

Bultheel Maïté

Van: VAN BALLEGOOIJ Wouter
Verzonden: donderdag 9 februari 2023 11:26
Aan: Haeverans Marie - E1
CC: ARSENE Maria; GANCHEV Georgi
Onderwerp: RE: 2023 Rule of Law Report - interactio link
Bijlagen: guidelines-for-remote-participants-dg-scic_en.pdf

Dear Marie,

Please find below the **link** and **guidelines** enclosed for our meeting on **16 February from 9h-12h15** (kick-off being 9h-9h15), with some guidance from the interpreters. It is very important for them to use Chrome as otherwise we will have problems with the system.

1) Interpretation of remote connections requires high-quality sound and a strong internet connection.

- Connect to the meeting from a **laptop** with an **Ethernet cable**
- Use an **external desktop microphone**.
- Do not share a microphone. **Each participant must have their own microphone**
- **Turn your microphone off** when you are not taking the floor

2) Interactio Links – the same links for both days

Please find the Interactio link below. Please note that these links **can only be used with Chrome**.

- Link for Active participants (option Waiting room): <https://ec.interactio.eu/hhma-jngu-dkrr>

Could you forward this to the participants from your side and tell us at which moment which participants will connect? For the moment we have planned:

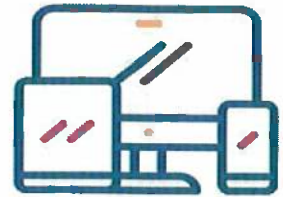
-Kick-off
-Ministry of Justice: 9h15-10h15
-Ministry of Interior: 10h15-11h15
-Media authorities/ experts: 11h15-12h15

Best wishes
Wouter

Dr Wouter van Ballegooij
Legal and Policy Officer
Unit C1 Rule of Law
European Commission, DG Justice

GUIDELINES FOR REMOTE PARTICIPANTS

How to connect




You will need the meeting link sent by the organiser.

On Windows, MacOS and Android, use Google Chrome (preferably in incognito mode).

On iOS, use Safari.

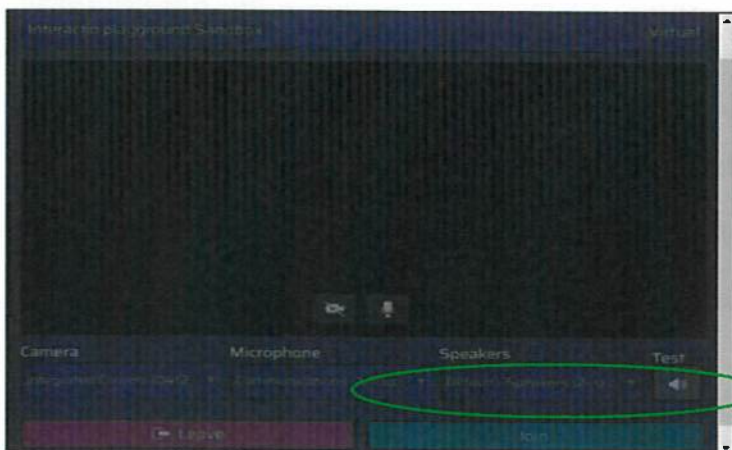
1. Open the link sent by the organiser: e.g. <https://panel.interactio.io/join/xxxxxx> Enter your email address, first name, last name and click on "Continue". During the meeting, you will be identified with the information you enter here:



Click on "**Allow**" to allow access to your microphone and camera.



2. Choose your peripherals (microphone, camera, loudspeaker) from the options displayed, and run a test/preview. Please use an external uni-directional microphone or a wired headset. Avoid smartphone earplugs or laptop integrated micro.



For a more complete test before the actual meeting, try the link:

<https://troubleshooter.interactio.io/>

It will verify the overall status of network and devices.

3. Click on "Join" to join the meeting. You are now connected.

During the meeting

Make sure you select the right meeting devices while connecting:

If you need to change your devices after you have connected to the meeting, you can do so by clicking on the button **SETTINGS** at the top left of the page.



You can select your preferred camera, microphone and speaker from the list.

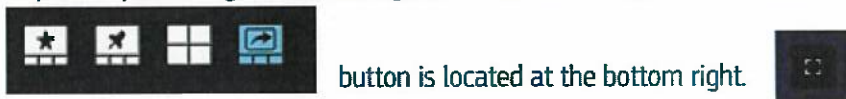
After selecting your preferred device(s), you may need to **refresh** the page for the changes to take effect.

The meeting manager is able to detect your devices; if problems arise (s)he may suggest changing your devices remotely.

Set the meeting video layout (optional):

At the beginning of the meeting, the Meeting Manager may advise you about the options for the active videos layout. In the lower left corner, three buttons define how the video feeds from the meeting will be displayed on your screen. You can choose between the "Speaking Participant" layout, the "Pinned Participant" layout and the "Mosaic" layout. If you are presenting at the meeting, the "Presentation" layout becomes active by default.

The full screen button is located at the bottom right.



Select meeting language:

Select your preferred language for the meeting from the button on the **bottom left** of the screen. You can choose between the original language (Floor) and the various languages for which interpretation is provided (EN, FR, DE ...).



During the meeting - if you wish to speak or chat

- Click on  to let the Meeting Manager know that you would like to take the floor.

- Make sure that you have selected the correct microphone (from the **SETTINGS** button).



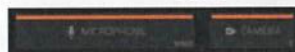
- The **MICROPHONE** and **CAMERA** buttons control whether your audio and/or video are activated:



When you are given the floor, **MICRO** and **CAMERA** buttons turn **blue**.




Click on **MICROPHONE** and the buttons turn **red**. **You can now speak and you are visible!**



- For the benefit of the other participants and the interpreters, keep your camera activated (**red**) while you have the floor.

If there are any technical issues with your picture or sound the meeting manager will ask you to turn your camera off or will do so remotely. When you have finished speaking, click on **MICROPHONE** again to mute your microphone (**blue**).

- In order to convey your message clearly to the other participants and to the interpreters, please speak at a natural pace, remembering to pause as you would normally do during a meeting in person, and avoid simply reading out texts. Repeat or clarify your main message if you experience any interference or if the connection cuts out.
- If the chat function has been enabled for your meeting, the 'Chat' button  on the top right will open a Chat box on the bottom right side of the screen. You can chat with all participants, or with a single participant of your choice. You can use the @ sign to address multiple participants.

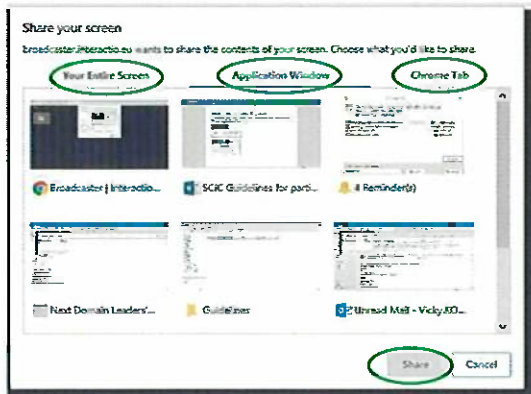
During the meeting - if you wish to present:

You need to have been given the floor, so the MICROPHONE button should already be red (see previous section).

Click on the 'PRESENT' button on top



On the window that opens, select from the various options and finish by clicking on Share.



If you have to present Powerpoint slides, do the following:

- First open the presentation
- Then follow the steps to present and select entire screen
- Then switch your presentation into slideshow mode

Interpretation

Please bear in mind that the quality of the transmission, and therefore of the interpretation, can be affected by noise, interference, or internet traffic. Interpretation is intended to facilitate communication and does not constitute an authentic record of the proceedings. The interpreters would like to advise that if at any moment the sound quality is insufficient for interpretation purposes, regrettably interpretation may need to be stopped.

Given potential problems arising from IT connections, the European Commission/DG SCIC cannot be held responsible for the accuracy of the interpretation services provided or for the technical problems related to said IT connections and their consequences.



Pillar III – Media Pluralism and Media Freedom

1. b) *At Federal level, stakeholders had complained about lacking a central point of access, too lengthy procedures and the fact that the Commission for Access to Administrative Documents (CTB) would act as a mere advisory body; the 2022 RoL Report had recommended to address these issues. Could you tell us if any steps have been taken in this respect?*

Only some stakeholders are complaining about the fact that the Commission for Access to and Reuse of Administrative documents, section freedom of information has no decision making powers but is only an advisory body. The Minister of the Interiors has asked already an advice to the Commission for her plans to reform the freedom of information legislation on the federal level in Belgium. From that advice it is clear that the attribution of decision power to the Commission is necessary a good solution. The expertise on the content of the documents is located with the administrative bodies and not in the Commission. The Commission has only expertise in freedom of information. Therefore the Commission advises the administrative body when the citizen introduces an administrative appeal procedure to have a sound decision. That advice is not without obligation. If the administrative body doesn't respect the advice of the Commission, it must give reasons why it doesn't respect that advice. Also on the European level with Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission there is also a somewhat similar approach with the confirmatory application. Also in that case it is the same institution that decides on the administrative appeal.

A change of the model would have big consequences: the responsibility moves from the administrative body to the Commission, the Commission needs to be strengthened, the Commission has to deal also with procedures before the Court without always assuring that the decision making is better. The Minister has the intention to reform the freedom information act in two phases: in the first phase she addresses some issues: broadening the personal scope of the law of 11 April 1994 and expanding active open government. The government will decide in a second phase what the other adjustments would be appropriate. The discussion is still going on within government.

The Minister of the Interiors is also preparing a reform of the Council of State towards a more solution-oriented approach. That could be also beneficial for the jurisdictional appeals in the cases of freedom of information.

1. c) *Also regarding the Federal level, we have received information that due to the temporary vacancy of the CTB no opinions would have been issued regarding requests made between 1 September 2021 and 29 June 2022. Could you confirm whether this is accurate and elaborate on this situation? Have you taken any measures to make sure such a situation does not happen again?*

Indeed, the mandate of the members of the former Commission was ended in June 2022. The Commission has worked temporary on base of the principle of continuity of public services till end of August 2022. Because the members of the Commission have a different

main job and, moreover, do not receive any remuneration for their contribution as a member, their commitment is limited until the period to which they have agreed when they accepted their mandate. It takes always some time for finding members for the Commission because the expertise on freedom of information demands for a specialised knowledge that is hard to find. The fact there was no Commission doesn't take away the possibility for the citizens to introduce an administrative appeal and when they don't agree with the new decision to go to the Council of State (Conseil d'Etat).

Pilier III – Pluralisme et liberté des médias

1. b) *Au niveau fédéral, les parties prenantes avaient déploré l'absence d'un point d'accès central, des procédures trop longues et le fait que la Commission d'accès aux documents administratifs (CADA) opère comme un simple organe consultatif ; le rapport 2022 sur l'état de droit avait recommandé de traiter ces questions. Pouvez-vous nous dire si des mesures ont été prises à cet égard ?*

Seules certaines parties prenantes déplorent le fait que la Commission d'accès aux et de réutilisation des documents administratifs, section freedom of information, n'ait pas de pouvoir décisionnel, mais soit seulement un organe consultatif. La ministre de l'Intérieur a déjà sollicité l'avis de la Commission sur ses projets de réforme de la législation relative à la liberté de l'information au niveau fédéral en Belgique. Il ressort clairement de cet avis que l'attribution d'un pouvoir décisionnel à la Commission n'est pas une solution adéquate. L'expertise concernant le contenu des documents relève des organes administratifs et non de la Commission. La Commission ne dispose que d'une expertise en matière de liberté d'information. C'est pourquoi la Commission conseille l'organe administratif lorsque le citoyen introduit une procédure de recours administratif afin d'obtenir une décision correcte. Cet avis n'est pas dénué d'obligation. Si l'organe administratif ne respecte pas l'avis de la Commission, il doit motiver sa décision. Au niveau européen, le Règlement (CE) n° 1049/2001 du Parlement européen et du Conseil du 30 mai 2001 relatif à l'accès du public aux documents du Parlement européen, du Conseil et de la Commission prévoit également une approche quelque peu similaire avec la demande confirmative. Dans ce cas également, c'est la même institution qui décide du recours administratif.

Un changement de modèle entraînerait des conséquences importantes : la responsabilité passe de l'organe administratif à la Commission, la Commission doit être renforcée, la Commission doit également se charger des procédures devant les tribunaux sans toujours garantir que la procédure décisionnelle soit meilleure. La ministre a l'intention de réformer la loi sur la liberté d'information en deux phases : dans la première phase, elle abordera certaines questions telles que l'élargissement du champ d'application personnel de la loi du 11 avril 1994 et l'extension de la publicité active de l'administration. Dans une deuxième phase, le gouvernement décidera des autres ajustements nécessaires. La discussion se poursuit au sein du gouvernement.

La ministre de l'Intérieur prépare également une réforme du Conseil d'État visant une approche davantage axée sur la recherche de solutions. Cela pourrait également être bénéfique pour les recours juridictionnels dans les affaires concernant la liberté d'information.

1. c) *Toujours au niveau fédéral, nous avons été informés qu'en raison de la vacance temporaire de la CADA, aucun avis n'aurait été émis concernant les demandes introduites entre le 1^{er} septembre 2021 et le 29 juin 2022. Pourriez-vous nous confirmer l'exactitude de cette information et nous donner des précisions sur cette situation ? Avez-vous pris des mesures pour éviter qu'une telle situation ne se reproduise ?*

En effet, le mandat des membres de la précédente Commission s'est achevé en juin 2022. La Commission a travaillé temporairement sur la base du principe de continuité des services publics jusqu'à la fin du mois d'août 2022. Comme les membres de la Commission ont une autre occupation principale et, en outre, ne reçoivent aucune rémunération pour leur contribution en tant que membre, leur engagement se limite à la période à laquelle ils ont consenti lorsqu'ils ont accepté leur mandat. Trouver des membres pour la Commission requiert toujours un certain temps parce que l'expertise sur la liberté d'information exige des connaissances spécialisées qui sont rares. Le fait qu'il n'y ait pas eu de Commission n'empêche nullement les citoyens d'introduire un recours administratif et de saisir le Conseil d'État s'ils ne sont pas d'accord avec la nouvelle décision.

Pillar III – Media Pluralism and Media Freedom

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Only some stakeholders are complaining about the fact that the Commission for Access to and Reuse of Administrative documents, section freedom of information has no decision making powers but is only an advisory body. The Minister of the Interiors has asked already an advice to the Commission for her plans to reform the freedom of information legislation on the federal level in Belgium. From that advice it is clear that the attribution of decision power to the Commission isn't necessary a good solution. The expertise on the content of the documents is located with the administrative bodies and not in the Commission. The Commission has only expertise in freedom of information. Therefore the Commission advises the administrative body when the citizen introduces an administrative appeal procedure to have a sound decision. That advice is not without obligation. If the administrative body doesn't respect the advice of the Commission, it must give reasons why it doesn't respect that advice. Also on the European level with Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission there is also a somewhat similar approach with the confirmatory application. Also in that case it is the same institution that decides on the administrative appeal.

A change of the model would have big consequences: the responsibility moves from the administrative body to the Commission, the Commission needs to be strengthened, the Commission has to deal also with procedures before the Court without always assuring that the decision making is better. The Minister has the intention to reform the freedom information act in two phases: in the first phase she addresses some issues: broadening the personal scope of the law of 11 April 1994 and expanding active open government. The government will decide in a second phase what the other adjustments would be appropriate. The discussion is still going on within government.

The Minister of the Interiors is also preparing a reform of the Council of State towards a more solution-oriented approach. That could be also beneficial for the jurisdictional appeals in the cases of freedom of information.

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Indeed, the mandate of the members of the former Commission was ended in June 2022. The Commission has worked temporary on base of the principle of continuity of public services till end of August 2022. Because the members of the Commission have a different

main job and, moreover, do not receive any remuneration for their contribution as a member, their commitment is limited until the period to which they have agreed when they accepted their mandate. It takes always some time for finding members for the Commission because the expertise on freedom of information demands for a specialised knowledge that is hard to find. The fact there was no Commission doesn't take away the possibility for the citizens to introduce an administrative appeal and when they don't agree with the new decision to go to the Council of State (Conseil d'Etat).

Pillar III – Media Pluralism and Media Freedom

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Only some stakeholders are complaining about the fact that the Commission for Access to and Reuse of Administrative documents, section freedom of information has no decision making powers but is only an advisory body. In the first half of 2021 there were introduced in Parliament two proposals to adjust the Law of 11 April 1994 regarding freedom of information. The Commission brought out two advices out of proper movement where she has a lot of remarks and also dealt with giving decision making powers to the Commission. She gives a more nuanced approach than in the past: giving decision powers to the Commission can only when certain conditions are fulfilled and it doesn't guarantee a better decision making on access to documents.

Also the minister of the Interiors has the intention to reform the Law of 11 April 1994. She has already asked an advice to the Commission for her reform plans. In that advice the Commission goes further in on the subject of the attribution of decision power to the Commission. She stresses that it is not necessarily a good solution. The expertise on the content of the documents is located with the administrative bodies and not in the Commission. The Commission has only expertise in freedom of information. Therefore the legislator chose for the solution that the Commission advises the administrative body when the citizen introduces an administrative appeal procedure to have a sound decision. That advice is not without obligation. If the administrative body doesn't respect the advice of the Commission, it must give reasons why it doesn't respect that advice. Also on the European level with Regulation (EC) No 1049/2001 of the European Parliament, Council and Commission of 30 May 2001 regarding public access to European Parliament, Council and Commission there is also a somewhat similar approach with the confirmatory application. Also in that case it is the same institution that decides on the administrative appeal. A change of the model would have big consequences: the responsibility moves from the administrative body to the Commission, the Commission needs to be strengthened, the Commission has to deal also with procedures before the Court without always assuring that the decision making is better. The Minister has the intention to reform the freedom information act in two phases: in the first phase she addresses some issues: broadening the personal scope of the law of 11 April 1994 and expanding active open government. The government will decide in a second phase what the other adjustments would be appropriate. The discussion is still going on within government.

The Minister of the Interiors is also preparing a reform of the Council of State towards a more solution-oriented approach. That could be also beneficial for the jurisdictional appeals in the cases of freedom of information.

The procedure is not lengthy. Compatible terms can be found in the freedom of information legislation of the Communities and of the Regions and when the period is shorter, the way of calculate of the term is different. In practice there is not real difference. The basic principle is as a matter of fact that the decision of the handover of the documents should be done as soon as possible.

1. c) Also regarding the Federal level, we have received information that due to the temporary vacancy of the CTB no opinions would have been issued regarding requests made between 1 September 2021 and 29 June 2022. Could you confirm whether this is accurate and elaborate on this situation? Have you taken any measures to make sure such a situation does not happen again?

Indeed, the mandate of the members of the former Commission was ended in June 2022. The Commission has worked temporary on base of the principle of continuity of public services till end of August 2022. Because the members of the Commission have a different main job and, moreover, do not receive any remuneration for their contribution as a member, their commitment is limited until the period to which they have agreed when they accepted their mandate. It takes always some time for finding members for the Commission because the expertise on freedom of information demands for a specialised knowledge that is hard to find. The fact there was no Commission doesn't take away the possibility for the citizens to introduce an administrative appeal and when they don't agree with the new decision to go to the Council of State (Conseil d'Etat).

A solution is not easily to find and finding members is always difficult.

Pilier III – Pluralisme et liberté des médias

1. b) *Au niveau fédéral, les parties prenantes avaient déploré l'absence d'un point d'accès central, des procédures trop longues et le fait que la Commission d'accès aux documents administratifs (CADA) opère comme un simple organe consultatif ; le rapport 2022 sur l'état de droit avait recommandé de traiter ces questions. Pouvez-vous nous dire si des mesures ont été prises à cet égard ?*

Seules certaines parties prenantes déplorent le fait que la Commission d'accès aux et de réutilisation des documents administratifs, section publicité de l'administration, n'ait pas de pouvoir décisionnel, mais soit seulement un organe consultatif. Au cours du premier semestre 2021, deux propositions visant à adapter la loi du 11 avril 1994 relative à la publicité de l'administration ont été soumises au Parlement. La Commission a émis deux avis de sa propre initiative, dans lesquels elle formule de nombreuses remarques et traite également de l'attribution de pouvoirs décisionnels à la Commission. Elle adopte une approche plus nuancée que par le passé : des pouvoirs décisionnels peuvent être confiés à la Commission uniquement lorsque certaines conditions sont remplies et que cela ne garantit pas une meilleure prise de décision en ce qui concerne l'accès aux documents.

La ministre de l'Intérieur a également l'intention de réformer la loi du 11 avril 1994. Elle a déjà sollicité l'avis de la Commission sur ses projets de réforme. Dans cet avis, la Commission approfondit la question de l'attribution d'un pouvoir décisionnel à la Commission. Elle souligne qu'il ne s'agit pas nécessairement d'une solution adéquate. L'expertise concernant le contenu des documents relève des organes administratifs et non de la Commission. La Commission ne dispose que d'une expertise en matière de liberté d'information. C'est pourquoi le législateur a opté pour la solution selon laquelle la Commission conseille l'organe administratif lorsque le citoyen introduit une procédure de recours administratif afin d'obtenir une décision correcte. Cet avis n'est pas dénué d'obligation. Si l'organe administratif ne respecte pas l'avis de la Commission, il doit motiver sa décision. Au niveau européen, le Règlement (CE) n° 1049/2001 du Parlement européen et du Conseil du 30 mai 2001 relatif à l'accès du public aux documents du Parlement européen, du Conseil et de la Commission prévoit également une approche quelque peu similaire avec la demande confirmative. Dans ce cas également, c'est la même institution qui décide du recours administratif.

Un changement de modèle entraînerait des conséquences importantes : la responsabilité passe de l'organe administratif à la Commission, la Commission doit être renforcée, la Commission doit également se charger des procédures devant les tribunaux sans toujours garantir que la procédure décisionnelle soit meilleure. La ministre a l'intention de réformer la loi sur la liberté d'information en deux phases : dans la première phase, elle abordera certaines questions telles que l'élargissement du champ d'application personnel de la loi du 11 avril 1994 et l'extension de la publicité active de l'administration. Dans une deuxième phase, le gouvernement décidera des autres ajustements nécessaires. La discussion se poursuit au sein du gouvernement.

La ministre de l'Intérieur prépare également une réforme du Conseil d'État visant une approche davantage axée sur la recherche de solutions. Cela pourrait également être bénéfique pour les recours juridictionnels dans les affaires concernant la liberté d'information.

La procédure n'est pas longue. On trouve des délais compatibles dans la législation sur la liberté d'information des Communautés et des Régions et, lorsque la période est plus courte, le mode de calcul du délai est différent. Dans la pratique, il n'y a pas de réelle différence. Le principe de base est que la décision visant à remettre des documents doit être prise le plus rapidement possible.

1. c) Toujours au niveau fédéral, nous avons été informés qu'en raison de la vacance temporaire de la CADA, aucun avis n'aurait été émis concernant les demandes introduites entre le 1er septembre 2021 et le 29 juin 2022. Pourriez-vous nous confirmer l'exactitude de cette information et nous donner des précisions sur cette situation ? Avez-vous pris des mesures pour éviter qu'une telle situation ne se reproduise ?

En effet, le mandat des membres de la précédente Commission s'est achevé en juin 2022. La Commission a travaillé temporairement sur la base du principe de continuité des services publics jusqu'à la fin du mois d'août 2022. Comme les membres de la Commission ont une autre occupation principale et, en outre, ne reçoivent aucune rémunération pour leur contribution en tant que membre, leur engagement se limite à la période à laquelle ils ont consenti lorsqu'ils ont accepté leur mandat. Trouver des membres pour la Commission requiert toujours un certain temps parce que l'expertise sur la liberté d'information exige des connaissances spécialisées qui sont rares. Le fait qu'il n'y ait pas eu de Commission n'empêche nullement les citoyens d'introduire un recours administratif et de saisir le Conseil d'État s'ils ne sont pas d'accord avec la nouvelle décision.

La solution n'est pas simple et il est toujours difficile de trouver des membres.