

ANNEX IV: eNCC Rules

Article 1 Scope

1. These Rules apply to proceedings in the Netherlands Commercial Court (NCC), including the NCC District Court and the NCC Court of Appeal.
2. These Rules set out how the electronic data processing system “eNCC” works and what conditions apply, as referred to in the Digital Proceedings Decree (Stb. 2020, 410).

Article 2 Definitions

Except where provided otherwise, these definitions apply:

- a. Participant: a legal representative in proceedings before the NCC.
- b. Legal representative: a lawyer.
- c. Act of process: anything done by a lawyer in proceedings before the NCC under a statutory or other rule or directions given by the court.
- d. eNCC: the secure electronic environment allowing participants to access the part of the “DT” System which developed for use in NCC cases.
- e. Log-in tool: the lawyer’s card issued by the Dutch Bar Association.
- f. Identification number: identification linked to a log-in tool.
- g. Website: www.ncc.gov.nl.
- h. Electronic case file: the complete set of messages sent by participants and the NCC or its staff in a case.
- i. Case data: case registration data.
- j. Message: a digital envelope containing documents and other communication submitted in eNCC.
- k. DT System: the digital system developed by IVO Rechtspraak for electronic data processing under the Digital Proceedings Decree (the digital system).
- l. IVO Rechtspraak: the Dutch Judiciary’s IT organisation.
- m. Mijn Rechtspraak: the web portal allowing participants access to the DT System (the web portal).
- n. Document: an electronic file that a participant includes as an attachment to a message to NCC or that the NCC or its staff includes in a message to the parties.

Article 3 Access

- 3.1. Except where the law provides otherwise, a party may not act pro se, but must be represented by its lawyer who must be a member of the Dutch Bar.
- 3.2. A participant must use the electronic system in proceedings before NCC. To that end, a participant must use eNCC.
- 3.3. Every lawyer who has a log-in tool has access to eNCC.
- 3.4. To carry out an act of process in eNCC, a lawyer must have a log-in tool.

- 3.5. If a lawyer has an identification number recognised by NCC, the lawyer has access to the electronic case file in a pending case in which the lawyer is a participant, except where access is limited by or pursuant to a statutory rule, or under a rule of procedure or directions given by the court.
- 3.6. A lawyer who has access to eNCC has the responsibility to comply with the rules set by or pursuant to the General Data Protection Regulation (2016/679).
- 3.7. Lawyer's assistants have access to eNCC at any time the lawyer they assist has such access. Lawyer's assistants, using their log-in tool ("G-pas"), may access eNCC for any task that a lawyer may perform under the eNCC Rules.

Article 4 Use

- 4.1. A participant must take appropriate action to ensure that the participant's processes and systems are secure, so that the participant's use of the electronic system does not have any actual or potential adverse impact on, or result in any threat to, the electronic system's reliability, confidentiality, regular operation or availability, and does not create any risks of a security incident.
- 4.2. It is the participant's responsibility to enter data in the proper case.
- 4.3. All acts of process in eNCC must be done by a lawyer.
- 4.4. All messages and documents must be sent by a lawyer to NCC electronically in eNCC. Documents must be in PDF/A format.
- 4.5. Documents uploaded as **exhibits** must comply with this naming convention:

ABCD-EXHI-1234 [optional description of the contents] (four letters indicating the submitting party's name, dash, EXHI, dash, four numbers indicating the exhibit number, space, optional description of the contents).

For example, for the first exhibit for party AAAA, "AAAA-EXHI-0001 Main Agreement", or simply "AAAA-EXHI-0001" if the submitting party prefers not to include a description of the contents.

Other documents must comply with this naming convention: [yyyymmdd]
[ABCD] [type of document] [description of the contents].

For example, for party AAAA, "20230512 AAAA STMT Statement of Defence".

The four letters indicating the type of document may be:

BRIE for a brief

FWSU for a further written submission

MOTN for a motion

NOTC for a notice

STMT for statement; or

OTHR for another type of document.

Documents must comply with any additional technical requirements as published on www.ncc.gov.nl.

- 4.6. If the document relates to an **appeals case**, the letters “NCCA” need to be added to the type of document (see 4.5).

For example, for party AAAA, “20230512 AAAA STMT-NCCA Statement of Grounds for Appeal”.

A similar rule applies to exhibits submitted in appeal. The correct naming convention is: ABCD-EXHI-NCCA-1234 (four letters indicating the submitting party’s name, dash, EXHI, dash, NCCA, dash four numbers indicating the exhibit number).

- 4.7 Documents must be submitted by a lawyer in eNCC as separate electronic files. Exhibits may be submitted as

(a) separate digital files, submitted in such manner that they can be consulted in the order as numbered, or as

(b) a single digital file, provided this file is structured so that each exhibit can be properly and individually searched and it is clear where each exhibit begins and ends.

- 4.8. A lawyer can access case-related data, messages and documents in the electronic case file.
- 4.9. A lawyer can download messages and documents in eNCC.
- 4.10. Where a message has been received by the digital system, a number identifying the submission is notified to the submitter.
- 4.11. Where a case is referred to NCC, the documents a lawyer has submitted in eNCC will be displayed in the electronic case file. This also applies to the NCC District Court case file in a case before the NCC Court of Appeal. Where the court directs that it will request the clerk of the referring or the first instance court to grant access to the case file, instead of requiring the parties’ lawyers to do so, the court will notify the parties of this decision.

The electronic case file is accessible in eNCC for six months after the case is closed.

- 4.12.1 As a rule, eNCC will be accessible 24/7. However, IVO Rechtspraak is authorised to limit or interrupt the access to eNCC, where management, maintenance or other measures are needed to handle disruptions of the system and to guarantee its effective operation. In case of a possible security breach precautionary measures may be taken.

- 4.12.2 The participants are notified of the period that the availability of the system is guaranteed, the periode where the system is available but this is not guaranteed, and the period where the system is not available or only to a limited extent. The time periode of limited or no availability will generally be scheduled outside of the court's business hours.
- 4.12.3 IVO Rechtspraak will record any disruption of the digital system. The Judiciary's website (www.rechtspraak.nl) will show any and all current disruptions.
- 4.12.4 Where access to the digital system is interrupted on the last day of a time limit, for reasons not imputable to the submitting party, and where this interruption is not recorded on the Judiciary's website, the submitting party is required to prove that there was such an interruption. If necessary, IVO Rechtspraak will, on request of the court, conduct an investigation into the matter.