

2023 Questionnaire of the 1st Study Commission IAJ-UIM
“The Effects of Remote Work on the Judicial Workplace and the
Administration of Justice”

Questions:

1) Remote work of judges in your country

a. Were judges permitted to work remotely in your country prior to and/or during the COVID-19 pandemic? If yes, please give examples (for example, studying cases at home; discussing cases with colleagues via videoconference applications or the telephone instead of personal meetings; holding hearings online via videoconferencing applications; etc.). Was technical equipment made available to the judges to enable them to work remotely?

Equipping the courts with video conferencing equipment began before the Covid-19 pandemic. During the pandemic, the regulatory enactments determined that the court makes maximum use of the written process or examines cases remotely. When deciding on the organization of a court hearing, the court primarily uses video conference. Judges were allowed to work remotely, and judges gladly used it not only when examining cases in writing or via video conference, but also when familiarizing themselves with the case, preparing rulings, remotely connecting to working group meetings, conferences, seminars, communicating with colleagues from other courts and regions, etc.

Even before the pandemic, great emphasis was placed on the mobility of judges and court employees and the digitization of data, introducing both technical tools and equipment. Judges and court staff have been provided with laptops, remote work with increasing demand for a more mobile work environment has contributed to a faster progress of the transition. Courts and places of imprisonment have been equipped with video conferencing and sound recording equipment.

b. What is the status of remote work by judges in your country now? Do many judges still work remotely in your country, and to what extent? (for example, all or just a certain percentage of judges? Only in certain fields of law or for certain types of cases? Only in lower courts or higher courts? etc.)

Currently, the Law on the Management of the Spread of Covid-19 Infection is still in force, and determines that the civil or administrative case court may examine in the written procedure if the conformity with the procedural rights of the participants to the case can be ensured and the court has not deemed that it is necessary to try the case in a court hearing. Criminal cases transferred to a court in accordance with urgent procedures or for examination without the examination of evidence may be examined before a court of first instance in the written procedure. A criminal case may be tried in the written procedure in accordance with the appellate procedures also in cases not referred to in the Criminal Procedure Law.

On the other hand, if a court deems that it is necessary to try a case in a court hearing, video conferencing can be used, but participation of a person who is in a prison in court proceedings shall be primarily ensured by a videoconference.

Information from the court administration shows that video conferences are increasingly being used in court hearings. For judges, processing digital materials and using laptops in courtrooms has become everyday.

Judges still have the opportunity to work remotely and they gladly use it both when examining cases in a written process or using a video conference, as well as getting acquainted with the case, preparing rulings, remotely connecting to working group meetings, conferences, seminars, etc.

The opportunity to work remotely from time to time is more or less used by the majority of judges, regardless of the court instance or the type of cases under examination, but more so by the judges of the Supreme Court.

2) Effect on judicial work

a. Did remote work change judicial work in general for better or worse – or both – in your country? Please give examples.

The remote work made it possible to ensure the continuity of court work. Working in pandemic conditions facilitated the learning and use of remote work tools and various technologies, and showed that remote judicial work can be effective.

Postponing the adjudication of cases until the end of the emergency situation would unreasonably extend the deadlines for the consideration of cases, without settling disputes for a long time and violating the rights of the parties to a fair trial. The possibility to examine cases in a written process and remotely has contributed to the shortening of the deadlines for consideration of the case, reduced expenses for the attendance of the participants in the court session, and contributed to a more efficient use of court time.

Remote work has also facilitated electronic communication between the court and the parties involved.

b. Does the remote work of judges have an impact on the judicial workplace in your country? Negative, positive or both? Please give examples.

Judges mostly use the opportunity to work both at the workplace and remotely, so the impact of remote work on workplaces is currently not observed.

c. From your point of view, what future effects of remote work on the judicial workplace – negative, positive or both – can be expected?

At the moment, the effect of remote work on workplaces is not observed and is not planned, but the issue may be brought up as solutions for electronic cases develop.

3) Effects on the administration of justice

The organization of court work takes place remotely to the extent that it is compatible with the provision of court functions and of the judge's planned case review organization and court session format (in writing, remotely, etc.).

Judges should enjoy a well-organized working environment in order to be able to perform their judicial function without any hindrance, without bureaucratic and unreasonable demands.

a. What are the pros and cons of remote work on the administration of justice?

Remote work can have different variations, for example, you can work remotely in full or only partially.

Working remotely requires not only job skills, but also the ability to work independently, to take responsibility for the work process and results. But not everyone has the necessary skills to work remotely. Not everyone is immediately ready to work independently. In some cases, a gradual approach is more suitable for remote work, so that the employee learns the skills and the employer and employee can trust each other. The benefit is certainly time saving when going to and from work, meetings, seminars, meeting recordings, which allow you to know exactly what was discussed, if you need to clarify something or you were unable to participate, and also eliminates the need to prepare written protocols.

Shortcomings are related to various technical problems, such as the operation of the Internet, accessibility, people's skills in using technology, aspects of personal communication, as well as the costs of implementing new e-services.

The possibilities of remote work contribute to the continuity of court work, give the opportunity to receive information in a timely manner, to answer, to sign documents even without being at your place of work.

b. Does remote work have a positive or negative impact on the administration of justice in general in your country? Please give examples that include, but are not limited to, the quality of the administration of justice.

Digitization of court proceedings and case materials, electronic communication between the involved parties, courts and institutions, electronic transmission of documents and the use of video conferences have become integral elements of the work, making the process faster and more economical. Digitization of the judicial process provides faster and more convenient access to the court, opens up opportunities for more efficient processing and analysis of data.

The possibility to hold remote hearings has helped to reduce the deadlines for consideration of cases. However, for the future development of digital services, both the skills and education of the entire society and the competence of the judicial system employees are important.

c. Are you aware of the public's perceptions of remote work by judges? Please give examples of positive or negative perceptions.

The court work solutions and results introduced under the influence of the pandemic have changed the public's understanding of how the court should work. Remote work is a permanent trend, the advantages of which are often appreciated by the participants in the case, who ask to examine the case in video conference mode. The participants in the case acknowledge that the electronic circulation of documents, the decision of certain issues in a written process or remote court hearings facilitate and speed up both the performance of individual procedural actions and the court process as a whole, reduce cases of postponement of case consideration, save time and expenses.

At the same time, it is pointed out that not all participants in the case have sufficient digital skills and technical support, the ability to access digitized case materials, as well as technical problems when connecting to the court session remotely.

Also, part of the public feels that only by attending the court session in person is possible the best express one's opinion, be heard, exercise one's procedural rights, make sure of a uniform understanding of the presented evidence, etc.

d. What are the positive and/or negative effects of holding remote hearings/conferences?

A remote court hearing allows to save resources, shorten the time devoted to the preparation of the accused for the court hearing - convoying and guarding them during the court hearing, improve public safety, as well as the accessibility of the courts, in addition, significantly reduces participants in the case travel expenses and spent time. With the help of sound recordings, it is possible to improve the quality of the judicial process. The record is an objective, clear and precise protocol of the court hearing, and distrust of the judicial system is decreasing.

Facilitates the resolution of disputes related to the content of testimonies. The participants are more disciplined, more precisely follow the norms of the process, which facilitates the course of the trial. There is no need for the participants of the process to submit notes on the minutes of the court session and for the court to decide on their validity afterwards. The record is also used in appeals.

Recording the proceedings of the court session by technical means is essential for strengthening the rule of law and justice.

Potential technical problems, communication quality, background noise, the ability of the parties to the case to participate in the case review remotely, as well as certain procedural issues can be mentioned as shortcomings.

In addition to insufficient digital skills, participating in a remote court hearing can create additional stress and uncertainty for the litigant about the court process. Sometimes it can also be more difficult for the court to understand, for example, the accused's attitude towards what he has done, to decide on the most appropriate type and measure of punishment, to provide the person with the opportunity to communicate confidentially with a legal aid provider. If a decision is made to release a person in the courtroom during a video conference, it cannot be done immediately. It could also be difficult to reach a settlement during the remote court hearing.

The court process can be more difficult and longer if the participation of an interpreter is required, because the possibility of simultaneous translation is not provided.

Regarding remote conferences, during the pandemic, they allowed for the continuation of the exchange of opinions and experiences. Even now, it can be a good alternative in cases where participation in person is not possible for some reasons. At the same time, it should be recognized that remote participation in the conference limits the possibility of continuing discussions with other conference participants, making contacts and promoting cooperation.

4) Remote work and judicial independence

Do you see any positive or negative effects of remote work on judicial independence? If yes, please give examples.

The restrictions imposed during the pandemic created organizational and administrative restrictions that did not fundamentally affect the independence of the judiciary.

For example, ensuring the convoying of prisoners only in cases when an agreement thereupon has been received from the head of the institution or his or her authorized official, the possibility of considering the case in a written process or in videoconference mode.

The possibility to examine the case in a written process provided for in the legal norm is an option and not an obligation of the court, it should be evaluated in the context of alternative solutions, for example, examining the case in an oral process in the mode of video conference. Legal procedure provided for in the norm the court can apply but also may not apply. However, when choosing the type of written process, it must ensure respect for the rights of the persons involved in the process to a fair trial.

5) Limits on remote work for judges

a. Does your country place any limits on the remote work of judges (for example, limits on remote hearings in criminal cases)? If yes, please give examples.

Priority is given to a person's right to a fair trial within a reasonable time. The right to a fair trial also includes the right to appear in court and the right to an oral hearing, but it is not absolute. When deciding on the consideration of a case in written or oral proceedings, the court must assess proportionality, procedural economy, and legitimate purpose.

It is recognized that the presence of those involved is important in criminal cases. However, an oral hearing may also not be necessary if, for example, the facts are not in question, there is no need to examine evidence or cross-examine witnesses.

Cases may be heard by video conference, but with the exception of cases containing state secrets.

b. Are there any proposals to change rules or statutes in your country either to permit more, or to limit, remote work by judges?

Courts have been able to examine cases remotely, which proves that it is possible to do so in the future, so the wider possibility of hearing cases in a written process or remotely also in future is being assessed.

c. Should there be any changes of rules or statutes in your country either to permit more, or to limit, remote work for judges?

The possibility to view cases in a written process or in a video conference mode can be a good way to promote court efficiency, procedural economy, proportionate use of financial resources, etc. These possibilities should also be incorporated into general procedural norms, but court work will not only take place remotely.

At the same time, the remote court work has highlighted the need to discuss and clarify the procedural norms related to the remote consideration of cases, for example, by determining the criteria in which cases videoconferencing can be used in legal proceedings, when and how the court ascertains the opinion of the participants in the case regarding the examination of the case in videoconference mode, personal identities verification or guilt, recognition of the claim, waiver of the claim, lawyer fixation in a remote court session, etc.