

Second Study Commission

Civil Law and Procedure

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

Questionnaire 2022 VIRTUAL TRIALS IN CIVIL PROCEEDINGS

Response of Norway

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.

Answer:

According to the Norwegian Dispute Act the main rule is that civil trials and court hearing shall be conducted in person and the evidence shall be immediate. Before the Pandemic the Dispute Act opened for the possibility of distance meetings in whole or in part when a) specifically provided, or b) the parties consent to the court hearing being held as a distance meeting. In small claims proceeding (regarding claims less than approximately 200 USD) the court hearing could be conducted virtually also before the Pandemic, without the prior consent of the parties.

The Dispute Act offers a possibility for parties, witnesses and experts to be examined before the adjudicating court by way of distance examination if direct examination is not practicable or would be particularly onerous or expensive. Distance examination should not take place if the testimony may be of particular importance or if it may be imprudent for other reasons.

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?

Answer:

Both the District Courts, the Appeal Courts and The Supreme Court offered, and conducted, civil virtual trials during the Pandemic.

New temporary legislating were in place 27th of March 2020 with the purpose to enable the courts to conduct virtual hearing in all civil cases if the court deemed it necessary and unobtrusive. The parties had a right to be heard in the matter, but in the end it was up to the presiding judge's discretion. The court's ruling regarding whether or not a civil hearing/trial should be conducted virtually could not be overruled.

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?

There was a significant improvement in the equipment offered by The Norwegian Court Administration, however there is still room for improvement. The equipment was founded through the state budget.

The vast majority of information related to civil trials and hearings was digitized before the Pandemic, allowing the court to manage documents electronically. Documents and exhibits are, for the most part, managed 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?

Answer:

The temporary legislation that gave the courts legal basis to decide that a civil trial could be conducted virtually in whole or part was first prolonged, and as of 1st July 2022 the amendments in the Dispute Act has been made permanent. The main rule is still in-person civil trials and hearings, but the possibility for the preceding judge to decide that a trial or hearing can be conducted virtually is expanded compared to before the Pandemic.

The benefits are effective legal proceedings and it saves costs for both the courts and the parties.

The most common issue is the quality of the internet connections and lack of adequate technology 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?

Answer:

There has been written a few articles, but to my knowledge there has not been conducted a formal research.

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

Answer:

Most people in Norway (approximately 98 % of the population) has access to internet. Further the access to court was made possible not only by computers, but parties, witnesses etc. have the option to log on to court meeting by using smartphones.