

QUESTIONNAIRE

ON THE IMPACT OF COVID-19 ON RULE OF LAW AND JUDICIAL ACTIVITY

1. What are the main problems the Judiciary experienced at a general level in your country as a consequence of the legal reforms approved in order to cope with the COVID-19 pandemic?

During COVID-19, the courts were partially shut down from mid-March until the end of April. Only critical tasks were handled, which in practice meant custody remands, extension of custody hearings and extremely urgent criminal proceedings. Urgent family cases involving children were also handled during that period. Like the other staff, the judges were sent home. Due to the digitisation of things like civil cases, the judges were able to conduct many of their functions from their homes. Nevertheless, the shut-down resulted in very large backlogs. When the courts reopened at the end of April, there were six weeks' worth of unprocessed cases. The courts are attempting to handle those on evenings and Saturdays. They do not expect to have worked off the backlog of cases until the autumn. The courts system now works normally. A number of health precautions are being taken, and people generally feel safe coming to the courts.

During COVID-19, special, very extensive and drastic legislation was adopted. It is still in force. For example, the Health Act was changed so that the Health Minister was granted a number of powers the minister did not have before in relation to things like freedom of assembly, tracing of infected people, compulsory admission to hospital and treatment, etc. The Minister for Justice had the Criminal Code changed so that all corona-related crimes are subject to double punishment, and abuse of relief packages is subject to quadruple punishment. Practice so far is limited, but the laws apply until 1 March 2021.

2. Did the legal reforms approved in your country in order to cope with the COVID-19 pandemic affect Rule of Law and Human Rights principles? If any, pls. enumerate them.

See the answer above. It can't be ruled out that there are people who have suffered violation of their rights to a fair trial within reasonable time and the principles of Rule of Law has been violated as the result of the very narrow definition of "urgent cases". It is yet to be seen.

3. As to the judicial organisation of your country, what impact had the legal reforms approved in order to cope with the COVID-19 pandemic? More specifically, what were their effects on the powers of the Minister of Justice, Council for Judiciary, Heads of Courts, Heads of Prosecution Services, Judges, Prosecutors, Court Administrators, Court Managers?

See the answer above. It can be added that investigations are being made as to the question of the government and the minister of Justice among others have tried to take legal actions that could compromise the division of power and thereby the independency of the judiciary. This is yet to be seen.

4. As far as Court activity, Court proceedings and trials are concerned, what was the impact of legal measures adopted? Pls. provide relevant information distinguishing between civil, criminal and administrative cases.

See the answer above.

5. Did “urgent” cases receive a different treatment and in this framework was a special legal definition or specification of “urgency” introduced for Court proceedings and trials?

See the answer above.

6. Did the amount of money and, more generally, the value at stake in the case play a role in the treatment of it? No, see the answer above.

7. As far as criminal cases are concerned, did cases concerning arrested defendants receive a different treatment? See the answer above. Some cases were conducted under the lock-down due to the fact that it regarded defendants of young age or defendants who had been in custody for a longer period or cases where there were considerations to be taken in regard of the witnesses – that could be rape-cases as an example.

8. What was the impact of such legal reforms on legal deadlines and procedural timeframes? See the answer above.

9. What is the role played in your country by IT, e-filing, smart and remote working in the management of cases as an effect of legal measures approved in order to cope with the COVID-19 pandemic? To what extent these measures are applicable also to the activity of Public Prosecutors? See the answer above. It was only in the civil cases that the lawyers could make use of the same it-systems as the judiciary.

10. What is the role played by your Association in the drafting of such legal reforms? Was your Association consulted by the Government before adoption of the aforesaid measures? The Danish Association of Judges was not heard by the government or the Parliament. The Danish Association tried though to play so active a role as possible in securing that the Rule of Law didn't get violated. The Danish Association took contact to Danish Court Administration, politicians and so in order to participate in as much work as possible regarding the lock-down, the reopening and the ongoing procedures after the reopening.

11. Did the Government consult the High Council for the Judiciary and/or other judicial institutional instances or representatives before adoption of the aforesaid measures?

No, that seems not to be the situation.

12. What is the attitude of Bar Associations and Lawyers vis-à-vis such legal reforms?

It is the impression that they support that there should be an investigation regarding the lock-down of the judiciary.