

Answers of the Association of Brazilian Judges - AMB

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: Yes, judges were already permitted to work out of the court in some extent in Brazil before the pandemic. That was possible because most of the cases were already in digital files (no paper files anymore) and therefore judges could analyze them at home, for instance, and render their opinion (decision) when no trial was necessary or admitted. On the other hand, if it was necessary to hear witnesses for the case, the hearing had to take place at the courthouse. Judges were expected to attend the Court daily before the pandemic, but were granted permission to work remotely during the pandemic period (Resolution 371/2020, of the National Council of Justice - CNJ). With this permission, judges were allowed to carry out procedural acts in a 100% digital way, including hearings by videoconference using official applications provided by the Courts themselves (like Microsoft Teams). In general, no technical equipment was made available to the judges to enable them to work remotely. They used their own 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.)

Answer: The National Council of Justice of Brazil (CNJ) ruled that remote work by Brazilian judges should be limited. It was decided that trial judges (lower courts) should be physically present in the court at least three working days a week. The majority of lower judges would prefer to go on working remotely, if they were allowed to. In the case of higher courts, the judges are entitled to decide if they go back to work in the court (face-to-face) or if they prefer to continue working remotely (using videoconference).

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: In general, for better. Research indicates that remote work led to positive changes in the productivity of the Judiciary. During the pandemic, it was found that the goals set by the National Council of Justice (CNJ) were achieved by some of the State Courts due to remote work; this is the case, for example, of the High Court of Justice of the State of Minas Gerais, which, in 2021, achieved 08 of the 10 goals established by the Council. According to research led by the Association of Brazilian Judges (AMB), the total number of decisions rendered by the judges grew by 16% in 2021 and 9% in 2022.

- 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: Positive. The National Council of Justice has published a study that indicates a considerable reduction in spending on inputs (paper, printing, disposable cups, electricity, and fuel, for instance) by the Judiciary due to remote work. In the State of São Paulo, there was a saving of millions of dollars in 2020 due to that.

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

Answer: A positive effect of remote work is the increasing digitalization of files, using less paper and facilitating the consultation of documents and procedural acts, all available on the world wide web. Remote work has also a positive impact in the quality of life, and well-being, of judges.

3) Effects on the administration of justice

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

Answer: There is some risk that the practice of virtual procedural acts jeopardizes the access to justice by those who do not have access to technological tools; according to the National Council of Justice (CNJ), 40% of Brazilians do not have access to such resources. Among the pros, remote work can provide technological solutions to the administration of justice, providing opinions (judgements) in a more dynamic and efficient way, with lower costs and greater productivity.

- 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: A positive impact. The growth of productivity due to remote work allows that the cases are decided faster than before.

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

Answer: There is no specific research on the perception of society in general around the theme, but some media vehicles, and also some lawyers, do have criticized the remote work of judges, saying that it could hinder part of the population to have access to the Justice System (especially the most vulnerable ones). On the other hand, there are many other lawyers who prefer the remote work, because they don't need to go face-to-face to the court (they can work without leaving their offices).

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

Answer: Remote hearings and conferences provide an easy way of communication and avoid unnecessary displacements of parties, witnesses, attorneys, prosecutors, and judges. Another positive effect is the reduction of emotional distress among the people involved in the case, what can increase the possibility of reaching a deal.

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.

Answer: Remote work doesn't seem to impact judicial independence.

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: In Brazil, there are certain limitations regarding the remote work of judges. The National Council of Justice (CNJ) determines, for example, that the judge must be present in the courtroom during hearings, even if those are held by videoconference, as well as establishes that judges should attend the courtroom in person at least three working days a week.

- 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: There are proposals from the association of judges to permit more remote work by judges.

- 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 further changes of rules concerning the remote work by judges are expected to happen in the short time in Brazil.

Proposal for 2024 topic:

Please submit your proposals for possible topics to be treated in 2024 together with the answers to this questionnaire.

Proposals: Use of Artificial Intelligence in the Judiciary