

2023 Questionnaire of the 1st Study Commission IAJ-UIM

“The Effects of Remote Work on the Judicial Workplace and the Administration of Justice” Answers - Slovenia

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?

Before the pandemic COVID -19 judges were allowed to work from home or remotely, but this was very rare. Individual judges used this option, usually in the higher courts and the Supreme Court of the Republic of Slovenia, usually those who were more than 50 km away from the court where they worked and needed a lot of time to get to and from work due to poor transport connections. Since we still have paper-based cases and not electronic ones, working from home was limited to studying cases and writing judgments. Video conferencing or teleconferencing sessions or meetings were not possible due to lack of technical equipment. Oral hearings or hearings by videoconference application were also very rare, partly because of poor technical equipment, and partly, especially in civil cases, because the procedural rules (Article 114a of the Code of Civil Procedure, ZPP) did not and still do not allow the conduct of the entire main hearing by videoconference without the consent of the parties and their lawyers. During the first wave of the pandemic in spring 2020, the work of the courts was limited only to urgent cases (Article 83 of the Courts Act and the Regulation on Special Measures of the President of the Supreme Court of the Republic of Slovenia). Judges were forced to work remotely during the pandemic because they were not equipped with technical equipment or remote access due to closures and regulations restricting freedom of movement. During the pandemic COVID -19, first the Supreme Court judges, then the High Court judges and by the end of the second wave, the first instance judges were also given laptops, only by the end of the second wave of the pandemic in 2021, they were also given remote access, i.e. working from home via a computer connected to the work computer and databases.

Rapidly, more and more meetings, consultations, educational events and even panel discussions (in higher instances) were held via Zoom, Teams and other open platforms.

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.)

After the end of the pandemic, many more judges work remotely or from home than before the pandemic, primarily because of the technical possibilities they have (remote access and laptop), but also because they just like it, because they organise their work differently. Today, more than 85% of judges still work from home at least one day a week, the vast majority two days, some even three days, depending on the agreement with the president of the court. All hearings and trials still take place in the courts, judges do not have the technical facilities to conduct hearings from home. This is also not recommended for security reasons and from the point of view of data protection. More judges work remotely in the higher courts and the Supreme Court, less so in the courts of first instance, where the work is naturally much more dynamic and requires more presence of the judge at the workplace in the court. More judges work from home in areas of law where the case is already largely

handled electronically: e.g. enforcement, land registry, court registry and insolvency cases; in other areas: e.g. criminal, civil and family, work from home is much less. All hearings and trials take place face-to-face in courtrooms in courthouses; with the help of video conferencing, only individual hearings of witnesses from distant locations or in cross-border cases.

Some educational events still take place online, but generally meetings, consultations and panel sessions are moved back to the courthouses.

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.

The measures taken during the pandemic COVID -19 were only of a temporary nature and it is difficult to speak of a change in the way judges worked in general. In most cases, the work of judges still takes place in courtrooms, in the courts and in their workplaces. There is no research on whether remote working has changed judges' work for the better or for the worse. The organisation of judicial work is left to the judge himself, just as it was before the pandemic. And how the work is done depends on the judge's awareness and attitude towards the work, not on whether it is done remotely or in the courthouse.

However, the statistics show some correlations between working remotely and a lower caseload.

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 remote working of judges has no effect on the judicial workplace in the country. As mentioned earlier, it is important for the judge to be aware of the fact that he has to do his work responsibly, where he does it: at the workplace - in the cabinet at the court or at home or from another place, it does not matter.

Therefore, no adjustments or changes were made due to the judges' workplace (reduction of judicial cabinets, etc.).

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

It is to be expected that remote work will become even more important as a general rule in society. This certainly has its positive and negative effects. You save time and energy because you no longer have to travel to court, but on the other hand, you can somehow lose contact with your colleagues; you no longer meet with them by chance to discuss the things of everyday life that are also important to everyone, and so on. Of course, it depends on the technical possibilities and the rules of procedural law whether judges will be able to conduct hearings exclusively by technical means (computers) and from home, or whether this possibility of conducting videoconference hearings will continue to be limited to the courthouse and the technical possibilities in the courthouse. The same applies to the higher courts and the Supreme Court, whether it will be technically possible to provide a secure connection so that judges can also hold sessions and deliberations remotely and not face to face in the courthouse. But the good thing is definitely the possibility to meet quickly online if needed.

3) Effects on the administration of justice

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

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.

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

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

From the perspective of court administration, the increased remote work of judges means a greater organisational challenge. Indeed, the president of the court must ensure the work of the court even when judges work from home, he must draw up a roster of judges on duty who are available, on the one hand, for the clerks and registrars and, on the other hand, especially in the first instance, also for the clients during the office hours of the courts and ensure the organisation of on-call duty in urgent matters, especially in criminal and investigative cases, but also in family cases.

The public has accepted the remote work of judges without prejudice, and given the general acceptance of remote work, there have been no questions or debates about whether or not judges should be allowed to work remotely. However, it is necessary to separate the work of remote judges from the conduct of remote hearings. As mentioned above, during the first wave of the pandemic in spring 2020, the work of the courts was practically paralysed, except in urgent cases (pre-trial detention, interim injunctions). Already at the end of the first wave of the pandemic, there were many requests from parties for the court to hear their case after all, they agreed to a trial by video conference, even in civil cases, which was impossible before. However, at the beginning there were mainly many technical problems, the clients also did not have technical devices or applications or did not know how to use them. In general, it can be said that the pandemic has contributed to the development of the possibility and confirmation that main hearings and hearings can also be conducted remotely using technical means, for example video conferencing.

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 specific positive or negative effects of remote work by judges on judicial independence have been identified.

It should be noted at this point that in the case where judges work from home, it is much easier to circumvent their motions than when judges can discuss individual issues together, perhaps relating to their status (judges' salaries) or to proposed amendments to various laws, since the significance of a proposal submitted by a group of judges or perhaps by associations of judges is much greater than when a proposal is submitted by only a few judges or a single judge.

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.

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

The remote work of judges in the Republic of Slovenia is limited by procedural laws and technical equipment. Currently, only courtrooms in the courts are equipped to conduct videoconferences via secured electronic connections, and a judge cannot conduct hearings remotely via videoconference or the entire main hearing. Under the Criminal Procedure Code, the entire main hearing can be held by videoconference, whereas under the Civil Procedure Code, only the examination of a witness or a single procedural act can be held by videoconference, and the entire main hearing can only be held with the prior consent of the parties to the proceedings and their lawyers.

During the pandemic, judges proposed to amend the Civil Procedure Code to allow the entire main hearing to be held by videoconference or teleconference, but the proposal was not accepted by the government and the law remained unchanged in this part. Given the development of technological possibilities, it is to be expected that the legislation will follow suit. This raises a number of questions

regarding the security of data transmission, verification of the identity of interrogated persons and other issues.

Proposed theme for 2024:

The role of court presidents - only administrators of court proceedings and/or defenders of independence - the role of presidents of supreme courts.