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Adaptation of Judicial Systems to the Global Pandemic - a Short and Long-term Impact of COVID-19 on Judicial Systems

Since the first months of 2020, Europe and the world are facing a pandemic, and COVID-19 has posed unprecedented challenges to the functioning of judiciaries. Courts and prosecution services are working with limited capacities to ensure uninterrupted delivery of justice while maintaining social distancing. In order to enable the functioning of the courts, some countries, where the level of information technology development allowed, introduced modalities of online hearings and/or use of other modern technologies during proceedings, such as electronic filing. Some countries, like Serbia, introduced ICT tools to organize hearings. The promotion of alternative dispute resolution and court settlement was also a tool used in some of the countries. The authors will present different steps and solutions judiciaries throughout Europe took in order to tackle the social distancing requirements and other issues presented by the COVID-19 pandemic. Apart from the immediate responses, the authors will analyze and elaborate on the way COVID-19 could shape the judiciary in the longer term.

1. Perception of (slow) digitalization of the judiciary prior to COVID-19

Digitalization and general modernization of court systems around the world are occurring, but it is often a long process, that does not keep up with digital innovations. While financial reasons are an important part of that lag, a big factor is also a negative attitude towards novelties that can remove parties from their comfort zone. A good example of that is Serbia, where technological improvements are taken in most cases as a result of donations and projects of various, mostly international, stakeholders. Even in the most developed legal systems, such as English, it was not before the late 20th Century, that the possibility of having virtual trials or a virtual courtroom was introduced – still far from a general practical application; One of the pioneers

in envisaging the extensive use of technology in courts was Frederic Lederer. He foresaw the expansion of technology and its usage in the mid-1990s in several of his articles. Argumentation in his most notable article on Technology in courtrooms from 1994¹ seems obvious now, but it was rather groundbreaking at a time when he noted that... “technology is not a panacea, and we need to remember that often technological efforts to enhance access to justice ought to be complemented by more fundamental improvements in our legal system”.² The importance of access to justice is globally recognized and is included as one of the UN Sustainable Development Goals. In 2019, the Task Force on Justice estimated that 5.1 billion people globally have unmet justice needs.³ Those unmet legal needs have profound consequences in people’s lives, with nearly half reporting that their legal problems adversely affected their lives.⁴

As a good example of a situation where digitalization may improve access to justice and judicial efficiency while reducing costs, Lederer points to witness testimony. He states that “obtaining witnesses to testify can be difficult given distance—or competing medical, family, or employment needs. Having a witness appear remotely, whether via commercial-quality equipment or Facebook or Skype, can increase the probability of testimony and decrease cost and delay. Although remote witnesses can be required to appear from other courthouses, complete with a court officer standing by, would we need such protections for a small claims-type proceeding? And, of course, we don’t need a courtroom at all. For minor cases, including traffic matters, why not have an entirely virtual proceeding in which parties and judge appear in an electronic environment? In time of urgency, why not use remote appearances for protective orders? This is not science fiction but in some places today’s reality.”⁵

Although in the Lederer article there is optimism regarding the possibility, it is presented in the form of a distant future or at least it was not

¹ Fredric I. Lederer, "Technology Comes to the Courtroom, and..," *Emory Law Journal* 43, no. 3 (Summer 1994): 1095-1122

² Fredric I., Lederer "Improving Access to Justice via Technology" (2018). *Popular Media*. 427

³ Pathfinders for Peaceful, Just, and Inclusive Societies, *Justice for All: Final Report of the Task Force on Justice*, April 2020. See: https://bf889554-6857-4cfe-8d55-8770007b8841.filesusr.com/ugd/90b3d6_746fc8e4f9404abeb994928d3fe85c9e.pdf

⁴ World Justice Project. *Global Insights on Access to Justice*, 2019. See: <https://worldjusticeproject.org/our-work/publications/special-reports/global-insights-access-justice-2019>

⁵ https://bf889554-6857-4cfe-8d55-8770007b8841.filesusr.com/ugd/90b3d6_746fc8e4f9404abeb994928d3fe85c9e.pdf

envisaged to occur in the short-term. From the start of the XXI century, the attitude towards the digitalization of the judiciary was usually directed to a certain group in need.

The UK was one of a few countries that tested the use of virtual technology in its own judicial system relatively early. The use of virtual technology in UK courts dates from 1999 when the installation of videoconferencing facilities started. In the extensive debate at that time, in the UK numerous concerns were raised regarding videoconferencing in courts. At the seminar organized in 2011 by RSA and Cisco Systems, in order to explore the potential of using a design thinking approach to re-design courtrooms, one of the delegates noted the following: “what we have at the present with open courts is we get to see [the accused] walk into the court. I understand all the cost-benefit analyses, saving the environment, and so on. But I’m fearful that unless we the public can see the person — that they’re in good condition, that they’ve not disappeared into the system, and only appear face on in the video — that ‘things’ can happen.”⁶

While the idea and even the occasional implementation of virtual proceedings have occurred during the last 20 years, it is obvious that the global acceptance of this novelty was slow, hampered by a lot of obstacles and mistrust.

2. COVID-19 pandemic as a catalyst of the digitalization of the courts

As demonstrated in the previous section, the modernization of the court system and its digitalization was a rather slow process. However, after the eruption of the COVID-19 pandemic in early 2020, the process of digitalization was propelled forward, and the new reality and necessity overcame numerous fears. Although notorious for their rigidity and reluctance to modernize, court systems throughout the world were forced to accept numerous virtual and digital solutions in order to continue with their work. For example, video conferencing technology has been adopted in South Africa only after the eruption of the pandemic, to ensure that the legal system does not grind to a complete halt during the COVID-19 pandemic and national extended lockdown.⁷

The reduced activities in courts and the lockdown measures have an impact on court operations. A majority of countries were looking for

⁶ Jamie Young, A virtual day in court design thinking & virtual courts, , December 2011, page 8. <https://www.thersa.org/globalassets/pdfs/reports/a-virtual-day-in-court.pdf> , accessed 22 February 2021

⁷ <https://www.lexisnexis.co.za/news-and-insights/virtual-working/covid-19-pushes-courts-to-new-era> accessed 07 February 2021

solutions that would limit interaction with courts, and suspension of non-urgent cases was one of the applied measures. To enable the functioning of the courts, countries in which the level of information technology development allowed it, introduced modalities of online hearings and/or other use of modern technologies during proceedings like electronic filing. The promotion of alternative dispute resolution and court settlement was also a tool used in some of the countries.

Again, a good example is South Africa and its court system – notorious for its slow adjustment and substantial administration.⁸ In South Africa, on 10 January 2020 the Judge President Mlambo issued a practice directive for the full implementation of the system and this took effect in Gauteng from 27 January 2020. The system in question is the Court Online system, an advanced cloud-based collaboration solution encompassing a Digital Case Management and Evidence Management system. However, while some courts have embraced technology to ensure legal work can continue, others have taken a more conservative approach. Alternative dispute resolution forums have continued to run at full functionality during the lockdown. Arbitrations are now being held virtually, with the Arbitration Foundation of SA introducing measures guiding their conduct. There may be an increase in the number of disputes that are referred to and resolved by way of ‘virtual’ mediation. Remote consultations are now accepted as fair. Whilst it is preferable to have face-to-face consultations, the COVID-19 pandemic has seen remote meetings become the “new normal”, in the interest of preserving health and safety and maintaining social distancing.⁹ A rather comprehensive list of other countries was created by Tania Sourdin, that included other countries and their technology-related responses to the COVID-19 pandemic.¹⁰

In Hungary, the Government ordered by a Decree issued in March 2020 that the functioning of Hungarian courts is suspended, apart from certain urgent cases, for an undefined period of time.¹¹ Two weeks later, the Government introduced changes to the procedural laws aimed at facilitating the operation of the justice system during the state of danger.¹² In Bulgaria, following a decision of the Judges’ chamber of the Supreme Judicial

⁸ <https://www.lexisnexis.co.za/news-and-insights/virtual-working/covid-19-pushes-courts-to-new-era> accessed 07 February 2021

⁹ *Id.*

¹⁰ Tania Sourdin, Bin Li, Donna Marie McNamara, Court innovations and access to justice in times of crisis, *Health Policy and Technology*, Volume 9, Issue 4, 2020, Pages 447-453, ISSN 2211-8837, <https://doi.org/10.1016/j.hlpt.2020.08.020>.

¹¹ Government Decree 45/2020 of 14 March 2020.

¹² Government Decree 74/2020 of 31 March 2020. That Decree became ineffective on 18 June 2020, in accordance with Article 53(4) of the Fundamental Law.

Council,¹³ the processing of court cases was temporarily suspended for one month during the state of emergency, except for urgent cases.¹⁴ In Austria, most activities of courts were temporarily suspended from 16 March to 13 April 2020 due to the COVID-19 pandemic, with specific measures adopted to postpone procedural deadlines, which could lead to increased existent backlogs in the justice system.¹⁵

Although suspension or limitation of courts' operations was a necessary measure at the beginning of the pandemic, it was not a sustainable solution, and Governments and judiciaries were obliged to find more suitable solutions through the use of information technologies, amendments to procedural legislation, and incentives for court settlements. Such an approach was taken in Italy, where the Government adopted organizational measures in cooperation with the Heads of Judicial Offices and the High Council for Judiciary, allowing for remote civil and procedural hearings.¹⁶ The crisis led to an acceleration of digitalization in criminal trials, where the Prosecution service was granted the possibility to hear witnesses and examine suspects through video conference, as well as appoint experts.¹⁷

Spain declared a state of alarm on 14 March,¹⁸ and during the following period of three months the activities of the courts were limited, procedural deadlines were suspended, and procedural acts were maintained only in urgent procedures. Concerns were raised that these measures might have a negative impact on the justice system's ability to deal with the backlogs generated during the state of alarm, as companies and businesses sought to recover¹⁹ Efforts were undertaken to minimize the impact of the COVID-19 pandemic on the justice system through the adoption of new

¹³ Extraordinary Session, Short Protocol No. 9, 10 March 2020.

¹⁴ Such as those on reviewing pre-trial detention, or undertaking victim protection measures and child protection measures.

¹⁵ 1. und 2. *COVID-Justizbegleitgesetz*.

¹⁶ Art. 83 of the Decree-law of 17 March 2020 n. 18.

¹⁷ 2020 Rule of Law Report – Country chapter on rule of law situation in Italy, SWD(2020) 311 final, p. 5. Information received in the context of the country visit and of the consultation process for the preparation of the report, e.g. Ministry of Justice contribution (an increase of 89% in videoconferences has been registered in May 2020 with respect to May 2019).

¹⁸ Royal Decree 463/2020, declaring the state of alarm as a result of the health crisis caused by COVID-19.

¹⁹ The Commission has also addressed this issue in the context of the European Semester. Recital 28, Council Recommendation on the 2020 National Reform Programme of Spain and delivering a Council opinion on the 2020 Stability Programme of Spain, p. 8 <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020DC0509&from=EN> 30.09.2020.

legislation foreseeing special procedural and organizational measures.²⁰ The measures envisaged also include the wider use of digital technologies for procedural acts.

In Portugal, several measures were adopted related to teleworking and the possibility to hold hearings and conduct other procedures remotely.²¹ Deadlines in non-urgent cases were suspended, and non-urgent cases were adjourned. Portugal foresees a set of measures to address challenges after the initial lockdown. A special focus of the measures is to address the increased demand for justice and the need to reduce the backlog. One of the envisaged measures is a temporary regime of reduction of court fees to facilitate the reaching of court agreements.

The digitalization of the justice system was used as an opportunity to overcome challenges caused by the COVID-19 pandemic. A number of initiatives are being taken ranging from allowing court users to monitor online the stages of proceedings to organizing online hearings. Countries in which e-justice systems were already well advanced, like in Estonia and Latvia, showed a high degree of accessibility to court users, and functioning of the courts continued without significant disruption during the COVID-19 pandemic.²²

Although e-justice has been a useful tool during the pandemic, there are potential challenges for use of information technologies in the justice system from an access to justice perspective, since there is a significant percentage of the population in almost every country being digitally excluded. Plans for the future should include safeguards for all, including those who do not have access to the internet.

The COVID-19 outbreak also has an impact on the exercise of procedural rights of suspects and accused persons. Direct communication with lawyers, interpreters, or with third persons (while the suspects or accused persons are deprived of liberty) is more difficult. In the Netherlands, stakeholders have raised concerns about the effective safeguarding of the right to a fair trial and quality of justice during the pandemic,²³ since the prosecution service has announced plans to make increased use of its power

²⁰ For example, 11 to 31 August were declared working days for procedural purposes. The Commission has also addressed this issue in the context of the European Semester. Recital 28, Council Recommendation on the 2020 National Reform Programme of Spain and delivering a Council opinion on the 2020 Stability Programme of Spain, p. 5.

²¹ 2020 Rule of Law Report – Country Chapter on rule of law situation in Portugal, SWD(2020) 321 final, p. 5.

²² 2020 Rule of Law Report – The Rule of Law situation in the European Union, SWD(2020) 580 final, p. 11.

²³ See: The Netherlands Committee of Jurists for Human Rights (2020), Letter on concerns about corona measures in criminal justice.

to decide itself on certain criminal cases.²⁴ This could have an impact on the right to a fair trial if citizens are not adequately informed.²⁵

In France, some measures raised a significant discussion. Measures relating to the functioning of the justice system included the early release of certain categories of detainees and automatic prolongation of the length of pre-trial detention.²⁶ Measures of automatic prolongation of the length of pre-trial detention are putting at risk the fundamental right to liberty.²⁷ Based on the legal action contesting the legality of prolongation, the Court of Cassation ruled that the court that would normally have decided on the prolongation should rapidly review the validity of the prolongation decision.²⁸

In addition to legislative actions, safety measures should be adopted, such as glass protections at police stations or in detention facilities, in order to enable the exercise of the right of access to a lawyer or the right to an interpreter.

In Serbia, from the outset of the pandemic, only urgent cases were tried, like pre-trial detention and cases related to the breaches of emergency rules relating to the COVID-19 pandemic. Although the Serbian Criminal Procedure Code did not envisage trial by video conference, except in specific circumstances,²⁹ the Serbian Government has adopted a decree³⁰ by which during the state of emergency, a judge could decide that a defendant's participation can be adequately ensured through a video link. In addition to the lack of legal basis, the measure is not in line with the European Court of Human Rights case law.

²⁴ Such decisions by the prosecution service cannot impose a prison sentence and can be contested in court. See the Letter from the Minister for Justice and Security and the Minister for Legal Protection to the House of Representatives of 25 June 2020: 'Contours of the Approach to Address Backlogs in Criminal Justice'. See also the announcements of 25 June 2020 by the judiciary and by the prosecution service: <https://www.rechtspraak.nl/Organisatie-en-contact/Organisatie/Raad-voor-de-rechtspraak/Nieuws/Paginas/Rechtspraak-en-OM-werken-corona-achterstanden-weg.aspx>; <https://www.om.nl/onderwerpen/coronavirus/nieuws/2020/06/25/wegwerken-corona-achterstanden- strafrechterketen-voor-eind-2021>.

²⁵ See in that regard: National Ombudsman, Proper Provision of Information is the Basis of Access to Justice – Bottlenecks in the Provision of Information about Penalties and Dismissal Decisions.

²⁶ Art. 16, Ordinance 2020-303 of 25 March 2020.

²⁷ See also criticising a lack of clarity: Magistrates Union (2020), Automatic extension of provisional detentions: after the scandal and the mess, nonchalance! 2020 Rule of Law Report – Country Chapter on the rule of law situation in France, SWD (2020) 309 final.

²⁸ Judgment no. 974 of the Court of Cassation of 26 May 2020 (20-81.910).

²⁹ Article 104 of the Criminal Procedure Code.

³⁰ Uredba o načinu učešća optuženog na glavnom pretresu u krivičnom postupku koji se održava za vreme vanrednog stanja proglašenog 15. marta 2020. godine, Službeni glasnik RS, broj 49/2020.

According to the jurisprudence of the European Court of Human Rights, telephone and video conference, as an alternative for hearings and other procedural actions, may be used if they are based in law, time-limited and demonstrably necessary and proportionate in the local circumstance and do not prevent confidential communication of a person with their lawyer. In the case, *Vladimir Vasilyev v Russia*³¹ stressed that Article 6 of the European Convention of Human Rights does not guarantee the right to be heard in person at a civil court, but rather a more general right to present one's case effectively before the court and to enjoy equality of arms (para 84).

The European Court of Human Rights in case *Riepan v Austria*³² assesses the importance of publicity of trials in criminal cases. The use of video link during a trial in criminal cases prevents publicity and the public character of criminal trial serves to maintain confidence in the courts and contributes to the achievement of a fair trial (para 40). However, even in criminal cases, participation in the proceedings by videoconference is acceptable to the European Court of Human Rights when it is explicitly provided in the national legislation (*Marcello Viola v Italy*,³³ para 65) and if technical conditions enable smooth transmission of the voice and images (para 74).

It is important that the use of videoconference does not prevent confidential communication with the defense counsel. The European Court of Human Rights pointed out this condition in the case *Marcello Viola v Italy* (para 75), which was ensured through direct contact with the lawyer. Since face-to-face meetings with lawyers were limited during the pandemic, a non-profit human rights organization that works to improve respect for the fundamental human right to a fair trial, Fair Trials, developed detailed recommendations³⁴ on access to a lawyer, especially access to legal assistance for defendants in detention to ensure confidentiality. Recommendations were focused on secure and unlimited use of telephones so that calls cannot be intercepted or recorded.

In times of COVID-19, the procedural rights of suspects and accused persons need to be respected in order to ensure fair proceedings. Limited derogations, which are provided for by the decrees, should be interpreted restrictively by the competent authorities and not be employed on a large scale.

³¹ Application no. 28370/05, judgement of 10 January 2012.

³² Application no. 3511/97, judgement of 14 February 2001.

³³ Application no. 45106/04, judgement 5 October 2006.

³⁴ Safeguarding the right to a fair trial during coronavirus pandemic: remote criminal justice proceedings, (2020) Fair Trials, <https://www.fairtrials.org/sites/default/files/Safeguarding%20the%20right%20to%20a%20fair%20trial%20during%20the%20coronavirus%20pandemic%20remote%20criminal%20justice%20proceedings.pdf> accessed 30 September 2020

3. Access to justice as its denial

There are numerous perspectives and views stating that access to justice will be substantially improved by the digitalization of court and the justice system in general, and there is no doubt that it will, generally, improve it. One of the major advantages seen in virtual courts is overcoming and eliminating obstacles to justice. Some research, even before the COVID-19 pandemic, supported this. For example, the experiment conducted by the Montana Legal Services Association has included tests of court appearances by video, staff and continuing legal education training, meetings, client interviews, mediation, and client self-help clinics. Data includes observation and surveys. The overall conclusion is that the use of video makes a contribution to access to justice.³⁵

Even Lederer, back in 1997, when speaking about virtual courtrooms, stated that ...”we may well be able to substantially enhance access to justice for those who today have little or no access at all.”³⁶

One has to be careful, however, with these assumptions and even more cautious in practice. Access to justice may definitely be improved by virtual courts, but there is one major exception – for all the people that do not have access to the internet, computers, or technology in general. While this concern might seem to be an exaggeration, the magnitude of that problem can be grasped only once the data and information are inspected and elaborated. Very comprehensive research on this topic, which has been conducted by Pew Research Center, demonstrates some alarming data regarding racial and social disparities.

3.1. Racial and social disparity

In accessing racial and social disparity in the US in relation to digitalization, the invaluable contribution was made by the research conducted by the Pew Research Center. In that research, the focus was on the disparity in the access to computers and broadband connections at home in the United States. According to their research, about eight in ten whites (82%)

³⁵ Richard Zorza, Video Conferencing for Access to Justice: An Evaluation of the Montana Experiment, Legal Services Corporation, 2007, 1, 3, <https://docplayer.net/3126017-Video-conferencing-for-access-to-justice-an-evaluation-of-the-montana-experiment-final-report.html>.

³⁶ Lederer, *supra* note 2 at 427.

report owning a desktop or laptop computer, compared with 69% of African Americans and 67% of Hispanics.³⁷ There are also substantial racial and ethnic differences in broadband adoption, with whites being more likely than either blacks or Hispanics to report having a broadband connection at home. (“There were not enough Asian respondents in the sample to be broken out into a separate analysis.”)³⁸

When it comes to social disparity, according to Pew Research Center, roughly two-thirds of rural Americans (63%) say they have a broadband internet connection at home, up from about a third (35%) in 2007, according to a Pew Research Center survey conducted in early 2019.³⁹ This increase is steady, and it is reasonable to expect that it will continue. It is apparent that rural Americans are narrowing the gap compared to the urban and suburban Americans. This is partly due to the increase of the percentage of rural Americans owning broadband internet, but also due to the stagnation in the percentage of urban and suburban Americans in that matter. .⁴⁰ Consequently, a particular concern is the income disparity. With higher income, access to the internet, technology, and technological awareness and skills are also higher and vice versa.

Finally, Pew Research Center reported that disabled Americans are about three times as likely as those without a disability to say they never go online (23% vs. 8%), according to a Pew Research Center survey conducted in the fall of 2016. When compared with those who do not have a disability, disabled adults are roughly 20 percentage points less likely to say they subscribe to home broadband and own a traditional computer, a smartphone, or a tablet.⁴¹

Conclusion

The use of the virtual courtroom, virtual judicial proceedings, and general digitalization and modernization of judicial systems throughout the world was long overdue. The COVID-19 pandemic accelerated this process. The level of use of technology in judicial proceedings surpassed all

³⁷ <https://www.pewresearch.org/fact-tank/2019/08/20/smartphones-help-blacks-hispanics-bridge-some-but-not-all-digital-gaps-with-whites/> accessed 10 February 2021

³⁸ *Id.*

³⁹ <https://www.urbanismnext.org/resources/digital-gap-between-rural-and-nonrural-america-persists> accessed 10 February 2021

⁴⁰ <https://www.pewresearch.org/fact-tank/2021/08/19/some-digital-divides-persist-between-rural-urban-and-suburban-america/> accessed 10 February 2021

⁴¹ <https://www.pewresearch.org/fact-tank/2017/04/07/disabled-americans-are-less-likely-to-use-technology/> accessed 10 February 2021

expectations and would not have reached this level for many years if it were not for the arrival of the pandemic. However, with this rapid digitalization came to a lot of unknowns. While many concerns will be settled over time, the concern regarding access to justice should be addressed immediately. If digitalization is to improve the access to justice on an equitable basis, access to digital equipment, the internet, etc. has to be universal or otherwise digitalization will present a hindrance to the equal access to justice – even denial of justice. This is why it is of utmost importance to keep alternatives to digital proceedings for the foreseeable future and at least until the issue of access to digital equipment and digital literacy are solved. We should bear in mind that the coronavirus crisis has held a mirror up to our societies, reflecting the effects of discrimination against religious, ethnic, and racial minorities. Prior to the pandemic, justice systems across the globe were already failing to meet people’s everyday legal needs. As the COVID-19 crisis pushes hundreds of millions more out of housing and jobs and into debt, the challenge of unmet legal needs is exploding and overwhelming courts and legal service providers. Shifting to online services left those who lack access to such technology with underserved legal needs.⁴²

Adjusting to the post-Covid-19 world will be a long process, one that will be conducted step by step. The same approach will definitely be the case for court systems throughout the world as well. There is no doubt that there is a need and eagerness for the judiciary to return to the “normal” functioning. It is reasonable to expect that some of the measures introduced as a necessity due to the COVID-19 pandemic will remain even after the pandemic. The real question now is how countries will adapt to the post-COVID-19 world. While initial actions will certainly include losing up measures and scaling down the use of technology, it is obvious that digitalization, in general, proved to be useful and possible to implement in a short time. Some measures, like the use of e-filing for a specific type of cases or specific users (commercial cases or small claims) and incentives for alternative dispute resolution, should be further developed and considered as a permanent solution even after the COVID-19 pandemic, since they bring numerous other benefits, unrelated to the pandemic itself.

⁴² European Commission for the Efficiency of Justice (CEPEJ), Council of Europe, “National Judiciaries COVID-19 Emergency Measures of COE Member States,” see [https://www.coe.int/en/web/cepej/national-judiciaries-covid-19-emergency-measures-of-coe-member-states/-/blogs/test-blog-
cepej?_33_redirect=https%3A%2F%2Fwww.coe.int%2Fen%2Fweb%2Fcepej%2Fnational-judiciaries-covid-19-emergency-measures-of-coe-member-states%3Fp_p_id%3D33%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-4%26p_p_col_pos%3D2%26p_p_col_count%3D3](https://www.coe.int/en/web/cepej/national-judiciaries-covid-19-emergency-measures-of-coe-member-states/-/blogs/test-blog-
cepej?_33_redirect=https%3A%2F%2Fwww.coe.int%2Fen%2Fweb%2Fcepej%2Fnational-judiciaries-covid-19-emergency-measures-of-coe-member-states%3Fp_p_id%3D33%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-4%26p_p_col_pos%3D2%26p_p_col_count%3D3)
accessed 22 February 2021

Literature:

1. Lederer, Fredric I., "Improving Access to Justice via Technology" (2018). Popular Media. 427
2. Jamie Young, A virtual day in court design thinking & virtual courts, , December 2011, page 8.
3. Richard Zorza, Video Conferencing for Access to Justice: An Evaluation of the Montana Experiment, Legal Services Corporation, 2007, 1, 3, <https://docplayer.net/3126017-Video-conferencing-for-access-to-justice-an-evaluation-of-the-montana-experiment-final-report.html>.
4. Pathfinders for Peaceful, Just, and Inclusive Societies, *Justice for All: Final Report of the Task Force on Justice*, April 2020. See: https://bf889554-6857-4cfe-8d55-8770007b8841.filesusr.com/ugd/90b3d6_746fc8e4f9404abeb994928d3fe85c9e.pdf
5. World Justice Project. *Global Insights on Access to Justice*, 2019. See: <https://worldjusticeproject.org/our-work/publications/special-reports/global-insights-access-justice-2019>
6. <https://www.thersa.org/globalassets/pdfs/reports/a-virtual-day-in-court.pdf> , accessed 22 February 2021
7. <https://www.lexisnexis.co.za/news-and-insights/virtual-working/covid-19-pushes-courts-to-new-era>
8. <https://www.11alive.com/article/news/health/coronavirus/virtual-civil-court-proceedings-here-to-stay/85-6fe2c4b3-85c7-4642-bb24-52dfdede7069>
9. <https://www.lexisnexis.co.za/news-and-insights/virtual-working/covid-19-pushes-courts-to-new-era>
10. Government Decree 45/2020 of 14 March 2020.
11. Government Decree 74/2020 of 31 March 2020. That Decree became ineffective on 18 June 2020, in accordance with Article 53(4) of the Fundamental Law.
12. Extraordinary Session, Short Protocol No. 9, 10 March 2020.
 1. *und* 2. *COVID-Justizbegleitgesetz*.
13. Art. 83 of the Decree-law of 17 March 2020 n. 18.
14. 2020 Rule of Law Report – Country chapter on rule of law situation in Italy, SWD(2020) 311 final, p. 5. Information received in the context of the country visit and of the consultation process for the

- preparation of the report, e.g. Ministry of Justice contribution (an increase of 89% in videoconferences has been registered in May 2020 with respect to May 2019).
15. Royal Decree 463/2020, declaring the state of alarm as a result of the health crisis caused by COVID-19.
 16. The Commission has also addressed this issue in the context of the European Semester. Recital 28, Council Recommendation on the 2020 National Reform Programme of Spain and delivering a Council opinion on the 2020 Stability Programme of Spain, p. 8 <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020DC0509&from=EN>
 17. 2020 Rule of Law Report – Country Chapter on rule of law situation in Portugal, SWD(2020) 321 final, p. 5.
 18. 2020 Rule of Law Report – The Rule of Law situation in the European Union, SWD(2020) 580 final, p. 11.
 19. The Netherlands Committee of Jurists for Human Rights (2020), Letter on concerns about corona measures in criminal justice.
 20. Letter from the Minister for Justice and Security and the Minister for Legal Protection to the House of Representatives of 25 June 2020: ‘Contours of the Approach to Address Backlogs in Criminal Justice’.
 21. National Ombudsman, Proper Provision of Information is the Basis of Access to Justice – Bottlenecks in the Provision of Information about Penalties and Dismissal Decisions.
 22. Ordinance 2020-303 of 25 March 2020.
 23. Magistrates Union (2020), Automatic extension of provisional detentions: after the scandal and the mess, nonchalance!
 24. Judgment no. 974 of the Court of Cassation of 26 May 2020 (20-81.910).
 25. Article 104 of the Criminal Procedure Code.
 26. Uredba o načinu učešća optuženog na glavnom pretresu u krivičnom postupku koji se održava za vreme vanrednog stanja proglašenog 15. marta 2020. godine, Službeni glasnik RS, broj 49/2020.
 27. Application no. 28370/05, judgement of 10 January 2012.
 28. Application no. 3511/97, judgement of 14 February 2001.
 29. Application no. 45106/04, judgement 5 October 2006.
 30. Safeguarding the right to a fair trial during coronavirus pandemic: remote criminal justice proceedings, (2020) Fair Trials, <https://www.fairtrials.org/sites/default/files/Safeguarding%20the%20Oright%20to%20a%20fair%20trial%20during%20the%20coronavir%20pandemic%20remote%20criminal%20justice%20proceedings.pdf>

31. <https://www.pewresearch.org/fact-tank/2019/08/20/smartphones-help-blacks-hispanics-bridge-some-but-not-all-digital-gaps-with-whites/>
32. <https://www.pewresearch.org/fact-tank/2019/08/20/smartphones-help-blacks-hispanics-bridge-some-but-not-all-digital-gaps-with-whites/>
33. <https://www.pewresearch.org/fact-tank/2019/05/31/digital-gap-between-rural-and-nonrural-america-persists/>
34. <https://www.pewresearch.org/fact-tank/2019/05/31/digital-gap-between-rural-and-nonrural-america-persists/>
35. <https://www.pewresearch.org/fact-tank/2017/04/07/disabled-americans-are-less-likely-to-use-technology/>
36. European Commission for the Efficiency of Justice (CEPEJ), Council of Europe, “National Judiciaries COVID-19 Emergency Measures of COE Member States,” see https://www.coe.int/en/web/cepej/national-judiciaries-covid-19-emergency-measures-of-coe-member-states/-/blogs/test-blog-cepej?_33_redirect=https%3A%2F%2Fwww.coe.int%2Fen%2Fweb%2Fcepej%2Fnational-judiciaries-covid-19-emergency-measures-of-coe-member-states%3Fp_p_id%3D33%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-4%26p_p_col_pos%3D2%26p_p_col_count%3D3