

Second Study Commission
Civil Law and Procedure
64th Annual Reunion of the IAJ – Tel Aviv,
Israel Questionnaire 2022

ITALY

VIRTUAL TRIALS IN CIVIL
PROCEEDINGS

The Second Study Commission will focus on how our jurisdictions used, and will use, virtual trials and hearings before, during and after the Pandemic. We have limited the questionnaire to six questions, and we expect to receive short and concise answers. The questions are as follows:

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.

Before the pandemic the code of civil procedure did not contain any rules that explicitly allowed the judge to conduct hearings remotely. However, in exceptional cases and with the consent of the parties, even before the pandemic, the conduct of the hearing by virtual means was experimented.

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?

On march 17th, 2020 the Government, by way of decree law n. 18, introduced the possibility for heads of judicial offices to emanate protocols for the regulation of civil hearings by virtual means in those cases where is not required the presence of persons other than lawyers (as witness and parties in court). In particular, it became possible to held civil hearings through the exchange of written briefs or using videoconferencing technology. In accordance with the decree law the heads of the judicial offices promptly issued the protocols in accordance with the council of the bar association. At the beginning, many technical difficulties were reported. Now remote hearings are very common and used in most trials in all Courts. Civil virtual hearings are generically appreciated

and preferred by lawyers and parties over ordinary hearings.

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?

In Italy, even before the spread of the pandemic, every judge was equipped with a modern laptop pc and a fully functional software application called "Consolle" which allowed him to manage the individual procedures assigned and to send or receive computer documents from the lawyers. The software application is updated periodically and new laptops are routinely assigned to judges. During the pandemic the IT tools have been implemented in every court. As far as videoconference hearings are concerned, the government did not provide any software, they were mostly held via Zoom or MS Teams platform.

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?

On 27 July th, 2022 the Government, in implementation of the Delegated Law no. 206/2021, introduced the virtual hearing into the code of civil procedure with the extension and strengthening of the telematic civil process in the proceedings before the justices of the peace, the court, the appeals court and the Court of Cassation. Usually the benefits of remote litigation have been noted: cost savings, time, reduced case duration, safety

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

No research is currently underway to improve the experience of virtual civil trials. The virtual trials are now regulated by code of civil procedure.

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

The lawyers had the possibility to ask for an ordinary hearing instead of the virtual one.