

**Second Study Commission
Civil Law and Procedure
65th Annual Reunion of the IAJ – Tel Aviv, Israel**

Questionnaire 2022 SWITZERLAND

VIRTUAL TRIALS IN CIVIL PROCEEDINGS

- 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.**

No. The applicable Code of Civil Procedure does not contain any provision that allows the conduct of video hearings or interrogations. They are possible with the consent of the parties.

- 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 April 20, 2020 an emergency ordinance was put into effect in an expedited procedure. It became possible:

- to conduct negotiations via video conference if the parties agree or there are important reasons, in particular urgency;
- interviewing witnesses and drawing up expert opinions by means of video conferences;
- excluding the public from video conferences, with the exception of accredited media professionals.

For matrimonial proceedings, personal hearings by means of video or telephone conferences could only be carried out as a rule with the consent of the parties and if there were no important reasons against it. Only in cases of urgency could the agreement of the parties be dispensed with as an exception.

In addition, simplifications were provided for a waiver of a hearing and a referral to the written procedure (Article 5).

There were then technical specifications for the implementation of video and telephone conferences, namely (Art. 4):

- that the transmission of sound and image between all participants takes place at the same time,

- that recordings are made during interrogations and hearings and that these are included in the files,

- that data protection and data security are guaranteed.

The possibilities were not used very numerously. In any case, on-site hearings were and are preferred.

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 IT infrastructure is organized by the courts itself. So there exist different systems. In Zurich, a video survey, transmission and conference system was made available on the existing IT infrastructure. Documents can also be shared there.

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?

The rules introduced during the pandemic will be incorporated into ordinary law. The possibility of virtual trials increases flexibility and can speed up the processes. Data security, personal impression, authenticity can be problematic.

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

The electronic file project (Project Justitia 4.0) became increasingly important and, above all more, accepted during the pandemic.

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

Conventional access to the court remains guaranteed. In particular, there is no obligation for electronic access for natural persons (also in the future).

25th April 2022