

First Study Commission:

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?

There has never been an official rule allowing or prohibiting remote work. The only established rule was that judges were obliged to be physically present in the courtroom for open hearings. In most courts the judges were allowed to take case files outside of the court building and work wherever they please. The way of deliberation has always been left to the choice of the participating judges and using phone calls has not been unusual for deliberations in urgent cases.

During the COVID-19 emergency (in March – May 2020) temporary amendments to procedural laws made it possible for hearings to take place through videoconferencing, but in a controlled environment (either in separate rooms at the courts or in specific rooms in prisons – mostly for criminal cases).

Technical equipment was made available, but it rarely consists of any highly professional devices. Usually normal webcams have been used, as well as commercially available videoconferencing software (e.g. Zoom, Skype etc.).

Legislative amendments from 2021 have also allowed parties to be heard in open hearings remotely, but only from another court's building (e.g. in another city). This, however, is conditional on the consent of all the parties.

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.)

No former rules for distant working were introduced. Since 2021 a new centralized computer system was introduced in all courts not dealing with administrative cases, which permits working from distance through means of electronic identification – eSignature according to the EU rules (Regulation (EC) No. 910/2014). Working from home is now practiced more widely and depends mostly on individual preferences.

The new case management system has also facilitated electronic communication with the parties, but this is still limited due to its optional character, even for legal professionals.

Working from home on administrative cases is still practiced, albeit the case files are on paper and need to be physically brought out of court by the judges.

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.

Effectively, remote work was always possible outside of open hearings, so no general change can be observed.

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

The introduction of the new electronic case management system, which allows judgements and decisions to be remotely uploaded to the official court's registry, has made remote work lighter. Otherwise, the conditions in the workplace have not changed greatly.

The fact that electronic communication with every participant in the process besides public authorities is optional still requires retaining a lot of paper documents. There is a resistance among lawyers in private practice to introduce obligatory electronic communication with them.

c. From your point of view, what future effects of remote work on the judicial workplace – negative, positive or both – can be expected? Should judges' remote work be regulated by a law in the future, positive effects might consist of more efficient procedure conducting in cases that would be eligible for such a method of adjudication, especially in cases when the parties' arrival before the court is troublesome for whatever reason.

Effects of remote work can be positive, especially in terms of timely communication between the court and the parties.

The remote work of judges (e.g. communication with other judges, rules on working from home) shall only be regulated with regard to rules on working time and obligatory presence at the courthouse, in order to clear ambiguities and protect judges from eventual disciplinary action. All other aspects of remote work between judges shall be left to the judges' discretion.

In the current legislative framework in Bulgaria the only improvement of communication with the parties could be measures to encourage people to use electronic means of transmission of pleadings etc. So far technology for remote participation in court hearings outside of the judicial milieu (courthouse, prison, etc.) is limited, due to inability to insure the parties' identities.

3) Effects on the administration of justice

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

This question shall be answered regarding two situations:

1. Remote work within the court:

Advantages – ability to flexibly schedule working times and days according to family engagements and other professional activities (research, teaching etc.); more conscious engagement with the administration.

Disadvantages – need to have better synchrony with administration.

2. Remote work of the parties:

Advantages – working hours are saved; easier and quicker contact with parties and citizens; no chance to corrupt persons serving documents (occasionally servers are bribed by lawyers to write down erroneous dates of receipt in order to prolong deadlines).

Disadvantages – possibility of identity fraud; need to check electronic signatures in document; high upfront implementation costs.

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.

The implementation of certain communication technologies and especially the opening of multiple channels for communication with the court (e-mail and two specific portals) have created some trouble with the timely administration of incoming documents. This has increased the workload of the front-office administration, since now they need to switch between multiple incoming channels of communication. Hopefully this will be resolved by the introduction of a single portal for communication with the courts.

The timeliness of service has been improved, as well as the use of paper for communication, which has budgetary and environmental impact.

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

I believe that the professional public is aware that judges sometimes work remotely. There have been some ongoing debates on the legal framework of working hours of the judges, but generally no negative comments have arisen in the general public.

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

Videoconferencing is still not widely practiced outside of cases involving convicted persons in detention. The latter cases however have saved a lot of effort for some inmates and they prefer being heard from the prison instead of waiting in crowded transports and waiting rooms in handcuffs.

In civil cases videoconferencing may save efforts for travel of witnesses, but this is often done through taking of evidence by other courts (in a n open hearing with a judge from the delegated court). However, lawyers have begun sensing the positives of direct contact between the witness and the judge on the merits.

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.

No significant changes are visible.

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.

Yes, the 2021 amendments in the procedural codes limit the ability of the judge to have a conference hearing. There were fears, especially in the field of criminal law, that teleconferencing can impede the lawyer-client privilege, so videoconferencing is dependent on the consent of the parties. Exception is made for the hearing of experts (in Bulgaria they are appointed by the court and not by the parties).

There are no restrictions for the deliberations of the judges, other than that that they must be held in secret.

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

No pending amendments or proposals exist.

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

So far the legal framework seems to be sufficient. Probably some details of the communication need to be regulated better. The ability of teleconferences with certain other legal professions (e.g. notaries, attorneys) shall be extended, but the issue is still open.