

International Association of Judges (IAJ/UIM)

2nd Study Commission – 2022 Civil Law and Procedure

“VIRTUAL TRIALS IN CIVIL PROCEEDINGS” POLAND

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.

Polish system didn't offer any form of virtual hearings in civil trials before the Pandemic.

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?

After 2,5 months of suspension of all civil cases and procedural terms (from March to May 2020) the civil procedure has been changed and allowed to use online systems to continue civil trials from June 2020. It was a huge and extremely fast change in courts, at first the Ministry of Justice recommended using popular programs such as Zoom, Teams, Jitsi. At first the protocols were prepared in a traditional way by secretaries as the documents. During the Pandemic the access to the court, to the documents, was limited for the parties and professional lawyers. Until today the limits of access are functioning on a base of special pandemic state acts.

Within the first months the parties, witnesses and professionals were negative about virtual trials, many technical problems were noted. Now it's popular and acceptable, the professional lawyers and the parties appreciate the benefits of virtual civil trials as safety, saving the time and costs.

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

At first the protocols were prepared in a traditional way by secretaries as the documents. After a few months the problem was solved by connecting Zoom with recording the hearings in a court system (ReCourt). In July 2021 online court system (Information Portal) allowed sending and downloading data (inc. protocols, rulings, justifications) for professionals, for the other parties the documents are sent on demand. Unfortunately the Information Portal works only in one direction, there's a possibility to send items from court to the professional but the lawyers can't send the documents to the court.

The Pandemic state forced us to use more hardware in virtual trials, not only the basic standard computers for creating documents and recording hearings, but also notebooks/laptops (older and used) for Zoom, Teams, Jitsi. The exchange of equipment was not noted during the last 2 years. The software: using the various programs and compatibility between them was extended.

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?

Since 2021 according to the special Pandemic state act a virtual civil trial has become a rule and a public hearing- an exception. Only if there's no possibility of online connection, the hearing is conducted in a court in a traditional way. The practice is different in every court and depends on the decision of the judge and the demands of the parties.

Virtual civil trials will become a standard element of the civil procedure. advantages are clear: safety, saving time, cost reduction, comfort, availability and easiness of online connections.

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

Virtual trials became a topic of research for the NGO's, universities, judges are asked for fulfill questionnaires, but MoJ hasn't prepared any research to unify the practice in the courts or to get feedback or ameliorate some of the concerns. There's a lack of offer of trainings for the judges and office workers.

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

The special Pandemic state act implemented the new rules in civil procedure, virtual trial became a rule and public, traditional hearing- an exception, only on request of a party made in a first plead. The practice is differential. It is obligatory for the judge to organize a public hearing (in a traditional way) on request. Especially in a first year of the Pandemic the access to justice was limited for the digitally excluded groups (because of age, education, access to the internet, computer). Now new digital technologies, software are more popular and more available. Also the risk of infection, a danger is lower, consequently public, traditional hearings are chosen more often.