



Commissaire à l'admission aux professions

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Mobility and Qualification Recognition: International Principles, Instruments and Best Practices for Regulators

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Presentation Outline

1. The Commissioner.
2. International migration and labour mobility imperatives.
3. Regulator's role and mobility.
4. Qualification recognition and mobility.
5. Recognition of qualifications as a universal individual right.
6. Substantial equivalence/difference.
7. Types of learning.
8. Regulator's focus on fairness.

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Preliminary Notes

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The views expressed in this presentation are those of the Commissioner, in the independent exercise of his functions as provided for by law.

They do not represent the position of the Office des professions nor the Government of Québec.

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The Commissioner for Admission to Professions

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The Office of Commissioner

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The Commissioner for Admission to Professions is instituted by legislation in Québec (Canada) as a specialised independent ombudsman, with oversight and research mandate and investigation powers.

The focus of the Commissioner's work is on admission to 56 health and non-health regulated professions.

- Licensure, registration, mobility, qualification recognition, credential assessment, including in the context of trade and mutual recognition agreements.

The Commissioner oversees the admission processes of 46 professional regulatory bodies and third parties.

- Including educational institutions, government departments and agencies, other organizations or persons in the public/private sector.

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**International migration and
labour mobility imperatives**

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International Migration

- 280 millions migrants in the world (IOM, 2020).
- 48% are female (UN-DESA, 2020).
- Most are skilled workers (often high skilled).
- Human beings coming with their skills, qualifications and competence.

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Labour Mobility Imperatives

- The economic imperatives.
 - Labour shortage.
 - All economic actors active and contributing.
 - Trade agenda of liberalization and efficiency.
- The individual imperatives
 - Push and pull effect in migration.
 - A personal decision.
- The rights and fair treatment imperatives.
 - Basics rights.
 - Access to a credible recognition process.
 - Fair, transparent, objective, impartial.

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International Labour Mobility

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- Mobility of people
 - An active element of globalization.
 - More than goods or capital, humans (and brains).
 - A right to migration that is emerging.
 - Some steppingstone and circular migration.
- Positive aspects
 - Management of labour shortages on a global scale.
 - Development of destination countries.
 - A certain and often precarious advantage for countries of origin.

International Labour Mobility

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- Negative aspects
 - Poaching of skilled workers by developed countries.
 - Loss of development capacity of countries of origin.
 - Economy, health and social dimension.
 - Unacceptable if these talents are wasted in the destination country through inadequate integration and recognition processes.

International Labour Mobility

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- Issues of
 - Global sustainable development.
 - Global and internal labour markets.
 - Qualification recognition.
 - Fair treatment.
- Challenge: balancing the rights and interests of individuals and those of countries of origin and destination.
 - Individual fundamental and social rights.
 - Socio-economic development.
 - Trade.
- The search for global governance and standards.

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Regulators' Role and Mobility

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Regulators' Role

- The public interest/protection role:
 - Managing the risk associated with the regulated activities.
 - Registration requirements and processes.
 - Other regulatory functions (competence, integrity, discipline).
- The broader and complementary public interest role.
 - Social and economical issues.
 - Individual rights.

Regulators' Role and Mobility

- Entry-to-practice requirements.
 - Objective and transparent.
 - Rational link between the limits and constraints arising from the requirements and the legitimate objective of public interest and protection.
 - Proportionality and validity.
 - Based on the competencies (knowledge and skills) required to support the different roles and activities of the regulated profession.
 - Competency profile.
 - Complemented by and aligned with a Qualification framework for the education and labour sectors in the state/province or country.

Regulators' Role and Mobility

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- Registration processes.
 - Fairness, transparency, objectivity, impartiality.
 - Timeliness, efficiency.
 - No more cumbersome than necessary.

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Regulators' Role and Mobility

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- Examples of requirements, processes and tools.
 - Approved or accredited educational institutions or programmes or certification of training completion.
 - Completion of registered or certified apprenticeship programmes.
 - Licensing examination or assessment.
 - Reliability and validity (standards for examination methods).
 - Are we assessing the right thing?
 - Do we really need an exam?

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Regulators' Role and Mobility

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- Examples of requirements, processes and tools (cont.).
 - Recognition of qualifications and practice experience.
 - Particularly when obtained in another country/jurisdiction.
 - Open and inclusive recognition.
 - Recognise what has already been recognized.
 - Mutual recognition agreements.
 - Compare scope of practice.
 - Compare entry-to-practice requirements (outcome on competence).
 - Identify substantial difference in scope of practice and in competence.
 - Determine compensation measure (training, internship) to get full license.

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Regulators' Role and Mobility

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- Flexibility in practice authorisation.
 - Special authorisation.
 - For a mandate, a contract or in case of emergencies (Pandemic, natural disaster, etc.).
 - Without the obligation of a full license.
 - Restricted licence.
 - Temporary or permanent.
 - Authorisation to practice limited to activities the individual has the competence for.

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Qualification Recognition and Mobility

- A tool for:
 - responding to increasing migration/mobility for trade, academic or personal motives;
 - implementing the liberalization of trade in professional services.
- Human beings are moving with their skills, qualifications and competencies.
 - The issue of recognition of their qualifications is crucial for them and for their country of destination or origin.
 - To succeed in their integration and to contribute to their full potential (socially and economically).

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Qualification Recognition

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- QR has its own legal, normative and technical framework.
 - Mostly coming from the education, labour, and migration fields.
 - International instruments, some trade/mobility agreements.
 - Guides, codes and other 'normative' documents.
 - Countries legal texts and public policies.
 - Principles and best practices.
 - Need for different recognition mechanisms to recognise and complement each other.

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QR - International Sources

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- Migration.
 - UN and ILO Conventions, Recommendations and Multilateral Framework (Migrant Workers).
 - Humanitarian Conventions (Refugees)
 - [WHO Code of Practice](#) (Recruitment and Mobility of Health Personnel) (2010)
 - [List of "Sensitive" Countries](#)
 - [Guidance document on agreements on mobility](#) (March 2024)
 - [Global Compact for Safe, Orderly and Regular Migration](#) (UN, 2018)

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International Sources

- Education, training and recognition.
 - [Lisbon Convention on the Recognition of Qualifications concerning Higher Education](#) (UNESCO) (1979 and 1997).
 - [Global Convention on the Recognition of Higher Education Qualifications](#) (UNESCO) (2019).
- Trade and mobility agreements.
 - Multilateral, regional and bilateral.

Trade Agreements - Liberalization Principles

- Historically designed for goods, then applied to services and their providers (including natural persons/human beings).
- Applied to natural persons, they gain a new dimension with a complementary legal and normative framework (individual and social).
- This is where trade and qualification recognition principles and methods, although from different fields, intersect and mutually benefit.

Internal and Other Sources

- Constitution and legislation.
- Jurisprudence.
- Mobility and mutual recognition agreements.

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Recognition of qualifications as a universal individual right

The Building Blocks

- Different international instruments.
- Right to recognition of qualifications under UN and ILO international instruments.
 - Instruments not always to date. Issues of interpretation and cross-reference. Issues of variable obligations on concrete implementation aspects (ex. qualif. recogn.).
 - Depends on the status of the applicant (notion of migrant worker and some exceptions).
 - Depends on the implementation by countries and recognition process in place.

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The Building Blocks

- Right to recognition of qualifications under the:
 - 1) [Lisbon Convention on the Recognition of Qualifications concerning Higher Education](#) (UNESCO) (1979 and 1997).
 - 2) [Global Convention on the Recognition of Higher Education Qualifications](#) (UNESCO) (2019).
 - Sound and concrete obligations.
 - For higher education.
 - In and between the ratifying countries.
 - Depends on the recognition process in place.
 - But, still, has a global credibility and appeal.

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The Building Blocks

- Right to recognition of qualifications under trade and mobility agreements.
 - Depends on the prescriptive nature of the obligations and processes under the agreement.
 - Depends on the enforcement mechanisms.
 - Depends on the presence of exceptions and exclusions.
 - Depends on the recognition process in place.
 - Only in and between the signatory countries.
 - But, still, more and more provisions on QR.

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The Building Blocks

- Right to recognition of qualifications under internal legal texts.
 - Depends on the nature of the qualification.
 - Depends on the status of the applicant (national, migrant, or categories thereof).
 - Only in a country with legal texts.
 - Depends on the recognition process in place.

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The Building Blocks – The European Experience

- Institutions and decision-making process.
 - More than a trade agreement, a common market with political and legal frameworks.
 - European Parliament, Council of Europe, European Commission.
 - European civil society and private sector networks.

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The Building Blocks – The European Experience

- Legal framework and “European acquis”.
 - Sound and concrete obligations.
 - Free movement of individuals as a principle.
 - Common legal texts, values and policies.
Set of treaties and directives.
 - Recognition of qualifications directive with a number of professions under automatic mutual recognition. With complementary directives.
- Still some implementation issues.

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A Global Push for QR

- [Global Compact for Safe, Orderly and Regular Migration](#) (UN, 2018).
 - Outcome of global dialogue under the UN.
 - Non-legally binding but comprehensive and far reaching.
 - Objectives and commitments with suggested actions (policy options, best practices).
 - One objective (#18).
 - “Invest in skills development and facilitate mutual recognition of skills, qualifications and competences”.

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A Global Push for QR

- Objective #18 suggested actions
 - Standards, guidelines, mechanism, network for mutual recognition, compatibility, cooperation.
 - Qualifications, formal credentials and non-formally acquired skills, qualification framework and stakeholders.
 - Transparency, compatibility, and use of technology.
 - Mutual recognition agreements (in or distinct from trade agreements).

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Converging Discourse

- Different international instruments.
- Recognition of qualifications builds itself as an individual right, with social and economic aspects.
- This right is complementary and reinforcing the
 - Right to education;
 - Right to equality;
 - Right to work;
 - Right to decent work;
 - Right to fair treatment.

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Shift of focus on the person

- Skills, qualifications and competence are personal attributes of any individual.
 - They cannot be ignored or denied on a discriminatory or frivolous basis.
 - Hence recognition is an individual fundamental right.

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Substantial Equivalence/Difference

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Substantial Equivalence

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- Substantial equivalence/difference.
 - [*Global Convention on the Recognition of Higher Education Qualifications*](#) (UNESCO) (2019).

(Section I. Definition of terms, Article 1)

“Substantial differences: significant differences between the foreign qualification and the qualification of the State Party which would most likely prevent the applicant from succeeding in a desired activity, such as, but not limited to, further study, research activities, or employment opportunities.”

Substantial Equivalence

- Substantial equivalence/difference regarding training.
 - [*Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications*](#), *European Union* (Article 14, par. 4) (text as of 2024-06-20).

“...**‘substantially different matters’** means matters in respect of which knowledge, skills and competences acquired are essential for pursuing the profession and with regard to which the training received by the migrant shows significant differences in terms of content from the training required by the host Member State.”

Substantial Equivalence

- Overall equivalency and substantial difference.
 - [*Canada-European Union Comprehensive Economic and Trade Agreement \(CETA\)*](#), 2017. ([Chapter 11](#) and [Annex 11-A – Guidelines for MRAs](#))
- Overall equivalency.
 - No substantial differences between the scope of practice rights or the qualifications.
- Substantial difference in the scope of qualifications.
 - Important differences in the essential knowledge.
 - Significant differences in the duration or content of the training.

Substantial Equivalence

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- Comparability.
 - [*Review of good practices in the recognition of equivalence of diplomas and training acquired outside Quebec*](#), CIQ, 2006 (translation from French)

“*Comparable* does not mean identical. Equivalence is not incompatible with the presence of differences between diplomas that can be expressed, for example, in the educational approach, the structure, the educational path, or even the duration and frequency of certain activities. Indeed, several skills can be acquired through multiple combinations of training and experience. The important thing is that these combinations are equivalent in terms of their results, that is to say, in terms of the skills acquired by the individual.”

Substantial Equivalence

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- Substantial equivalence.
 - [*Review of good practices in the recognition of equivalence of diplomas and training acquired outside Quebec*](#), CIQ, 2006 (translation from French)

“The **equivalence** sought is **substantial**, in the sense that it allows us to affirm with reasonable confidence that the candidate has the skills required to practice the profession at the entry level and with a view to preventing harm associated with the practice.”

Lessons Learned on Substantial Equivalence

- The difference is predictable.
- It is impossible to make detailed comparisons, given that differences are inevitable and constantly changing throughout the world.
- We are not seeking to reproduce exactly our methods, means and processes of learning and evaluation.

Lessons Learned on Substantial Equivalence

- Not all differences are substantial or relevant.
- Training outcomes (knowledge, skills, competencies) are more important than the program or modality (formal aspect) that led to the qualification.
- Adopt the right analysis and decision-making posture.
 - Compare and analyse, based on a professional standard, to recognise and not to refuse.

Lessons Learned on Substantial Equivalence

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- You will often have to use your judgment to decide on a situation.
 - Draw on your knowledge of the profession.
 - Do not resort to shortcuts that rely on anxious caution, value judgments or biases.
 - Be able to explain your reasoning, including concerning areas of ambiguity in a case.

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Types of learning

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All should be considered

- Fairness calls for taking into account all types of learning.
 - International instruments and best practices.
 - Competence is an attribute of the person and must be recognized. An individual right.
 - Competence is acquired by different types of learning
 - Formal, non-formal, informal, life-long.
 - Definition in some international instruments
 - Some types of learning may present greater challenges in terms of documentation, analysis, relevance and comparison with a professional standard.

Formal Learning

- [Global Convention on the Recognition of Higher Education Qualifications](#) (UNESCO) (2019).
(Section I. Definition of terms, Article 1)

“Formal learning: learning derived from activities within a structured learning setting, leading to a formal qualification, and provided by an education institution recognized by a State Party’s competent authorities and authorized thereby to deliver such learning activities.”

Non-formal learning

- [*Global Convention on the Recognition of Higher Education Qualifications*](#) (UNESCO) (2019).
(Section I. Definition of terms, Article 1)

“Non-formal learning: learning achieved within an education or training framework which places an emphasis on working life and which does not belong to the formal education system.”

Informal Learning

- [*Global Convention on the Recognition of Higher Education Qualifications*](#) (UNESCO) (2019).
(Section I. Definition of terms, Article 1)

“Informal learning: learning which occurs outside the formal education system and which results from daily life activities related to work, family, local community, or leisure.”

Lifelong learning

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- [Global Convention on the Recognition of Higher Education Qualifications](#) (UNESCO) (2019).
(Section I. Definition of terms, Article 1)

“Lifelong learning: a process which refers to all learning activities, whether formal, non-formal, or informal, covers the entire lifespan and has the aim of improving and developing human capacities, knowledge, skills, attitudes and competencies.”

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Regulators' focus on Fairness

Inspired by literature and practices from the ombudsman community in Canada

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The three angles to fairness

1. Procedural fairness.
2. Substantive fairness.
3. Relational fairness.

1. Procedural fairness

- About the process and the methods by which a decision is made.
 - The person impacted is informed on the process and criteria, involved as much as possible, and has real opportunity to provide relevant input.
 - The regulator is thorough and thoughtfully review all relevant and credible elements.
 - The regulator is compliant with procedures, policies and methods.
 - The regulator is impartial.
 - The decision is transparent and communicated with meaningful explanation understandable by the person impacted.
 - An efficient recourse is offered.

2. Substantive fairness

- About the decision being legal and reasonable.
 - The decision is according with the legal parameters.
 - The decision must be reasonable, and the reasoning behind it must be understandable to the person impacted.
 - The decision does not discriminate against the person impacted on prohibited grounds (i.e. human rights).

3. Relational fairness

- About the way the person is treated and his/her perception of the registration process and the decision.
 - Look beyond the process and the methodology.
 - Being considerate.
 - Being courteous, timely, clear, and direct in communication.
 - What is and what is not.
 - What we can do and what we cannot.
 - Confidentiality.
 - Admit error or misunderstanding, apologise, and correct.

Fairness in real life

- Fairness is not always easy or obvious.
 - Like an ethical discussion. Not a definitive and simple solution. Need to step back and think.
 - The situation tells the scope of a fairness issue, generates the rule and indicates the way forward.
 - Lessons learned, open discussion and feedback, sharing with colleagues pave the way for correcting a situation and improvements
 - The situation might reveal a limit or a flaw of the registration or assessment processes and their methods. It points to a need for improvement.



Thank you.

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