

Polish Judges` Association "IUSTITIA"

2023 Questionnaire of the 1st Study Commission IAJ-UIM
"The Effects of Remote Work on the Judicial Workplace and the
Administration of Justice"

Questions:

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?

In Poland judges were not permitted formally to work remotely prior to the COVID-19 pandemic. During the COVID-19 pandemic some court authorities made an effort to equip the judges with remote access to their desktops. However, this varied from court to court and the regulations still did not allow for electronic signing of the documents. This means that remote work could not include issuing judgments or other decisions. These still had to be printed and signed. Preparing projects of future decisions was however possible. This was not universal. Many courts lacked the necessary equipment like laptops to make it possible for the judges to work from their homes.

As far as remote hearings are concerned it should be noted, that differs depending of the type of procedure. In civil cases the parties and their lawyers are permitted to attend trials online using their computer or cell phones (there are many stories circulating about lawyers acting on trials while driving their cars or during their vacations abroad).

In criminal cases it is possible for the defendants to give explanations or witnesses to testify online but only through prison or another court IT system.

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.)

Still the remote work of judges is not formally regulated. Judges, by permission of the president of the court, are allowed to take the files home and work home. The conditions developed during the pandemic remain valid. Still the files are not digitalised and the court systems are not adjusted to serving the electronic files.

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.*
- Given the fact that judges only factually work from home, and that this form of extra-office work is not regulated by any laws, judges are overloaded with work at home, for which they are not even paid.
- b. Does the remote work of judges have an impact on the judicial workplace in your country? Negative, positive or both? Please give examples.*

Not really, as it is a marginal activity. The mainstream of the court work still takes place in the court building, including the remote trials in civil proceedings.

- c. From your point of view, what future effects of remote work on the judicial workplace – negative, positive or both – can be expected? Should judges' remote work be regulated by a law in the future, positive effects might consist of more efficient procedure conducting in cases that*

would be eligible for such a method of adjudication, especially in cases when the parties' arrival before the court is troublesome for whatever reason.

Since the remote work of judges is not effective in Poland it is not possible to give any remarks. Having just said that it should be noted, that allowing trials to be held online via teleconferences in civil cases made court more available for parties. And in criminal cases it saves money – witnesses can testify in their home courts and cost of travel for trials should not be compensated. In the future it should be made possible for the parties or the witnesses in criminal cases to participate in a trial not only from a court building but also from their residence, just like in the civil cases.

3) Effects on the administration of justice

a. What are the pros and cons of remote work on the administration of justice?

Efficiency and speed of concluding proceedings and reduction of legal expenses of the proceedings would be pros of this type of work. Possible cons, on the other hand, would reflect the quality of evidence, especially remote interrogation of witnesses, and endangering of equity of the procedure and the rights of parties to the procedure, especially in criminal procedure. The remote hearings also deprive the parties of their right to a public trial, or at least this right is largely limited.

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.

It is not an issue for the reasons described above.

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

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

Faster conclusion of procedures and reduction of their legal expenses could

be viewed as positive, and possible evaluation of evidence, especially defendants' and witness' statements, as negative effects.

Some parties expect a public hearing (for example in cases of libel, etc.). Therefore in our opinion, given the national and international standards of justice, a party to a case should have a right to demand a traditional trial instead of a remote one.

See remarks to point 2.

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.

We do not see the remote work as an issue affecting judicial independence, one way or another.

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.

See answers to question 1 a)

b. Are there any proposals to change rules or statutes in your country either to permit more, or to limit, remote work by judges?

Not that we are aware of.

d. Should there be any changes of rules or statutes in your country either to permit more, or to limit, remote work for judges?

Legislation should be amended and remote work of judges should be enabled, and such work should be regulated by law. Bearing in mind that judges, in fact, do work from home, by getting acquainted with their cases, outside of working hours, for what they do not get paid extra, by regulating this form of work, they would be allowed to receive remuneration, and at the same time, proceedings would accelerate.

The necessary condition is the digitisation of the files. Since in Poland the files are not digitalised we see no chance to expand any form of remote work of judges in general, even though it would be desirable.

It should be noted however, that there is one specialised court in Lublin, Poland, the so called e-court that deals with civil cases. What is unique about this court that all proceedings are done online – plaintiff fills a form online, attaches documents online and referendaries (court officers acting as judges) render decision, that is delivered to defendants. If they agree with court decision it becomes valid as a court verdict and can be executed. If not, the case is printed out and send to proper court. In this case the both referendaries and judges are allowed to work remotely.