

International Association of Judges (IAJ/UIM)

2nd Study Commission – 2022 Civil Law and Procedure

“VIRTUAL TRIALS IN CIVIL PROCEEDINGS”

Answers Slovenia

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.

Slovenian Civil Procedure Act since its Amendment in 2017 offers a possibility to conduct virtual hearings (both non-evidentiary hearings such as preparatory hearings as well as evidentiary hearings) however it is based on the accordance of all of the parties involved and providing the existence of technical conditions (video and sound transfer to other party and the court). In reality the parties never took advantage of such an opportunity before the pandemic. All civil trials were conducted in person within court buildings.

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?

During the first lockdown the President of the Supreme Court issued a decree on the 13th of March 2020 on the basis of Article 83.a of the Courts Act which sets out rules concerning the operation of the courts in case of extraordinary circumstances such as natural catastrophes and large scale epidemics. According to the decree oral hearings were permitted to be held in urgent matters¹ only and via videoconference, if the technical and spatial conditions were fulfilled. All scheduled hearings in non-urgent matters were cancelled.

In accordance with the decrees that the President of the Supreme Court issued from the 4th of May 2020 onward court hearings were permitted to be conducted in urgent as well as non-urgent matters. Generally they should have taken place virtually by using video-conferencing systems if the technical conditions and room situation would allow for it. If not, they were permitted to be held only if the court could ensure that the conditions set out in the decree were met and in a manner preventing the spread of the virus and safeguarding people's health and lives (a distance of at least 2 metres observed between the persons present).

In actuality video-conferences were held (via Zoom or MS Teams platform) under the condition that the parties complied. As a rule they were held in the matters of compulsory commitment of psychiatric patients since they require the fulfilment of technical conditions on the side of the Court and Psychiatric Institution only.

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?

¹ In particular, the following matters were regarded as urgent: procedures of interim legal protection (injunctions, interim measures), procedures related child custody and mandatory maintenance; non-contentious matters regarding the detention of persons in mental health organizations, media-law disputes for correction of published information, bankruptcy and compulsory settlement proceedings which were opened before (including) 30th of March 2020.

The government did not provide any software for the hearings, they were mostly held via Zoom or MS Teams platform. However the Supreme Court issued laptops to all the judges in order to facilitate work from home and remote hearings.

The only improvement was made in the civil enforcement matters based on enforcement titles; e-auction web portal for online judicial auctions of real estate was introduced in March 2021. It has previously been intended to prevent collusion and extortion between individual bidders however it was not actually developed until the pandemic.

Based on the aforementioned decrees of the President of the Supreme Court all submissions of documents and exhibits in non-urgent matters were permitted to be sent only by post, email or submitted electronically (using the Slovenian e-jurisdiction webportal). All other communication with the court was carried out by e-mail or telephone during the office hours. Submissions in urgent matters were allowed to be made in person but with previous announcement to the court by email or phone during office hours.

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?

So far it does not seem likely that remote trials will become more common as they did not often take place even in the lockdown periods albeit the jurisdiction offers this possibility.

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

No, there has been no research done regarding this matter.

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

The government did not facilitate the public's access to virtual trials and/or the possibility of electronic submissions of documents and exhibits. Consequently all video-conferences were based on the compliance of the parties involved.