an inconsistent application of ss. 128 and 129 of the *Act respecting the Barreau du Québec* could have on the administration of justice as a whole, only one interpretation of these provisions is possible.
5. My colleague Brown J. is of the opinion that it is the reasonableness standard that applies in this case because of the presumption in favour of the application of that standard. Even if I agreed with my colleague that that presumption applies, I would nonetheless find that it can be rebutted by a contextual analysis based on the *Dunsmuir* factors and that it is the correctness standard that must be applied. Let me explain.
6. As my colleague suggests, the ATQ is protected by a strong privative clause in s. 158 of the *Act respecting administrative justice*. However, it must be remembered that, although “[t]he existence of a privative . . . clause gives rise to a strong indication of review pursuant to the reasonableness standard . . . [t]his does not mean . . . that the presence of a privative clause is determinative” (*Dunsmuir*, at para. 52). In the case at bar, the existence of a privative clause is the only factor pointing to the application of the reasonableness standard, and it must give way in light of the other factors in the contextual analysis.
7. The purpose of the ATQ’s social affairs division is set out clearly as follows in s. 18 of the *Act respecting administrative justice*:

The social affairs division is charged with making determinations in respect of the proceedings pertaining to matters of income security or support and social aid and allowances, of protection of persons whose mental state presents a danger to themselves or to others, of health services and social services, of pension plans, of compensation and of immigration, which proceedings are listed in Schedule I.

1. I agree with the Superior Court that the question whether a representative of the Minister may prepare, draw up and sign written proceedings intended for use before the ATQ’s social affairs division [translation] “has nothing to do with s. 18 of the [*Act respecting administrative justice*]” (2014 QCCS 2226, at para. 26) and that the ATQ “has no special expertise or experience in this area” (2014 QCCS 2226, at para. 35).
2. Furthermore, there is no doubt that the ATQ was considering a question of law. Such a question relates to “what the correct legal test is”, not to “what actually took place between the parties” or “whether the facts satisfy the legal tests” (*Canada (Director of Investigation and Research) v. Southam Inc.*, [1997] 1 S.C.R. 748, at para. 35).
3. It is well established that “[d]eference will usually result where a tribunal is interpreting its own statute or statutes closely connected to its function, with which it will have particular familiarity” (*Dunsmuir*, at para. 54 (emphasis added)). But that is not the case here.
4. The *Act respecting the Barreau du Québec*, which is of course not the ATQ’s enabling statute, is also not a statute that has a close connection to that tribunal’s function and with which it has particular familiarity. It cannot be argued that, in this case, “the external statute is intimately connected with the mandate of the tribunal and is encountered frequently as a result” (*Toronto (City) Board of Education v. O.S.S.T.F., District 15*, [1997] 1 S.C.R. 487, at para. 39). Iacobucci J. said the following in this regard in *Canadian Broadcasting Corp. v. Canada (Labour Relations Board)*, [1995] 1 S.C.R. 157, at para. 48:

As a general rule, I accept the proposition that curial deference need not be shown to an administrative tribunal in its interpretation of a general public statute other than its constituting legislation, although I would leave open the possibility that, in cases where the external statute is linked to the tribunal’s mandate and is frequently encountered by it, a measure of deference may be appropriate. However, this does not mean that every time an administrative tribunal encounters an external statute in the course of its determination, the decision as a whole becomes open to review on a standard of correctness. If that were the case, it would substantially expand the scope of reviewability of administrative decisions, and unjustifiably so. [Emphasis added.]

1. On this point, it should be noted that “the provisions of the *Act respecting the Barreau du Québec* relating to the practice of the profession of advocate are provisions of public order, in that they are designed to protect the general interest” (*Fortin*, at para. 21). Also, as I mentioned above, the *Act respecting the Barreau du Québec* does not have a connection to the function of the ATQ’s social affairs division. Finally, it cannot be said that the ATQ has particular familiarity with that Act. My colleague suggests that it does, however, on the basis that “the ATQ has had to interpret ss. 128 and 129 of the *Act respecting the Barreau du Québec* in many recent decisions, and it had to decide the very question that is raised in this appeal in *P.S. v. Québec (Emploi et Solidarité sociale)*, 2010 QCTAQ 11404, 2010 CanLII 70683” (para. 16). But I would note that the ATQ did not interpret the *Act respecting the Barreau du Québec* in all the decisions in question. For example, in *9175‑1503 Québec inc. v.* *Montréal (Ville)*, 2012 QCTAQ 07491, 2012 CanLII 48176, the ATQ did not even rule on the argument based on that Act, as it decided the motion on other grounds. Similarly, in *117437 Canada inc. v. Lévis (Ville)*, 2014 QCTAQ 0159, 2014 CanLII 1318, at para. 32, the ATQ even considered it necessary to make it clear [translation] “that what we must do is not to express an opinion or make a policy or declaratory decision on the application of sections 128 and 129 [of the *Act respecting the Barreau du Québec*]”. Although I will not comment on each of the ATQ decisions to which my colleague refers, suffice it to say that, in my view, those decisions do not establish that the ATQ has “particular familiarity” with the *Act respecting the Barreau du Québec*.
2. Moreover, it is well established that the presumption in favour of the reasonableness standard does not apply when “the question at issue falls into one of the categories to which the correctness standard applies”, including “questions of law that are of central importance to the legal system as a whole and that are outside of the adjudicator’s expertise” (*Canadian National Railway Co. v. Canada (Attorney General)*, 2014 SCC 40, [2014] 2 S.C.R. 135, at para. 55); *Dunsmuir*, at para. 55; *Alberta (Information and Privacy Commissioner) v. Alberta Teachers’ Association*, 2011 SCC 61, [2011] 3 S.C.R. 654, at paras. 30 and 34). This Court has held that, “[b]ecause of their impact on the administration of justice as a whole, such questions require uniform and consistent answers” (*Dunsmuir*, at para. 60). The objective in applying the correctness standard is to ensure “just decisions and [avoid] inconsistent and unauthorized application of law” (*Dunsmuir*, at para. 50).
3. In short, because the question before the ATQ necessarily involved the interpretation of the *Act respecting the Barreau du Québec*, I conclude that the presumption in favour of the reasonableness standard does not apply. My conclusion that the ATQ had before it a question of central importance to the legal system would also suffice to rebut the presumption.
4. It is true that there has as yet been no precedent in which this Court rebutted the presumption in favour of the reasonableness standard on the basis of the factors of the contextual analysis from *Dunsmuir*. However, this cannot have the effect of calling into question a clear rule that the Court has reaffirmed on several occasions: a contextual analysis may rebut the presumption in favour of the reasonableness standard (*McLean v. British Columbia (Securities Commission)*, 2013 SCC 67, [2013] 3 S.C.R. 895, at para. 22; *Rogers Communications Inc. v. Society of Composers, Authors and Music Publishers of Canada*, 2012 SCC 35, [2012] 2 S.C.R. 283, at para. 16; *Mouvement laïque*, at para. 46; *Edmonton (City) v. Edmonton East (Capilano) Shopping Centres Ltd.*,2016 SCC 47, [2016] 2 S.C.R. 293, at para. 32).
5. The absence of a precedent in which the outcome of the contextual analysis has served to rebut the presumption cannot prevent this Court from applying the principles from *Dunsmuir*. In this regard, I endorse the following comment by Lord Denning:

What is the argument on the other side? Only this, that no case has been found in which it has been done before. That argument does not appeal to me in the least. If we never do anything which has not been done before, we shall never get anywhere. The law will stand still while the rest of the world goes on, and that will be bad for both.

(*Packer v. Packer*, [1953] 2 All E.R. 127 (C.A.), at p. 129)

1. In my opinion, the presumption in favour of the reasonableness standard must not be sanctified to such an extent that we lose sight of the fact that it is rebuttable.
   1. Scope of the Minister’s Right to Be Represented by a Person of His or Her Choice
2. The Attorney General of Quebec submits that the Minister can have a person who is neither an advocate nor a solicitor prepare and draw up a written proceeding or other similar document that is intended for use in a case before the ATQ’s social affairs division. She argues that the Minister has been granted this right by s. 102 of the *Act respecting administrative justice*, the second paragraph of which provides that the Minister “may be represented by the person of his . . . choice before the social affairs division” in certain cases.
3. Such an interpretation is inconsistent with the words of the statutes in question and with the intention of the legislature. It also disregards the object of the *Act respecting the Barreau du Québec*. I am of the view that only an advocate or a solicitor may prepare and draw up a notice, motion, proceeding or other similar document intended for use in a case before the ATQ’s social affairs division. In my opinion, s. 102 of the *Act respecting administrative justice* does not grant the Minister the right to have recourse for that purpose to the services of a person who is neither an advocate nor a solicitor.
4. My colleague Brown J., on the other hand, concludes that the Minister’s right to be represented by a person of his or her choice extends to the preparation and drawing up of motions and other written proceedings. However, as he correctly notes, “[t]he words of an Act are to be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act and the intention of the legislature” (para. 26, citing *Bell ExpressVu Limited Partnership v. Rex*, 2002 SCC 42, [2002] 2 S.C.R. 559, at para. 26, and *Rizzo & Rizzo Shoes Ltd. (Re)*, [1998] 1 S.C.R. 27, at para. 21, quoting E. A. Driedger, *Construction of Statutes* (2nd ed. 1983), at p. 87). In my opinion, and with all due respect, he overlooks some factors that, properly considered, call for a different interpretation and conclusion on the subject of the scope of the Minister’s right to be represented by a person of his or her choice.
5. The words of an Act are to be read in their entire context.
6. In my colleague’s opinion, this Court must interpret the word “represented” used in s. 102 of the *Act respecting administrative justice* as including the preparation and drawing up of motions and other written proceedings. But as the Court of Appeal noted in this case, at para. 63, the exception to the monopoly on practice of advocates that is provided for in s. 102 of the *Act respecting administrative justice* and the one provided for in s. 128(2)(a)(5) of the *Act respecting the Barreau du Québec* were enacted at the same time:

[translation] On June 20, 1984, concurrent amendments were made to section 128 [of the *Act respecting the Barreau du Québec*] and section 38 of the *Act respecting the Commission des affaires sociales* [R.S.Q., c. C-34] (the predecessor of section 102 [of the *Act respecting administrative justice*]) to authorize the Minister to be represented before the Commission des affaires sociales by persons who are not necessarily members of the Barreau:

Act respecting the Barreau du Québec [as amended by the *Act to amend various legislation*, S.Q. 1984, c. 27, s. 49]

. . .

**49.** Section 128 of the said Act is amended by adding, after subparagraph 4 of paragraph *a* of subsection 2, the following subparagraphs:

“(5) the social aid and allowances division of the Commission des affaires sociales, to the extent that the Minister of Manpower and Income Security or a body which has entered into an agreement in accordance with section 35 of the Social Aid Act (R.S.Q., chapter A‑16) is to be represented to plead or act in his or its name;”;

. . .

Act respecting the Commission des affaires sociales [as amended by the *Act to amend various legislation*, s. 51]

**51.** Section 38 of the Act respecting the Commission des affaires sociales (R.S.Q., chapter C‑34) is amended by adding, at the end, the following paragraph:

“At the proof and hearing before the social aid and allowances division, the Minister of Manpower and Income Security or a body which has entered into an agreement in accordance with section 35 of the Social Aid Act is entitled to be represented, to plead or act in his or its name, by the person of his or its choice.” [Footnotes omitted.]

1. These amendments, which were made simultaneously for purposes of concordance, form part of the entire context of the relevant provisions. In my view, the word “represented” used in s. 102 of the *Act respecting administrative justice* must therefore be understood to have the same meaning as the word “represented” used in s. 128(2)(a)(5) of the *Act respecting the Barreau du Québec*. It cannot be concluded from the entire context that the legislature intended otherwise.
2. As Professor Pierre‑André Côté explains, it must be presumed that there is some coherence in enactments of the same legislature:

Different enactments of the same legislature are deemed to be as consistent as the provisions of a single enactment. All the legislation of a legislature is deemed to make up a coherent system. Thus, interpretations favouring harmony between statutes should prevail over those favouring conflict, because the former are presumed to better represent the thought of the legislature.

This presumption of coherence in enactments of the same legislature is even stronger when they relate to the same subject matter, *in pari materia*. When conflicts between statutes do arise, however, they should be resolved in such a way as to re‑establish the desired harmony. [Footnotes omitted.]

(P.‑A. Côté, in collaboration with S. Beaulac and M. Devinat, *The Interpretation of Legislation in Canada* (4th ed. 2011), at p. 365)

1. When analyzing the entire context of a statue, it is also necessary to review and take into account the structure of the statute.
2. To begin with, s. 128 of the *Act respecting the Barreau du Québec* addresses two separate steps in proceedings before a court or tribunal (*Fortin*, at paras. 30‑32). First, s. 128(1) concerns acts performed for others that are the exclusive prerogative of a practising advocate or a solicitor. These acts include the exercise of the power “to prepare and draw up a notice, motion, proceeding or other similar document intended for use in a case before the courts” (s. 128(1)(b)). Second, s. 128(2) concerns acts performed for others that are the exclusive prerogative of a practising advocate and not of a solicitor. They include the exercise of the power “to plead or act before any tribunal, except before . . . the social affairs division of the Administrative Tribunal of Québec, to the extent that the Minister of Employment and Social Solidarity . . . is to be represented to plead or act in his . . . name” (s. 128(2)(a)(5)).
3. I would, moreover, note in passing that, as the Barreau points out, this distinction between the act of preparing and drawing up on the one hand and that of representing before a tribunal on the other is also made in other Canadian statutes regulating the practice of the legal profession: *Legal Profession Act*, S.B.C. 1998, c. 9, s. 1(1) “practice of law” paras. (a) and (b); *Legal Profession Act*, R.S.P.E.I. 1988, c. L‑6.1, s. 21(1)(d) and (e); *Legal Profession Act*, C.C.S.M., c. L107, s. 20(2)(b) and (3)(a)(ii); *Legal Profession Act*, R.S.N.W.T. (Nu.) 1988, c. L‑2, s. 1 “practice of law” paras. (a) and (b)(ii); *Law Society Act, 1999*, S.N.L. 1999, c. L‑9.1, s. 2(2)(b) and (c)(ii); *Legal Profession Act*, R.S.N.W.T. 1988, c. L‑2, s. 1 “practice of law” paras. (a) and (b)(ii); *Legal Profession Act*, R.S.Y. 2002, c. 134, s. 1(1) “practice of law” paras. (a) and (b)(ii).
4. According to the presumption of consistent expression, “when different terms are used in a single piece of legislation, they must be understood to have different meanings”, and “[i]f Parliament has chosen to use different terms, it must have done so intentionally in order to indicate different meanings” (*Agraira v. Canada (Public Safety and Emergency Preparedness)*, 2013 SCC 36, [2013] 2 S.C.R. 559, at para. 81). As a result, it cannot be argued that the word “represented” used in s. 128(2)(a)(5) of the *Act respecting the Barreau du Québec* has the same meaning as the words “prepare and draw up” used in s. 128(1)(b) of the same Act. Furthermore, given that, as I explained above, the word “represented” used in s. 128(2)(a)(5) of the *Act respecting the Barreau du Québec* must be understood to have the same meaning as the same word used in s. 102 of the *Act respecting administrative justice*, it necessarily follows that the word “represented” used in s. 102 of the *Act respecting administrative justice* does not have the same meaning as the words “prepare and draw up” used in s. 128(1)(b) of the *Act respecting the Barreau du Québec*.
5. Next, unlike my colleague, I see nothing in the location of s. 102 within Chapter VI of Title II of the *Act respecting administrative justice* that indicates that the word “represented” includes the preparation and drawing up of motions or other written proceedings. That chapter, as I mentioned above, concerns the ATQ’s rules of evidence and procedure.
6. It is perfectly logical for a provision concerned strictly with oral representation to be located in Chapter VI’s “Division II — General Provisions”, given that it is relevant to several of that chapter’s subsequent divisions. The Minister might have to be represented for the purposes of a case management conference (Division III.1), a conciliation session (Division IV) or a pre‑hearing conference (Division V), as well as at a hearing (Division VI). Where s. 102 is located in the *Act respecting administrative justice* therefore does not necessarily mean that it applies to all the divisions of Chapter VI. In my view, the location of s. 102 simply spares the legislature from having to reiterate the Minister’s right to be represented orally in each of the relevant divisions.
7. Moreover, contrary to what my colleague is suggesting, I do not think that s. 129 of the *Act respecting the Barreau du Québec* makes it possible to reconcile that Act with the *Act respecting administrative justice*.
8. Section 129(b) provides that “[n]one of the provisions of section 128 shall limit or restrict . . . the rights specifically defined and granted to any person by any public or private law”. It thus establishes an exception to the rules set out in s. 128, one whose source lies in another law that grants a specifically defined right.
9. My colleague finds that s. 102 of the *Act respecting administrative justice* grants the Minister a “specifically defined” right within the meaning of s. 129(b) of the *Act respecting the Barreau du Québec*.
10. In my view, however, it cannot be said that s. 102 of the *Act respecting administrative justice* grants a specifically defined right. When the legislature has intended to establish such exceptions to the monopoly on practice of advocates in the *Act respecting the Barreau du Québec*, it has done so expressly, either in the various subparagraphs of s. 128(2)(a) or in s. 129 itself, including para. (e), which establishes an exception for notaries:

**129.** None of the provisions of section 128 shall limit or restrict:

. . .

*(e)* the right of a practising notary to perform the acts therein set forth except those contemplated in paragraph *b* of subsection 1, other than in non‑contentious matters, and in paragraphs *a* and *e* of subsection 2; but a practising notary may imply that judicial proceedings will be taken.

The only other place in the *Act respecting the Barreau du Québec* where such an exception can be found is s. 141, which authorizes members of the Ordre des comptables professionnels agréés du Québec “to prepare and give notices of appeal to the Minister of Revenue of Québec and the Minister of National Revenue of Canada and to discuss with them and their representatives the merits of the assessments imposed upon their clients with respect to taxation”. Such exceptions to the monopoly on practice of advocates are detailed and specific, as would be expected of a provision granting “specifically defined” rights within the meaning of s. 129(b) of the *Act respecting the Barreau du Québec*.

1. In my view, it is instead the Barreau’s position that must be adopted in order to arrive at a harmonious interpretation of the *Act respecting the Barreau du Québec* and the *Act respecting administrative justice* that maintains consistency between these two statutes: whereas subparas. (3), (5) and (7) of s. 128(2)(a) of the *Act respecting the Barreau du Québec* establish exceptions that authorize people who are not advocates to plead or act for others before the ATQ’s social affairs division in proceedings specified in them, s. 102 of the *Act respecting administrative justice* has a different and complementary purpose, namely to indicate who may represent the parties to whom those exceptions apply, including the Minister, in such proceedings and to limit the scope of such representation.
2. This interpretation is supported by the fact that, when the legislature established the exceptions provided for in s. 128(2)(a) of the *Act respecting the Barreau du Québec*, it also amended the relevant related statutes to indicate how the exceptions it had just established would operate. As I mentioned above, s. 128(2)(a)(5) of the *Act respecting the Barreau du Québec* and s. 102 of the *Act respecting administrative justice* clearly illustrate this point. And here are two more examples.
3. When the legislature added the exception provided for in s. 128(2)(a)(3) of the *Act respecting the Barreau du Québec*, it also amended the *Act respecting the Commission des affaires sociales*, R.S.Q., c. C-34, to specify how the exception would operate:

*An Act respecting occupational health and safety*, S.Q. 1979, c. 63

**274.** Section 128 of the Act respecting the Barreau du Québec . . . is again amended by replacing subparagraph 4 of paragraph *a* of subsection 2 by the following subparagraph:

“(4) [now (3)] the Commission de la santé et de la sécurité du travail, a review board established pursuant to the Act respecting occupational health and safety (1979, c. 63), or the workmen’s compensation division of the Commission des affaires sociales established pursuant to the Act respecting the Commission des affaires sociales (R.S.Q., c. C‑34).”

. . .

**283.** Section 38 of the [*Act respecting the Commission des affaires sociales*] is amended by adding, at the end, the following paragraph:

“At the proof and hearing before the workmen’s compensation division, each party is entitled to be assisted by the person of his choice.”

1. Similarly, when the legislature added the exception provided for in s. 128(2)(a)(4) of the *Act respecting the Barreau du Québec*, it specified how that exception would operate:

*An Act to establish the Régie du logement and to amend the Civil Code and other legislation*, S.Q. 1979, c. 48

**72.** A natural person may be represented by his consort, or by an advocate.

If a natural person cannot appear himself by reason of illness, distance or any other cause considered sufficient by a commissioner, he may also be represented by a person related to him by blood or by marriage or, if there is no such person in the municipality, by a friend.

A corporation may be represented by an officer, a director, an employee exclusively employed by it, or by an advocate.

. . .

**127.** Section 128 of the Act respecting the Barreau du Québec . . . is again amended by adding, at the end of paragraph *a* of subsection 2, the following subparagraph:

“5. [now (4)] The Régie du logement established under the Act to establish the Régie du logement and to amend the Civil Code and other legislation (1979, c. 48).”

1. The legislature’s intention in enacting s. 129(b) of the *Act respecting the Barreau du Québec* was clearly to preserve its ability to establish exceptions to the rules set out in s. 128 of that Actin other statutes. But what it did in enacting s. 102 of the *Act respecting administrative justice* was merely to specify how the exception it had just established under s. 128(2)(a) of the *Act respecting the Barreau du Québec* would operate.
2. The legislature does not speak in vain. My colleague’s response to this is that “it must be presumed that legislative omissions are also significant” (para. 40). I agree with him on this point: had the legislature intended to do so, it could also have accompanied the exclusive power of advocates and solicitors under s. 128(1)(b) “to prepare and draw up a notice, motion, proceeding or other similar document intended for use in a case before the courts” with an exception for people other than advocates, which it in fact did in s. 128(2)(a). This omission is indeed telling.
3. I cannot, as my colleague suggests in para. 35 of his reasons, accept an interpretation that disregards the fact that the legislature, contrary to its past practice, omitted to make a concurrent amendment to the *Act respecting the Barreau du Québec*. In my opinion, that omission by the legislature is not inconsequential. It must be viewed as a relevant factor in determining the legislature’s actual intent.
4. I therefore conclude that the legislature did not intend to change the scope of s. 102 of the *Act respecting administrative justice.* This interpretation is not only consistent with the language and context of the statute, but it also ensures that the *Act respecting administrative justice* does not conflict with the *Act respecting the Barreau du Québec* — a statute of public order.
5. Finally, with all due respect, I am of the view that my colleague’s interpretation disregards the object of the *Act respecting the Barreau du Québec*.
6. The *Interpretation Act*, CQLR, c. I‑16, provides that “[e]very provision of an Act is deemed to be enacted for the recognition of rights, the imposition of obligations or the furtherance of the exercise of rights, or for the remedying of some injustice or the securing of some benefit”, and that “[s]uch statute shall receive such fair, large and liberal construction as will ensure the attainment of its object and the carrying out of its provisions, according to their true intent, meaning and spirit” (s. 41).
7. The *Professional Code* provides that “[t]he principal function of each order shall be to ensure the protection of the public” (s. 23). In *Finney v. Barreau du Québec*, 2004 SCC 36, [2004] 2 S.C.R. 17, this Court confirmed that the Barreau’s primary objective is to protect the public and that the purpose for its being given a monopoly over the practice of the profession was “to recognize the social importance of the role of the lawyer in a democratic society founded on the rule of law” (para. 17). In *Fortin*, the Court noted that “[t]he special rules governing the practice of the legal profession are justified by the importance of the acts that advocates engage in, the vulnerability of the litigants who entrust their rights to them, and the need to preserve the relationship of trust between advocates and their clients” (para. 17).
8. The *Act respecting the Barreau du Québec* must therefore receive such fair, large and liberal construction as will ensure the fulfilment of its principal function, protecting the public (see *Pharmascience Inc. v. Binet*, 2006 SCC 48, [2006] 2 S.C.R. 513, at para. 35; *Tremblay v. Québec (Tribunal des professions)*, 2006 QCCA 1441, 61 Admin. L.R. (4th) 67, at para. 42).
9. In my view, such a construction supports my conclusion that only an advocate or a solicitor may prepare and draw up a notice, motion, proceeding or other similar document intended for use in a case before the ATQ’s social affairs division.
10. The Court of Appeal instead gave precedence to the access to justice objective of the *Act respecting administrative justice* (2016 QCCA 536, at para. 51). On this point, I find it appropriate to recall the explanation this Court gave in *Fortin*, at para. 48:

It is a mistake to believe that access to justice in Canada is furthered by allowing people to use proceedings prepared or drawn up by persons who are not members of the Barreau, or persons who have been struck off the Roll as a result of a breach of professional standards, and who claim to be capable of providing good quality service. On the contrary, it may often be adverse to litigants’ own interests to exercise that freedom.

* 1. Conclusion

1. It may be tempting to prefer the consequences of the interpretation endorsed by my colleague Brown J., particularly because it may seem simpler if a single person can both represent the Minister before a tribunal and prepare and draw up for him or her the written proceedings needed for that purpose. However, it hardly seems necessary to say that the pursuit of simpler solutions is not a principle of statutory interpretation. Our role is to interpret legislation in accordance with the relevant principles and to apply it, not to change it.
2. In my view, the Court of Appeal erred in applying the reasonableness standard of review. It also erred in interpreting the scope of the Minister’s right to be represented by a person of his or her choice. I would allow the appeal and grant the motions for judicial review. Because the written proceedings were invalid “*ab initio*”, I would declare that the motions for review filed with the ATQ in the cases in question are null and must be dismissed.

*Appeal dismissed with costs,* Côté J. *dissenting.*

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