

**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?

Answer:

In Luxembourg, it has always been usual for judges to work partly from home. Hence, judges study cases and write judgements from home. Also, legal research can be conducted remotely via an online platform giving access to many legal resources. Thus, only hearings have to be held in person by the judge at his workplace.

Many judges already had laptops with secure VPN connections before the pandemic that they could use for working at home as well as for working at their workplace.

Using videoconferencing tools for interacting with colleagues or for holding hearings is still unusual in Luxembourg.

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.)

Answer:

Generally, since the pandemic, more and more judges work remotely on a regular basis. Some judges only come to their workplace for their hearings and decide to work from home for the rest.

It is not possible to give an exact or even approximate number of the extent of this way of working since it depends on the frequency of hearings of the different jurisdictions.

Basically, judges are free to organize their days as they want as long as the work is done in the legal timeframe.

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.

Answer:

Since working remotely was already possible and also applied by a large number of judges before the pandemic, no fundamental changes of the judicial work are to be noticed since the pandemic.

One small evolution however is, that some judges started to cancel their 'intermediary hearings', in procedures that allow it (for example in written procedures), and replaced them by a written exchange of positions between lawyers and the judge. In this way, lawyers do not have to come anymore in person to court in order to discuss the practical evolution of the case. It also allows the judge to work remotely during a larger amount of time.

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

Answer:

Working remotely was already applied by Luxembourgish judges before the pandemic.

Positive impacts of this way of working are:

- No time loss to get to work and therefore a time gain to do the work,
- Possibility to combine the professional life with the private life.

Negative aspects are:

- Less spontaneous communication between judges and other work colleagues. The fact of having to do the active step to call someone on the phone, reduces the spontaneous conversations about work topics and can maybe therefore lead to less inspiration and innovation at work. Also, some judges tend to avoid calling a colleague who is working remotely in order to not disturb them at home.
- Since the Luxembourgish, judicial system still works to a certain degree with fax machines, the communication with lawyers can be slower if the judge works from home, since he needs an assistant to send him the letters received via fax.

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

Answer:

The possibility to work remotely has a positive impact on the climate (less traffic, less workspace needed) as well as on the flexible working conditions of judges who can organize their professional duties in a way that suits them best.

However, working remotely leads to an isolation of judges and can affect negatively the quality of work because the communication and inspiration may suffer from it.

3) Effects on the administration of justice

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

Answer:

Pros:

- Time gain for judges and therefore a faster justice,

- Easier to recruit judges who would be reluctant to work otherwise because of family or geographic situations.

Cons:

- Since the Luxembourgish judicial system still works to a certain degree with fax machines, the communication with lawyers can be slower if the judge works from home, since he needs an assistant to send him the letters received via fax,

- The personal exchange between judges and assistants at the workplace is affected by the possibility to work remotely and in that order, inventive, practical or fast solutions may not be found to some problems.

As hearings are not held remotely in Luxembourg up to this point, there is no problem in that regard.

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.

Answer:

Because of the fact that the Luxembourgish justice still works with the fax machine, the rapidity of the communication between courts and lawyers is affected negatively by the remote work.

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

Answer:

Lawyers react positively to the fact that some judges started to cancel their 'intermediary hearings', in procedures that allow it (for example in written procedures), and replaced them by a written exchange of positions between lawyers and the judge. Lawyers do not have to come in person to court anymore in order to discuss the practical evolution of the case, which is financially beneficial for them.

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

Answer:

Holding remote hearings by judges has both positive and negative effects. One positive effect is certainly the increased accessibility of remote hearings. Remote hearings allow parties and witnesses to participate from anywhere, reducing the constraints of travel.

Furthermore, virtual hearings reduce costs associated with travel and courtroom rentals while expediting the judicial process.

Remote hearings offer also more flexibility in scheduling trials, potentially reducing delays and courtroom congestion.

Some of the negative effects are

- Technical Issues: Connectivity problems, hardware failures, and technical difficulties can disrupt the course of remote hearings.
- Privacy Challenges: The confidentiality of virtual hearings can be compromised, as it is challenging to ensure that no one is eavesdropping or illegally recording discussions.
- Loss of In-Person Interaction: Remote hearings may limit judges' ability to assess the reactions of parties, witnesses, and jurors, potentially affecting decision-making.
- Access Inequalities: Not everyone has equal access to the technology required to participate in remote hearings, creating inequalities within the judicial system.

In conclusion, remote hearings by judges offer convenience and efficiency benefits but also present challenges in terms of technology, privacy, and fairness.

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

Answer:

The fact for judges to not having to travel to the courthouse can have a positive effect on their independence as they are less exposed to external pressures.

However, public trust in the judicial system can also be influenced negatively. Virtual hearings must be managed with great transparency to maintain public trust. For example, robust security procedures to prevent breaches of confidentiality and mechanisms to ensure that all parties are treated fairly are essential to uphold the perception of an impartial judicial system. Furthermore, accessibility and technological fairness must be monitored to prevent certain groups from being disadvantaged. Ultimately, the effect on the independence of justice during remote hearings will depend on how these challenges are addressed and the effectiveness of measures put in place to preserve public confidence in the legal system.

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.

Answer:

Remote hearings are not being held in Luxembourg at this time.

The limit on remote work for judges depends on IT equipment, such as laptops with the possibility to conduct legal research in databases from at home. Furthermore, the Luxembourgish justice is actually still widely based on paper files. Electronic files don't exist yet in all the courts and fields of law.

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

Answer:

No.

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

Answer:

No.