

*Le Président*  
The President

Koen Lenaerts  
President of the Court of Justice of the  
European Union  
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*Copy to:*

Marc van der Woude, President of the  
General Court  
Alfredo Calot Escobar, Registrar, Court of  
Justice of the European Union  
Emmanuel Coulon, Registrar, General  
Court  
Marc-André Gaudissart, Deputy Registrar,  
Court of Justice of the European Union

Brussels, 1<sup>st</sup> April 2022

**Re: Preliminary observations - future changes to the Rules of Procedure of the General Court, the development towards an “Integrated Case Management System” (SIGA) and the access to the web streaming of important cases of the Court**

Dear President,

The CCBE would like to thank you for the opportunity to provide some observations in the context of future changes to the Rules of Procedure (RoP) of the General Court with regard to the organisation of hearings by video conference. We understand that a proposal for revision of the RoP has been prepared by the General Court and was sent to the Court of Justice.

We wish to contribute to the discussion, in the present instance, by providing some general observations, as the CCBE has not had the opportunity to consider the draft text of the proposed changes.

We also take this opportunity to share the CCBE's views on other pending procedural changes and matters of interest.

1. Future changes to the Rules of Procedure of the General Court

(a) The use of videoconferencing for online hearings

The CCBE attaches great importance to the proper functioning of a judicial system in which the quality of hearings is an important component. We consider that the recourse to videoconferencing during the pandemic was very opportune, as it avoided possible backlogs and enabled the continuity of justice. We have seen that parties and judges have reached a common understanding and made exceptional efforts to ensure the delivery of justice in such challenging times. In addition, practitioners learned many valuable lessons from this experience.

**Conseil des barreaux européens – Council of Bars and Law Societies of Europe**

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Nevertheless, we believe that it is important to establish clear rules on the use of such videoconferencing tools, in particular as regards the question when online hearings can be held.<sup>1</sup> We are convinced in person hearings should always be the default procedure, such that the organisation of online hearings is only considered if justified by exceptional circumstances. These circumstances would need to be specified and recourse to the use of videoconferencing should facilitate the interests of the parties.

Regarding online hearings, the need to respect the equality of arms should always remain the priority. Therefore, the CCBE considers that, if one party objects to a proposal for an online hearing, this party should be allowed to appear in person (a hybrid hearing could be organised for those who agree to an online hearing and those who will appear in person).

(b) The question of anonymisation (and protection of personal data of natural persons)

This topic was not directly dealt with during our meeting of 8 November. However, considering that this question might be subject to further evolution in the current proposal for the RoP of the General Court, we believe it may be useful to make the following comments on this topic at this stage.

The experts of the PD Lux Committee have noticed an increased trend – in proceedings before both the Court of Justice and the General Court – towards full anonymization of the names of the parties, without there being an explicit request for anonymization from the parties themselves or by the national referring court (in the case of preliminary ruling proceedings)

We noted the Communication of the Court of Justice in this regard, which indicates that since 2018, the Court has chosen to make greater use of this own-motion power by ensuring that the names of the individuals mentioned in preliminary rulings cases are replaced by random initials in all publications.<sup>2</sup> Derogations can be granted in the event of an express request from a party.

We believe that, in cases in which the applicants are natural persons, the rule should be revised: the anonymization should be a result of a request coming from a party to the proceedings. The opposite approach of the Court would establish *de facto* a default rule for anonymity, which raises some questions as to whether this approach towards granting anonymity without a request is too excessive.

2. The development towards an “Integrated Case Management System” (SIGA)

As previously communicated, the CCBE sees great benefit in developing the e-Curia application into a full electronic case docket system and we were pleased to learn more

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<sup>1</sup> During the period when video conferencing tools were being used by several judicial authorities across Europe, the CCBE adopted the [CCBE Guidance on the use of remote working tools by lawyers and remote court proceedings \(27/11/2020\)](#) + [Annex: Analyses of videoconferencing tools](#). The CCBE also actively took part in the work of the CEPEJ (Council of Europe), which in June 2021 led to the adoption of the [Guidelines on videoconferencing in judicial proceedings](#). We very much supported this work as it emphasises fundamental principles and necessary requirements for holding a remote hearing in respect of fair trial principles (see in particular pages 8-11), while also addressing technical aspects which should not be overlooked (see part II).

<sup>2</sup> "[The protection of personal data in connection with publications relating to judicial proceedings before the Court of Justice](#)".

about the progress made towards the future SIGA. From our meeting of 8 November 2021 with the General Court, we understand that views from practitioners would be welcome in order to ensure that this project develops in the right direction. The experts of the PD Lux Committee have been reflecting on what could be beneficial in such a system. As practitioners will be completely integrated into the system as actors in the lifecycle of the case, we would like to propose the following:

- The system should provide access to: (i) all the procedural documents (including e.g. administrative letters sent by the Registry to the parties and their responses) (ii) all relevant information about the developments of the case, and (iii) the file's documents for all parties involved.
- Additionally, greater transparency should be ensured by providing further information about the case, i.e. the calendar of procedures, composition of the chamber and names of the sitting judges, foreseen scheduled time of the hearing (approximately, in quarter/week), appointment of the Judge-rapporteur etc.

We would be delighted to provide more concrete input at a more opportune moment, as we understand that this project is still at an early stage.

### 3. Access to the web streaming of important cases of the Court of Justice

The CCBE would like to take the opportunity to reiterate its support for this evolution which favours greater transparency and accessibility of important cases before the Court of Justice. We would therefore be keen to assist and support this initiative in any manner which you believe would be helpful.

We would also like to use this occasion to reiterate our wish to have an offline facility to access audio files of hearings in the language in which they are held (i.e. no interpretation would be required). We believe this would contribute towards bringing the Court closer to European citizens, while also offering training support for practitioners, e.g in the preparation of their hearings.

We hope the above comments are of assistance and, regarding the future changes to the Rules of Procedure of the General Court, we would very much appreciate an opportunity to consult the draft text of the proposed changes whenever this is possible, as this would provide the CCBE with the opportunity to make further comments.

The image shows two handwritten signatures. The signature on the left is "James" and the signature on the right is "Michael Jones". Both signatures are written in blue ink on a white background.

James MacGuill  
CCBE President