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To the International Association of Judges – IAJ-UIM

The Romanian Magistrates' Association (AMR), professional and national, apolitical, non-governmental organization, stated to be of „public utility” through the Government Decision no. 530/2008 – with the headquarter in Bucharest, Regina Elisabeta Boulevard no. 53, District 5, e-mail amr@asociatia-magistratilor.ro, tax registration code 11760036 – legally represented by Judge dr. Andreea Ciucă - President, sends the following

ANSWERS TO THE FIRST STUDY COMMISSION QUESTIONNAIRE “The Effects of Remote Work on the Judicial Workplace and the Administration of Justice”

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?

➔ Even before the pandemic the judges were permitted to work remotely.

The vast majority of courts were already using computer applications related to the electronic file. Specifically, these are two computer applications created by the own effort of a court of appeal and a tribunal: "Electronic File" (or "File Info") and "TDS" (Secure Document Submission). These applications have been taken over, implemented and developed by many courts in the country since 2013.

The electronic file gives access for judges, parties and lawyers to all the documents in the file, electronically, by using a password allocated for this purpose by the court, under data security conditions. The electronic file ensures the decongestion and streamlining of the court's activity and creates the premises for the speedy adjudication of the cases. The parties or their lawyers may also submit documents to the file online.



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The parties and lawyers were encouraged, even before the state of emergency, to submit the documents in an electronic format, in order to eliminate or reduce the scanning stage which involved a significant use of human resources.

Therefore, the electronic file allows the visualization of the documents in the file, including those drawn up by the court.

Thus, the electronic file ensures a greater efficiency of access to justice and of the right to defence, without the parties and their lawyers having to go to court to study the file.

Also, the electronic file gives judges the possibility to study cases from home and to write the reasoning of the decisions from home.

The parties and lawyers were encouraged, even before the pandemic, to submit the documents in an electronic format, in order to eliminate or reduce the scanning stage which involved a significant use of human resources. However, in criminal cases the problem is that, with a few exceptions, the prosecutor's offices send in electronic format only the act referring a case to court (the indictment). The limited human resources of the courts do not allow the scanning of all acts carried out during the criminal investigation, especially since, in many cases, the volume of criminal investigation acts is large or very large.

Therefore, the documents in the criminal investigation files must be studied in the court archives.

The problem was solved only at the level of the High Court of Cassation and Justice and at the level of some courts of appeal as the prosecutor's offices send the criminal prosecution files in electronic format.

However, despite the steps taken by AMR, the issue has not yet been resolved at the level of the other courts of appeal, tribunals and first instance courts, given that the prosecutor's offices do not proceed in the same way as the Prosecutor's Office attached to the High Court of Cassation and Justice and the prosecutor's offices attached to some courts of appeal.

This remote work method was efficient, the judges and clerks having the possibility to access the ECRIS software and the "Electronic File" software, on the basis of passwords assigned to them in compliance with security rules.

The positions whose responsibilities could be exercised remotely (from home), using the electronic means of work and communication, were established at the level of each court in the Specific Plan regarding the Continuity of Activity.



➔ During the pandemic the activity of the courts continued in the manner recommended by the European Association of Judges¹, i.e., through electronic means. This situation was obviously facilitated by the use of the two computer applications regarding the electronic file, mentioned before. The courts continued to receive, in this way, summonses, requests for appeals, documents in cases, requests, etc.

During the pandemic, the courts made an express recommendation to the parties and lawyers, as well as to other participants in civil and criminal proceedings, to send the documents to the files (or in connection with the files) by means of rapid communication provided by law (fax, e-mail).

As we mentioned below, there are a large number of courts that use a software called "File Info", which sets up electronic files for each case. "File info" allows judges, parties and lawyers to access all documents in the files, electronically. To this end, the documents submitted by the parties in paper format are scanned and entered in the ECRIS software, from where they are automatically taken and included in the electronic file.

Judges were encouraged to work from home and they did work from home.

The possibility to work from home was provided in Law no. 55/2020 on some measures to prevent and combat the effects of the pandemic.

Some judges came to the court from time to time, others daily.

Judges and clerks were present in court on the days when they were scheduled for court hearings.

Most judges combined in-person work at the office and the work from home.

It is difficult to establish an exact percentage of those who worked from home during the pandemic given that in Romania there are 16 courts of appeal, 42 courts, 4 specialized tribunals and 177 district courts. However, the percentage was over 50%. For example, we are aware of courts of appeal in which this percentage was 70-80%.

➔ Another aspect is the use of the videoconferencing system in civil cases, to the extent that the parties agreed and if the judge considered that this modality ensured compliance with the principles governing the civil process.

It should also be noted that in April, 2021 a separate law was adopted for the judiciary on some measures in the field of justice in the context of the COVID-19 pandemic. It is about Law no. 114 which regulates the possibility of taking / disposing of measures necessary for the functioning of justice as a public service in order to prevent and combat the effects of the COVID-19 pandemic.

¹ see, Jose Igreja Matos, President of the European Association of Judges (EAJ-AEM), article "Being a judge in times of pandemic" (<https://eulawlive.com/weekend-edition/weekend-edition-no12/>)



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The courts have used many times the videoconference systems for court hearings.

In civil cases it was possible with the approval of the parties or of their representatives.

In the especially urgent criminal cases that were tried during the pandemic, the hearing of the persons in the custody of prisons, as well as in the custody of other authorities (the police) was carried out, in most cases, through the videoconference system.

There are courts in which this system was practiced even before the establishment of the state of emergency, if the person in custody agreed to this method of hearing and insofar as it did not infringe upon his rights and interests.

In some courts it has been recommended, by the management board or by the president, that the court hearings in civil cases be held by videoconference, during the state of emergency, if the parties agreed to it and if the judge considered that this method ensured compliance with the principles governing the civil proceedings or the criminal proceedings.

Also, before the pandemic, procedural acts (hearings, testimonies of witnesses) were carried out by video conference, for example when witnesses were overseas and unable to appear in court in person.

➔ In the fall of 2020, the government allocated funds for the courts to purchase video conferencing equipment and laptops to allow judges to work remotely.

The Superior Council of Magistracy carried out a project regarding professional training and consolidating the capacity at the level of the judiciary, financed within the Norwegian Financial Mechanism 2014-2021, intended for consolidating the administrative capacity and the efficiency of the judiciary by developing the technical and IT infrastructure. Within this project, the courts benefited from 100 videoconference integrated systems in 2021.

Among the effects of working from home, as measure implemented during the pandemic, there was also the acceleration of the demarches regarding the providing of the courts with IT equipment (laptops, computers, printers, videoconference systems etc.).

We are aware of the fact that there are courts of appeal that have equipped all judges (from the respective court of appeal and from the courts in the area of competence - tribunals and first instance courts) with laptops so the judges can work remotely.

Also, the courts ensured to the judges the access, to the database from the ECRIS (Electronic Court Register Informational System) software and from the "File Info" portal (electronic file - see above). To this end, IT security precautions were taken in accordance with the rules established by the Directorate for Information Technology within the Ministry of Justice.



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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.)

As emphasized before, each court uses a computer data system that has been developed at the level of the Ministry of Justice to be used uniformly in all courts in the country. The computer system has been used since 2006 in all courts in Romania. It stores data on all court files, from the beginning to the end of each court proceeding.

Stored data includes, for example, documents submitted by the parties to the case file and documents issued by the court. If the parties do not send the documents in electronic form, they are scanned by the court so that they can be entered in the database.

This computer system is called ECRIS (Electronic Court Register Informational System). Each court, regardless of the level of jurisdiction at which it is located, has its own database that it manages directly, having responsibility in this regard. There are IT departments in the courts of appeal and in the county courts, the IT specialists being the ones in charge of the administration of the ECRIS IT system.

All judges and clerks of the court have access to the information in the ECRIS computer system of that court.

There is also a separate portal, created and developed by the Superior Council of Magistracy, called EMAP. By this web portal, judges and clerks of a court have access to certain information from the database of other courts.

After the pandemic, the judicial activity was resumed in all cases, no longer being restricted to especially urgent cases.

Thus, judges from the High Court of Cassation and Justice, courts of appeals, tribunals, courts of first instance still have the opportunity to work from home in all the fields of law.

This possibility is not expressly provided by law, but according to the art. 5 of the Internal Order Regulation of the Courts, adopted by Decision no. 3243/2022 of the Superior Council of the Magistracy, the work schedule of judges usually starts at 8:00 a.m. and usually ends at 4:00 p.m. They are, however, obliged to be present at the set time for the performance of the activities in which they are planned or which they have established or which require their presence, as a result of some legal or regulatory provisions. They are also obliged to be present in court for the



court hearings as well as for the activities established by the president of the court in accordance with the law².

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.

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

Each court is annually subjected to an assessment of its degree of performance, having regard to efficiency indicators of the activity, which include the length of the proceedings. These indicators were established by the decision of the Superior Council of Magistracy and are based on the statistical data contained in the ECRIS computer program managed by each court and applied at a national level.

In order to obtain the qualification "very efficient" for the indicator "length of proceedings", it is necessary not to exceed a period of 11 months in non-criminal cases (civil, administrative) and a period of 5 months in criminal cases. The period runs from the date when the case is filed in court, ending on the date when the final document (the court decision) is closed in the ECRIS computer program. We mention that, for example, in 2022, the average length of proceedings as far as courts of appeal are concerned was usually short (between 3.2 month and 4 month).

Remote work contributes to maintaining and increasing the pace of judicial activity, as judges can study cases from home, write the reasoning of decisions from home and sign their decisions with qualified electronic signature.

Also, holding hearings online via videoconferencing applications allows the courts to adjourn cases for short periods of time considering the fact that the physical presence of the parties or witnesses in court is not necessary. The videoconference applications are mainly utilized in urgent cases, but they are used in other cases as well.

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

The Romanian Magistrates' Association (AMR) has carried out a series of actions with the purpose of stimulating the Ministry of Justice to support the courts, so that the "File Info" portal (electronic file) can be implemented in all courts in Romania.

² A similar provision has been laid down in the previous Internal Order Regulation of the Courts, adopted by Decision no.



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On the occasion of the meetings held with the leadership of the Ministry of Justice and with the representatives of the legislative power, the Association of Romanian Magistrates (AMR) requested the taking of the necessary measures for the national extension of the electronic file software.

AMR presented the existing factual situation in the courts and pointed out that the electronic file software was created and implemented exclusively through the efforts of the courts, given that the Ministry of Justice did not provide support in this regard. Many courts of appeal use this software. In fact, 2 such software have been created and developed across the country.

However, as AMR pointed out a unified approach is needed at the national level and the Ministry of Justice must take action as soon as possible. Such an approach is both in the interest of the judiciary as well as in the interest of the citizens. The mission of the Ministry of Justice is largely simplified thanks to the effort and dedication of the staff of the courts of appeal who created and implemented the electronic file.

Although at the beginning of 2021, the Ministry of Justice announced that until the end of the year we will have the electronic file at national level, the measure has not yet been put into practice.

It should be mentioned, however, that according to a new provision introduced in Law no. 304/2022 regarding the judicial organization the National Electronic File will be implemented in all courts. This provision applies from January 1, 2024.

Also, the Superior Council of the Magistracy has implemented a new software that allows the judges to search for a file in all the courts in the country and to access the documents in the respective file.

Therefore, conditions are created for increasing remote work.

The purpose of these computer programs is to allow the judges to write the reasoning of the decisions and to study court hearings remotely. All they need is internet access. Of course, the judge's access to all the resources of the IT applications must be made exclusively for professional purpose.

Therefore, we expect an increase in remote work of judges. It remains to be seen whether the effects will continue to be as expected, i.e. reducing the length of the of the proceedings and increasing the quality of judgments.



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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.

Among the effects of organizing work at home was the acceleration of efforts to equip courts with IT equipment, including laptops for judges. Therefore, as a rule, the courts provided laptops to all judges.

Also, the courts ensured to the judges the access, to the database from the ECRIS (Electronic Court Register Informational System) software and from the "File Info" portal (see above). To this end, IT security precautions were taken.

At the same time, the number of videoconferencing systems with which the courts have been equipped has increased.

Unquestionably, the use of the electronic means to which we referred have had beneficial effects in terms of facilitating the way in which the judges work remotely and the way in which the parties and their lawyers exercise their rights. At the same time, the beneficial effects are also materialized in terms of simplifying procedures, reducing costs and the length of judicial proceedings.

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

The current use of the electronic file – which allows judges to work remotely – has received very good feedback, both from judges and court staff, as well as from lawyers and parties.

It is really appreciated that the electronic file creates the grounds for the decrease of the average length of the proceedings. Likewise, the decrease in the length of time from the pronouncement of the judgment to the writing of its reasoning is well received - an improvement that is also obtained through the remote work of the judges.

The use of electronic file has the effect of improving communication, transparency and access to justice. The use of IT applications regarding the electronic file implied a minimum consumption of resources and time, no longer being necessary to move the parties and lawyers to the court in order to consult the file in the archive and/or to request copies of the documents in the files.



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At the same time, the use of the electronic file ensured both the decongestion and streamlining of the activity in the archives during the pandemic and afterwards, as well as the avoidance of the increase of the average duration of solving the cases.

The total workload of the Romanian courts in 2021 was almost 2,900,000 files. More than 2,000,000 cases were solved, more precisely a percentage of 71%. In 2021, the level of stocks decreased compared to 2020 with 42,840 files, which represents a decrease of 50.24%.

Taking into consideration that the number of cases newly registered in 2020 increased compared to 2020 by 142,030 cases, but the stock of files decreased in 2021 compared to 2020, a reduction of the lengths of the proceedings can be observed.

We believe that the fact that judges were allowed to work remotely has helped to achieve these results.

According to the Eurobarometer published by the European Commission in May 2021, the trust of Romanian citizens in justice system increased by 12% compared to July 2016.

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

The positive effects were reflected in the answers to the previous questions. In addition, we refer to the reduced commute time, greater flexibility in the work, less cost, improved work life balance.

Regarding the negative effects, some judges have noticed that when they are heard via videoconference applications, the parties tend not to give as detailed statements as if they had been heard in persons in a courthouse. In addition, some colleagues have pointed out that the trial is more coherent when the parties are heard in a courthouse and the entire range of gestures can be directly observed by the judge.

Therefore, complicated hearings and trials should remain in person.

Finally, some judges are concerned about the fact that professional and personal relationships will no longer be at the same level due to the decrease of the communication in person.

The courts will continue to study the positive and negative impacts of remote work.

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.



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Among the effects of working from home there is also the acceleration of the measures regarding the providing of the courts with IT equipment (laptops, computers, printers, videoconference systems etc.). This IT equipment was required for carrying out the specific activities of the courts adapted to the new social reality.

For example, we refer to the access of judges to the electronic file for preparing the hearings and for writing the reasoning of the decisions. We also refer to the possibility of organizing the court hearings using videoconference systems or to the possibility organizing professional training activities using videoconference system or online system etc.

Additionally, the courts have used many times the videoconference systems for court hearings. In penal cases, this possibility is provided by law. In civil cases it is also possible with the approval of the parties or of their representatives. There have been also used fast means of communication, through the electronic file.

All these steps had an effect, in the sense that they created the ground for positive changes regarding the length of proceedings. Therefore, we can refer to a positive effect on the right to a fair trial - seen as a component of the independence of the judiciary.

No other significant positive or negative effects of remote work on judicial independence were reported.

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?

➔ In the especially urgent criminal cases that were tried during the pandemic, the hearing of the persons in the custody of prisons, as well as in the custody of other authorities (the police) was carried out, in most cases, through the videoconference system. According to the Decree of the President of Romania no. 195/2020, which established the state of emergency, the consent of the person in custody was not required.

Currently, the courts apply the provisions of the Criminal Procedure Code. Thus, the defendant's consent is required for the court session to be held through the videoconference system.



According to the Civil Procedure Code, in civil cases, when possible, with the agreement of the parties, the courts may decide that the hearings shall be conducted by means of audio-visual telecommunication.

Digitally-excluded people can lack skills, confidence and motivation, along with having limited or no access to equipment and connectivity. This can create additional layers of social exclusion and exacerbate social and economic problems. Getting online is usually life-enhancing and it can be life-changing!³

If the parties do not have adequate electronic means, the court hearing is not conducted by videoconferencing system. As indicated before, the use of videoconferencing systems in civil proceedings requires the agreement of all parties. If one of the parties does not have the technical means, it shall not give its consent. Therefore, in such cases, civil trials take place at the court premises with the physical presence of the parties and their lawyers.

➔ As the Romanian Magistrates' Association (AMR) has repeatedly argued, in order to avoid non-unitary practices in the use of virtual means in the civil and in the criminal process, legislative changes are needed. It is also necessary to extend the IT applications by depriving the electronic file at national level, through the effective involvement of the Information Technology Directorate of the Ministry of Justice.

As previously mentioned, in Law no. 304/2022 regarding the judicial organization, a provision was introduced according to which the National Electronic File will be implemented in all courts starting with January 1, 2024.

With regard to the legislative changes, we mention two of them that took place recently:

i) In June 2022, an article was inserted in the Code of Civil Procedure⁴, with the following content: *"The service of rulings will be made, ex officio, by electronic mail if the party has indicated to the court the appropriate data for this purpose directly or at the express request of the court during the trial. The communication will be accompanied by the extended electronic signature of the court (...). Court decisions shall be deemed to have been communicated at the time when they have received a message from the system used that they have reached the recipient according to the data provided by him."*

In fact, the legislator has transposed into law the practice of some courts regarding the electronic communication of court decisions.

³ <https://www.citizenonline.org.uk/digital-inclusion/>

⁴ The article in question is art. 154¹, introduced in the Civil Procedure Code by Law no. 192/2022.



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ii) In July 2022, a new law⁵ was adopted which in Article 2 paragraph 1 provides the following:
"In civil cases, when possible, with the agreement of the parties, the courts may decide that the hearings shall be conducted by means of audio-visual telecommunication which allow the verification of the identity of the parties and guarantee the security, integrity, confidentiality and quality of the transmission, ordering the necessary measures for this purpose."

In this situation, too, the legislator took into account the practice of the courts in conducting court hearings in compliance with the principles governing the civil process.

iii) In the new Law on the judicial organization entered into force in December, 2022 new provisions were laid down:

"The court hearings of the panel for the settlement of the appeal in the interest of the law, the panel for a preliminary ruling to settle legal issues and of the United Sections can be held, exceptionally, also through the videoconference system".

"Court decisions can also be signed with a qualified electronic signature".

Judge Andreea Ciucă, PhD,
President of the Romanian Magistrates' Association (AMR)

⁵ Law no. 220/2022 on the adapted capitalization of some proven beneficial measures for the institutions in the field of justice established during the declared state of alert in order to prevent and combat the effects of the COVID-19 pandemic.