

Second Study Commission

Civil Law and Procedure

65th Annual Reunion of the IAJ – Tel Aviv, Israel

Questionnaire 2022 VIRTUAL TRIALS IN CIVIL PROCEEDINGS

Danish response

The Second Study Commission will focus on how our jurisdictions used, and will use, virtual trials and hearings before, during and after the Pandemic. We have limited the questionnaire to six questions, and we expect to receive short and concise answers. The questions are as follows:

1. Did your jurisdiction offer complete or partial virtual civil trials or hearings before the Pandemic? If yes, please describe what was offered and how often the offer was exercised.

Before the Pandemic all civil trials and court hearings had to be conducted in person in the court buildings with immediate evidence. There was however the possibility for witnesses to appear before the court by the means of video conference, if granted by the court by application (Video4). The witness would then appear by video conference from a different court in Denmark due to long distance, work etc. This would normally be allowed by the court if the testimony is not crucial to the case.

2. Did your jurisdiction offer civil virtual trials or hearings during the Pandemic? If yes, was there a change in how, what and when it was offered? Were protocols published? Also, if yes, when were the virtual trials/hearings offered and what was the uptake?

In Denmark civil cases were not conducted virtually during the Pandemic. There was a full lockdown of society for 6 weeks in March 2020. But since then cases have been conducted in person in the courts. Probably with a slightly more extended use of attendance by witnesses through video conference due to the more general changes in this area in society. But still with the use of Video4 and physically appearance from a different court in Denmark.

3. Presuming that civil virtual trials were offered, was there any improvements made in the technology/software that the government provided? How were documents and exhibits managed?

Se above.

Civil trials and hearings were fully digitized in Denmark years before the Pandemic, allowing the courts to manage documents digitally during trials and hearings.

4. What does the future hold in your jurisdiction with respect to the continuation of virtual trials? What are the issues and or benefits that have arisen?

The main rule is still to conduct civil trials and hearings in person in the courts, and there is no immediate change to this. But the possibility of virtual hearings is often discussed politically as a means to save costs.

The benefits of virtual trials are saving costs for the parties and the courts and probably effective legal proceedings.

Issues would be a lack of immediacy in the hearings and with the witness statements. Furthermore the often bad quality of the internet connections and a lack of adequate technology as well as a lack of technical assistance in the courtrooms.

5. Has or is research being done in your jurisdiction to help ameliorate some of the concerns that have arisen with virtual trials?

As we do not have virtual trials in Denmark the issue of immediacy in the administration of justice is often discussed more generally in various articles.

6. How did the digitally excluded people in your jurisdictions have access to justice and specifically to virtual trials during the Pandemic?

Most people in Denmark do have access to the internet. The digitally excluded citizens are excepted from the requirement to present documents digitally in civil cases.