

**RESPONSE OF THE ISRAELI DELEGATION
TO THE SECOND STUDY COMMISSION QUESTIONNAIRE 2022
VIRTUAL TRIALS IN CIVIL PROCEEDINGS**

64th Annual Meeting of IAJ – Tel Aviv (Israel)

By Tamar Snunit Forer, Family Court Judge

- 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 the offer was exercised.**

Yes. Before the pandemic, The Court had the discretion to allow cross examination hearing by way of virtual means, but this was applied in rare cases. Interpretation of Section 13 of the Evidence ordinance [New version] by the Court allowed the parties to perform cross examination outside of Israel in virtual means. The Courts in Israel applied a broad interpretation to the section that allowed online cross examination based on the said section.

- 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?**

Yes. On April 2, 2020, the Israel Judicial Authority announced the implementation of a pilot program using a video conference in civil hearings on a limited basis. The program precedes the implementation of new civil procedure regulations.

Section 72 (a) of the new Civil code states that the Court may allow an online hearing whereby all the following measures should be met:

- A. The attendance of the witness shall entail enormous effort upon him.
- B. The witness provided its consent for this form of testimony.
- C. The testimony of the witness is crucial to the questions that are in dispute.
- D. There is no local law the prohibition to the testimony in the foreign country

The section also indicates the technicalities for having the hearing:

- A. Instruments that shall allow the witness to see and hear the Court room while the hearing, based on the discretion of the Court as it may see fit.
- B. A camera that shall allow close caption of documents.
- C. A central screen in the Court Room as well as a personal screen from the Judge.
- D. Any further consideration that the directors of the Court's office may indicate.

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?

The Judicial authority has developed and introduced its own software and hardware into the system. The Judiciary authority also allowed to implement other means of video conference suggested by the parties and their attorneys on their own expense.

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?

We estimate that the Courts will expend the virtual trials to pre-trial hearings and main trial in cases whereby both parties shall agree on having a virtual trial, although all the parties are in Israel. The benefits of having virtual trials by broadening the access to the Court and reducing the costs and enhancing the efficiency of the legal procedure. The challenges and issues that have arisen out of the virtual are the means to maintain same behavioral norms in virtual trials like in the physical Court room sessions.

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

Yes. the judiciary authority in Israel applies ongoing measures to improve the virtual hearings.

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

The Virtual trials has broadened the access to Court in a sense that the public could attend virtual hearing as well as regular physical attendance hearing. It did not exclude the public from attending the Courts.