

Institutional guidelines for the use of information technology during hearings and the broadcast of audio recordings of the Tribunal administratif du Québec

1. Object

The object of these institutional guidelines is to ensure the quality, promptness and accessibility of administrative justice and to protect the rights of the parties to be heard.

Hearings are public, unless they are ordered to be held *in camera*. To ensure their orderly conduct, these institutional guidelines seek to provide a framework for the use of electronic devices during the hearing. They also seek to ban the broadcast of audio recordings of a hearing.

2. Definitions

The expression “electronic device” used in these institutional guidelines should be interpreted broadly and inclusively. It refers to any device that facilitates the exchange of information, data or documents, or that may be used to access digital media. It includes cellular telephones, smartwatches, electronic tablets, laptop computers, cameras and video recording devices and any similar devices that have one or several of the functions referred to in these institutional guidelines.

The term “hearing” refers to any adjudicative activity whether it takes place in a courtroom, or any other room used for such activities.

The term “audio recording” refers to the authorized recording of a hearing or a copy of the recording of a hearing obtained by request addressed to the Tribunal administratif du Québec (Tribunal).

3. Scope of application

These institutional guidelines apply to any person who is present at or participates in a hearing of the Tribunal, including those conducted in whole or in part by video hearing.

They also apply to anyone in possession of the audio recording of a hearing of the Tribunal.

4. Use of electronic devices during hearings

4.1. General rule

All persons at the hearing must behave with dignity and respect toward justice. They must refrain from doing anything that could disrupt the hearing¹.

Except for persons who require an electronic device or services that use such devices because of a disability, and cases authorized by these institutional guidelines or with the Tribunal’s authorization, the use of electronic devices during hearings is prohibited.

Thus, it is always prohibited to:

- use an electronic device in a manner that disturbs the good order or conduct of a hearing or obstructs the course of justice;
- make or answer a telephone call;
- take photographs in the courtroom;

¹ *Rules of procedure of the Tribunal administratif du Québec*, CQLR, chapter J-3, r.3, s. 30; as of February 11th 2020: *Regulation respecting the procedure of the Tribunal administratif du Québec*, CQLR, chapter J-3, r. 3.01, s. 35.

- make any audio or video recordings of the hearing;
- hold a conversation or otherwise communicate using such device.

4.2. Exceptions

4.2.1. Witnesses

A witness may, with the Tribunal's authorization, use an electronic device in support of his testimony.

4.2.2. Counsel, parties, and journalists

So long as it does not affect the good order or conduct of a hearing or obstruct the course of justice, and complies with all orders in effect, counsel, the parties to the case and journalists holding a press card may:

- keep on hand their electronic device on vibration mode or mute;
- use an electronic device for the purposes of a file, in particular to prepare or consult notes, an agenda, literature, legislation or case law;
- use an electronic device to distribute or share remarks, information and notes.

5. Broadcast of an audio hearing

The broadcast of parts or all the audio recording of a hearing is prohibited in order to maintain the fair administration of justice, the serenity of hearings and decorum².

6. Hearing management

The administrative judges have full authority over the conduct of the hearing³. They have discretion to make decisions regarding the use of electronic devices to ensure the orderly conduct of the hearing.

They may:

- allow, on request, the use of an electronic device that is otherwise prohibited by these institutional guidelines;
- require a person to turn off their electronic device or put it on vibration mode;
- require a person to leave their electronic device outside the courtroom.

If the person fails to cooperate, he may be asked to leave the courtroom.

January 23rd, 2020

² *Id.* ; see also *Canadian Broadcasting Corp. v. Canada (Attorney General)*, 2011 SCC 2, in which the Supreme Court confirms the validity of similar rules by stating in paragraph 76 that " it was [...] reasonable to expect that the measures would have a positive effect on the maintenance of the fair administration of justice by fostering the serenity of hearings and decorum and by helping to reduce, as much as possible, the nervousness and anxiety that people naturally feel when called to testify in court."

³ *An Act respecting administrative justice*, CQLR, chapter J-3, s. 11.