

PRESS RELEASE

Conseil d'État tests spoken dialogue prior to hearings

From now on and for an 18-month period, the most complex and sensitive cases may be enhanced by a spoken dialogue between the judges and the parties, prior to the trial hearing. While until now the procedure has been conducted in writing, the addition of spoken dialogue should enable judges to get as close as possible to the actual situation in order to render the fairest and most pragmatic decisions. Inspired by the cases dealt with under urgent proceedings ("urgent applications"), this initiative launched today will begin in early 2021 with the first trials.

In the Conseil d'État as well as before the administrative courts, the investigation of cases is usually conducted in writing. The adversarial proceedings take place by means of exchanges of statements in which the parties put forward their arguments. At the end of this written procedure, the judgment hearing is held during which the public rapporteur summarises the parties' arguments and sets out the proposed solution to the dispute.

With a view to continuously improving its procedures, the Conseil d'État is going to add *"a measure of spoken dialogue between the parties and the judges prior to the hearings in order to get a better grasp of the situation in cases that require it"*, as Jean-Denis Combrexelle, President of the Litigation Section, states.

Drawing inspiration from urgent proceedings

Spoken dialogue has already been developed at the Conseil d'État in the context of "urgent applications", which are decisions made as a matter of urgency and allow for the introduction of provisional measures by the judge. After a short written instruction in view of the urgency, a hearing is organised where the judge directly questions the parties who argue against each other, before giving his decision.

These hearings – and in particular those held since the beginning of the health crisis – *"have demonstrated the advantages of spoken dialogue to better grasp the complexity of the situations and render the fairest, most relevant and most applicable decision in reality"*, in the words of the Vice-President, Bruno Lasserre.

Adjudicating more effectively by encouraging dialogue

Without calling into question the written nature and organisation of the proceedings, the Conseil d'État will thus test, for an 18-month period, direct exchanges with the parties prior to the trial hearings for certain relevant cases. This new approach is governed by [Decree no. 2020-1404 of 18 November 2020](#). Sessions or even public hearings may be organised during which the parties can answer questions that the judges ask themselves and to which they cannot find answers in the

written statements of case. This will make it possible, in highly technical or sensitive cases, to clarify certain situations, obtain additional information and gain a better understanding of certain points or issues raised, before the trial hearing takes place.