

2022 QUESTIONNAIRE OF THE SECOND STUDY COMMISSION OF THE IAJ-UIM

Civil Law and Procedure/ Georgia 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.

Prior to the pandemic, Georgian procedural legislation allowed a party to participate in a hearing remotely via technical means, based on court decisions in civil, administrative, and criminal matters. However, in actuality, the parties almost never took advantage of such an opportunity. Electronic services were also available for submitting documents to the court and receiving information.

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?

The Common Courts of Georgia was not closed during the pandemic, but the access to court was restricted, only online sessions were permitted during the lockdown. High Council of Justice has adopted the recommendation¹ to regulate access to justice during the pandemic. During the lockdown, the hearings were postponed at the latest possible date (except those to be heard in shortened deadlines) as allowed by the law; According to the recommendation, to apply to the court using case management program was free of charge and parties can initiate the proceedings online. Additionally, courts received claims on papers and other documentation via special box in the reception of the court.

Court proceedings and trials were conducted online (remotely in electronic format) with the participation of the parties to the proceedings. In sum, 8529 cases were heard in this manner. More specifically, the statistical information may be disaggregated as following: 271 civil law cases, 5957 criminal cases, including cases concerning preventive measures and 2301 administrative law cases. It's noteworthy, that parties involved in mediation had the

¹ Response is based on decision of HCOJ <http://hcoj.gov.ge/Uploads/2021/2/02-2020.pdf>

Translation:

<http://hcoj.gov.ge/files/news/Recommendations%20for%20preventing%20the%20spread%20of%20Coronavirus.pdf>

opportunity to resolve the conflict remotely with the help of the online dispute resolution system.

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?

All necessary measures were taken to ensure that cases are considered in electronic format throughout the country, namely electronic program, enabling the participation of the parties in the court proceedings, was provided. As a result of the Emergency Situation in the country, justice system was shifted to remote working. This implies that court hearings were held electronically and the participation of the parties to the court proceedings was ensured via specific program. According to the Order and Recommendation issued on March 23 by the Council of Justice, most of the employees were recommended to work remotely. Only persons, whose absence would hinder the proper functioning of the court, were excluded from this recommendation. As for the electronic case management system, it functioned without obstructions. In terms of e-filing, it should be highlighted that parties to the court proceedings were provided with the opportunity to file lawsuits, case files and other relevant materials via electronic court registration web-page (www.ecourt.ge) without service fee.

These measures are also applicable to the activity of Public Prosecutors. More than 3000 court hearings have been held with the remote participation of prosecutors, the judgment have been made for about 500 cases, both by the plea agreement and the substantive hearing. The rules for receiving correspondence at the prosecutor's office have also changed. Citizens had the opportunity to send applications via e-mail at kancelaria@pog.gov.ge. 328 letters and applications have been received by e-mail, and 1543 letters and applications through special boxes. All of them were responded to within the timeframe set by law.

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?

Remote trials may become more common in the future, saving parties time and money by avoiding the need to travel to the courts. However, one of the primary issues with remote operations or the use of electronic services may be the risk of compromising the interests of individuals who don't have the necessary devices.

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

There has been no research done to identify solutions to the issues that arise in remote litigation, however, information retrieval, sorting, and consideration in practice on above-mentioned concerns will be addressed in the future. At the same time, understanding and sharing the experiences of other countries will be very relevant and interesting for Georgia.

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

Court officials contacted the parties ahead of time during the pandemic to confirm their attendance for the case's remote hearing and the date of the hearing was set based on the received information. The judge took into account the parties' inability to fully utilize electronic services or the challenges connected with it while determining the procedural time limit for the parties or restoring the time limit due to excusable causes.