

DECREE OF THE REGENT OF AUGUST 23, 1948 DETERMINING THE PROCEDURE BEFORE THE ADMINISTRATIVE LITIGATION SECTION OF THE COUNCIL OF STATE

“Art. 85bis. *§ 1er.* The electronic procedure is used in all cases where a party has recourse thereto for pleadings that are filed before the disclosure of the file to a member of the Auditor’s office for the drafting of the report.

When the electronic procedure is used, notwithstanding Articles 14quater and 14quinquies, 84, 85, 86 and 87, it shall be in accordance with the provisions of this article.

§ 2. For the purpose of this decree, the following terms refer to:

1° user: any person who is involved in an electronic procedure;

2° registered user: any person who has registered on the website of the Council of State;

3° file manager: the registered user responsible for a particular file;

4° appointed agent: the person who has been appointed by the file manager to access the files that he manages and, if necessary, to file documents.

§ 3. The use of electronic procedure firstly requires the user to be registered on the Council of State website. This registration is free.

The registration and use of the electronic procedure requires the user to log in by means of an electronic identity card issued in Belgium and specify his or her email address.

At the first login, the registration applicant completes his or her profile by filling in the online form provided for this.

Registered users can give third-parties access to the electronic procedures in which they intervene by granting certain powers to third-parties.

The powers may be modified or revoked by the file manager at any moment.

The detailed procedures for registering and granting, transferring, modifying or revoking powers, updating the profile and transferring the function of the file manager are indicated on the website.

Any file manager may transfer this function to another person registered in accordance with paragraph 4, following the directions provided on the website. If the file manager who loses this function is not able to carry out the transfer thereof to another person, or unjustifiably refuses to do so, the Registry, with a reasoned request, may act as a substitute; in case of dispute, the Chamber President settles it by order.

§ 4. The choice of electronic procedure is, in the context of the case concerned, final for a file manager who has made it, upon the filing of a pleading in this form. The manager will not be able to validly file the other pleadings using any other method.

§ 5. Every pleading filed on the Council of State website is deemed to be the original of that pleading.

Unless it is electronically signed, any pleading is deemed to be signed in accordance with Article 1 by the registered user who filed it. If the signature of several individuals is required, these signatures are affixed electronically on the pleading.

Any memorandum or document relating to any listed case can be filed on the electronic file provided for the applicants, opposing parties and intervening parties, by indicating the roll number of the case.

§ 6. A pleading is considered to be introduced when it is filed on the website. The filing date is indicated in the electronic file.

§ 7. To file a statement of claim by which a new appeal is lodged, the file manager or his appointed agent logs in to the website and follows the directions given on it. He specifies in particular the nature and language of the main proceedings in the locations provided for this purpose and adds the statement of claim and any annexes thereto, in one of the formats listed on the website.

Documents that cannot be easily converted into one of these formats are sent by registered post within three business days from the filing of the statement of claim.

The statement of claim is introduced by its filing on the website. A temporary identification code is automatically assigned and sent to the file manager.

The statement of claim and the annexes may be added or removed until the expiration of the appeal period and the case in question is awaiting the roll number.

§ 8. If the request is not listed, the letter referred to in Article 3bis, paragraph 2, is sent by email to the file manager.

§ 9. After checking the conditions laid down in Article 3bis, the registry opens an electronic file on the website and assigns it the roll number by which the case will now be identified. From that moment, none of the documents filed may be withdrawn or modified.

§ 10. Upon the notification by post of the statement of claim to the opposing parties and the third parties involved, the registry provides them with a single-use alphanumeric key that allows them access to the electronic case file.

Upon the notification by post of the memorandum in response to an applicant that has not filed its statement of claim in electronic form, the registry provides it with a single-use alphanumeric key that allows them access to the electronic case file.

The third-parties involved that have not been notified by the registry and that request for intervention in a case shall make themselves known to the registry, which provides them a single-use alphanumeric key allowing them access to the electronic file of this case.

This key can be used only by a person who is registered in accordance with paragraph 4. The person who uses this key thereby becomes the file manager on behalf of the party concerned. This function is valid during the limited time for filing a pleading, and it will be forfeited if the pleading is filed electronically.

§ 11. With regard to the parties for which there is no recourse to the electronic procedure, as well as for the documents that cannot be easily converted into an electronic format, it is necessary to comply with Article 84; the procedural documents must not be accompanied by copies. The documents that can be easily converted into electronic documents are converted by the registry and placed in the electronic file. Their date corresponds to that of the communication by registered post.

The inventory of documents attached to a pleading indicates whether these documents are filed in the electronic record or if they are sent to the registry in another format.

§ 12. The parties have access to all the documents filed in the electronic record, except those for which a request for confidentiality has been made under Article 87, § 2.

These documents are only viewed by the party that filed them or by the party that has requested confidentiality. If the request for confidentiality is rejected by judgment, the document is made available to other parties.

The documents for which a request for confidentiality is made can always be sent to the registry in non-electronic form. They are never converted into an electronic format.

§ 13. The pleadings as well as the notices, notifications and summons are communicated by the Council of State by filing them in the electronic record. They are communicated to other persons in conformity with Article 84.

The file managers and their appointed agents are notified of this filing by email.

An electronic copy of the notifications sent to them is kept on the website.

The time period that these notifications is subject to begins when the document is viewed by the recipient for the first time, regardless of whether it is the file manager or one of his appointed agents. In case a document has not been read by its recipient within three working days from the communication by post, a reminder email is sent. In the event that the document is not viewed, it is deemed to have been notified at the end of the third working day that follows the sending of the reminder email.

The decrees are affixed with the electronic signature of the Chamber President and the Registrar and shall be notified in accordance with Article 36. The parties may provide the Registry with a copy thereof in accordance with Article 37.

§ 14. If the electronic procedure website of the Council of State is temporarily unavailable for more than an hour, any time period that expires on the day of this unavailability is automatically extended until the end of the working day following the day on which the unavailability occurred.

The periods for which the site was unavailable are indicated on the site.

In the event that the IT department of a party using electronic procedure is temporarily unavailable, any communication can be initiated to the Council of State by letter in accordance with Article 84 or by fax; only one copy of the statement of claims and memorandum must be sent. The communication indicates the unavailability. The party in question files the contents of the communication on the website as soon as possible.

§ 15. The electronic files are no longer accessible when the case is closed and archived."