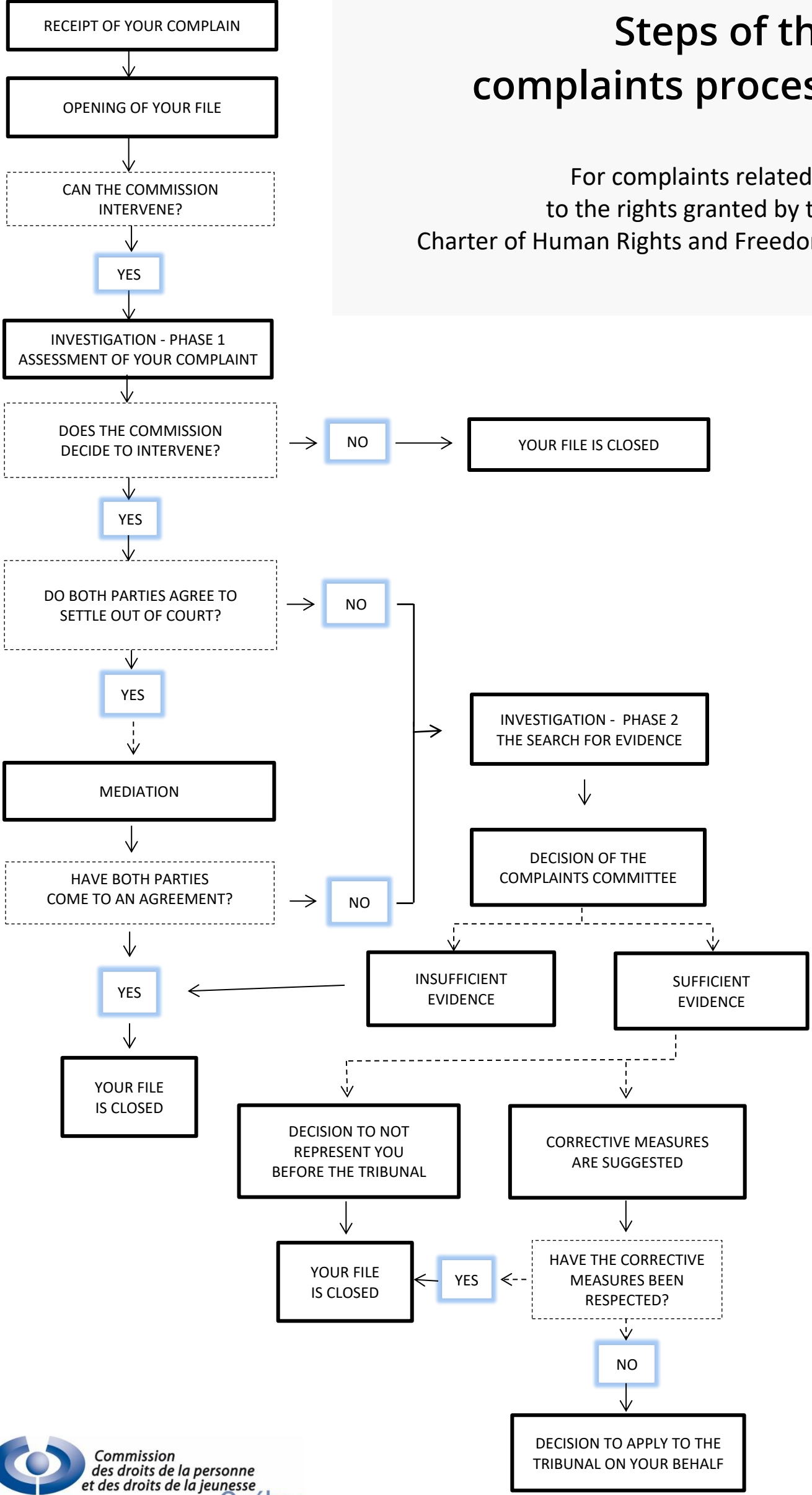


# Steps of the complaints process

For complaints related to the rights granted by the Charter of Human Rights and Freedoms



# Detailed information on the process

## RECEIPT OF YOUR COMPLAINT

We only receive your complaint if:

- it is sent to us in writing (letter, email or form)
- it is signed

**A complaint must be in writing and signed. If you are sending it by email, please attach a PDF document with your signature.**

You can contact us to find out how to make your complaint and how to send it to us, in writing (plainte@cdpdj.qc.ca) or by phone (1-800-361-6477).

## OPENING OF YOUR FILE

- A member of the Reception and Assessment Department will contact you to open your file. This person receives your complaint, collects the information, and determines whether, on the face of it, the Commission has the competence to intervene.
- If the Commission has the competence to intervene, your file is transferred to the first phase of the investigation (the evaluation).
- If the Commission does not have jurisdiction, your file is closed. You will be redirected to another agency that can help you (such as: the Commission des normes, de l'équité, de santé et de la sécurité au travail; the Régie du logement; a union, etc.)

## PHASE 1 OF THE INVESTIGATION: ASSESSMENT OF YOUR COMPLAINT

- A member of the Assessment Department will:
  - contact you to make sure that all the relevant information is included in your complaint.
  - notify the respondent that a complaint has been filed against him or her
  - enquire whether you and the respondent (both parties) are interested in resolving the issue amicably by mediation.
- If both parties agree to go to mediation, your file is transferred to a mediator. If one or both parties refuse mediation, the file is transferred to an investigator.
- The Commission may, for various reasons, decide not to intervene at this stage. For example, because another recourse was filed based on the same facts or the prescribed period for filing a complaint has expired, etc). Your file is then closed.

## **MEDIATION**

- Mediation only takes place if both parties have agreed to it.
- A mediator contacts both parties, and helps you find common ground.
- When the parties do find common ground, a memorandum of agreement is prepared and signed. Your file is then closed.
- If the parties cannot find common ground, the file is transferred to an investigator.
- The parties may request that the case be settled amicably through mediation at any time during the process, even an investigation is under way.

## **PHASE 2 OF THE INVESTIGATION: THE SEARCH FOR EVIDENCE**

- This phase of the investigation only takes place if one or both parties do not wish to go to mediation OR if you were not able to find common ground during mediation.
- An investigator collects the evidence (such as: testimonies, documents, and reports). The purpose of its investigation is to verify if your complaint is supported by sufficient evidence.
- The parties may request that the case be settled amicably through mediation even when an investigation is under way.

## **DECISION OF THE COMPLAINTS COMMITTEE**

- The findings of the investigation are submitted to the Complaints Committee made up of three members.
- The Committee assesses whether there is sufficient evidence to support your complaint and makes a decision on your file.

## **INSUFFICIENT EVIDENCE: DECISION TO CLOSE YOUR FILE**

- If the Complaints Committee believes that there is insufficient evidence to support the complaint, your file is closed.
- The Commission explains the reasons for this decision to the parties in a resolution.
- Even if the Commission closes your file, you can choose to bring the case before a civil court (Small Claims Court, Court of Québec or the Superior Court) at your own expense. You have 90 days to file this action. This period (called “prescription”) begins at the date you receive the Commission's notice of closure of your file.

## **SUFFICIENT EVIDENCE: CORRECTIVE MEASURES ARE SUGGESTED**

- If the Complaints Committee believes that there is sufficient evidence to support the complaint, it may recommend corrective measures to the respondent. For example, reinstate an employee, order that a person attend an anti-discrimination awareness program, or recommend material, moral and punitive damages.
- The respondent is given a specified period of time in order to implement corrective measures.
- If the respondent complies with the corrective measures, your file is closed.
- If the respondent does not comply with the corrective measures, the Complaints Committee may mandate the Commission to apply to a court on your behalf to seek appropriate measures.

## **SUFFICIENT EVIDENCE: DECISION TO APPLY TO THE TRIBUNAL ON YOUR BEHALF**

- If the respondent does not comply with the corrective measures, the Commission applies to the Human Rights Tribunal on your behalf to seek appropriate measures.
- A Commission lawyer represents you before the court. Legal representation is free of charge.

## **SUFFICIENT EVIDENCE: DECISION TO NOT REPRESENT YOU BEFORE THE TRIBUNAL**

- The Complaints Committee may exercise its discretion not to refer the case to a tribunal even if there is sufficient evidence to support your complaint. For example, if the issue does not raise any complex legal or factual questions, and the parties are able to represent themselves before the tribunal
- Each file is assessed according to the circumstances of the case.
- The Commission provides the reasons for this decision to the parties in the form of a written resolution.
- Even if the Commission closes your file, you can choose to bring the case before the Human Rights Tribunal at your own expense. You have 90 days to file this action. This period (called “prescription”) begins at the date you receive the Commission's notice of closure of your file.

This information, in force on September 5, 2019, is available in a format accessible on the Commission's website: [www.cdpcj.qc.ca/en/droits-de-la-personne/defendre-vos-droits/Pages/plainte-traitement.aspx](http://www.cdpcj.qc.ca/en/droits-de-la-personne/defendre-vos-droits/Pages/plainte-traitement.aspx)