

## **INSTITUTIONAL GUIDELINES FOR THE DETERMINATION AND MODIFICATION OF THE MODE OF PARTICIPATION IN AN ADJUDICATIVE ACTIVITY**

### **1. OBJECTIVES**

These institutional guidelines are intended to provide the Tribunal with a framework to determine the mode of participation in an adjudicative activity (hearing, conciliation session, case management conference, etc.), whether through technological means, in-person attendance, or a combination of the two.

They are also intended to provide a framework for requests to modify, in whole or in part, the mode of participation in an adjudicative activity.

However, the main criteria remain the quality, promptness, and accessibility of administrative justice, as well as the safeguard of the rights of the parties to be heard.

### **2. SCOPE OF APPLICATION**

These institutional guidelines apply only to the [Section des affaires sociales](#).

They do not apply to the adjudicative activities of the Section des affaires immobilières, the Section du territoire et de l'environnement, the Section des affaires économiques, or to those of the Division de la santé mentale (regarding cases related to the Commission d'examen des troubles mentaux and the *Act respecting the protection of persons whose mental state presents a danger to themselves or to others*).

### **3. DETERMINATION OF THE MODE OF PARTICIPATION**

The Tribunal has the inherent power to control its own procedure. To determine the mode of participation in an adjudicative activity, the Tribunal considers, in particular, the following criteria:

- The number of related files;
- The complexity of the elements contested;
- The anticipated number of witnesses;
- The expected duration of the adjudicative activity;
- The type of testimony and the required travel time;
- The number or format of the exhibits presented;
- The need to use the services of an interpreter;
- The fact that one of the parties cannot attend court in person;
- The technological means available and mastered by the parties;
- The urgent nature of the file;
- Any other element deemed relevant by the Tribunal.

The mode of participation in an adjudicative activity is determined by the Tribunal when planning the hearing schedule or by an administrative judge in the exercise of his or her functions.

The mode of participation is not determined solely by the parties' consent.

When required by the circumstances, the Tribunal may determine on its own initiative another mode of participation for an adjudicative activity.

The Tribunal may also determine the types of proceedings that may be more suitable for one mode of participation or another and provide the rules it deems appropriate in this regard.

#### **4. REQUEST TO MODIFY, IN WHOLE OR IN PART, THE MODE OF PARTICIPATION IN AN ADJUDICATIVE ACTIVITY**

##### **4.1 CRITERIA AND TIME LIMIT**

In addition to the criteria listed in section 3, the Tribunal will decide the request by taking into account the nature of the file, the reasons invoked, the feasibility of the request considering the available technological environment, the parties' diligence, and the potential prejudice to the parties if no accommodation is made. To grant the request, the Tribunal must find that the ends of justice would be better served.

A request to modify the mode of participation in an adjudicative activity must be made as soon as possible and **no later than 15 days before the date** of the adjudicative activity.

A party that makes a request to modify the mode of participation in an adjudicative activity less than 15 days before the scheduled date must, in addition to the criteria set out above, present a serious reason explaining why they were not able to make the request sooner.

The Tribunal assesses the request to modify the mode of participation based on the criteria set out above but must also be convinced of the seriousness of the reasons submitted for the late filing of the request.

A request may be refused solely because it is late.

##### **4.2 PRESENTATION OF THE REQUEST**

Any request to modify, in whole or in part, the mode of participation in an adjudicative activity must be sent to the [Secrétariat du Tribunal](#) in writing and as soon as possible once the date of the adjudicative activity has been set.

The request must include the following information:

- The names of the parties and all the file numbers concerned by the request;
- The family name and given name of the party presenting the request or of any other participant concerned by the request (such as a witness or an

expert, for example) and their contact information (civic address, telephone number, and email address);

- The reasons for the request;
- Whether the other parties consent or object to the request, if this information is available.

Unless there is an emergency, a copy of the request must be sent in advance to the other parties to obtain their input, if any.

### **4.3 DECISION**

Once the duly completed request is received by the Secrétariat, it is submitted to the vice-president of the Section des affaires sociales or to the administrative judges assigned to the case, depending on when the request was made.

The Tribunal may refuse or accept the request, in whole or in part. It may also impose any conditions it deems necessary for the orderly conduct of the adjudicative activity.

The Tribunal may also refuse any incomplete request without further notice or delay.

The Tribunal then informs all parties involved of the decision.

Until the Tribunal sends its decision, the mode of participation remains the one specified in the notice of hearing.

If the request is refused, the parties must appear according to the mode determined and at the time indicated in the notice of hearing.