

**Report of the First Study Commission of the International Association of Judges –  
IAJ – 2021**

**“ACCESS TO JUSTICE DURING THE COVID-19 PANDEMIC”**

By August 20th, 2021, when this report was written, responses to the Questionnaire had been received<sup>1</sup> from the following countries:

- |                |                     |
|----------------|---------------------|
| 1. Argentina   | 21. Lebanon         |
| 2. Armenia     | 22. Liberia         |
| 3. Australia   | 23. Liechtenstein   |
| 4. Austria     | 24. New Zealand     |
| 5. Bermuda     | 25. North Macedonia |
| 6. Brazil      | 26. Norway          |
| 7. Canada      | 27. Panama          |
| 8. Chile       | 28. Paraguay        |
| 9. Croatia     | 29. Peru            |
| 10. Cyprus     | 30. Poland          |
| 11. Denmark    | 31. Portugal        |
| 12. Estonia    | 32. Serbia          |
| 13. France     | 33. Slovenia        |
| 14. Georgia    | 34. Spain           |
| 15. Germany    | 35. Sweden          |
| 16. Israel     | 36. Taiwan          |
| 17. Italy      | 37. Uruguay         |
| 18. Japan      | 38. United Kingdom  |
| 19. Kazakhstan | 39. USA             |
| 20. Latvia     |                     |

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<sup>1</sup> The deadline to send the responses was June 30<sup>th</sup>, 2021

## 1) The pandemic and the closing of the courthouses

**a) Please inform if the courthouses have been closed, fully or partially, for some time in your country due to the pandemic. If so, please inform for how long, approximately, they were closed (fully or partially). Who decided to close or restrict the courthouses?**

Many answers stated that the courthouses have been fully or partially closed, for some time due to the pandemic of the Covid-19. On the other hand, some countries reported that the courthouses have not been closed at all due to the world's coronavirus crisis.

In Argentina, in the end of March of 2020, the Supreme Court of Justice determined the closure of the buildings of the Judiciary and only the Courts usually assigned to work on duty attended urgent cases, preferably online and only exceptionally in-person. Later all Courts were authorized to work as if they were on duty and since August of 2020, they restarted to analyze all kinds of cases, but still virtually and with restrictions to the entrance of people into their premises.

In Armenia, the courthouses haven't been closed during the pandemic.

In Australia, there are both federal and state and territory courts. The federal courts, collectively referred to as the Commonwealth Courts for the purpose of this study, did not close in response to the pandemic. While the buildings remained open, remote hearing technologies were utilized to ensure matters could still be heard while significantly reducing the need for anybody except court employees to be physically in the buildings. As COVID-19 restrictions were strictest and most prevalent in the State of Victoria (due to the outbreaks within the State), the Commonwealth Courts' registries were exceptionally closed there from March 2020 to March 2021, and then again for two weeks commencing on 28 May 2021, for non-essential public use.

In Austria, a lockdown of the entire Judiciary was decreed in mid-March 2020 by Minister of Justice. Only emergency services were to be maintained. All other staff (judges, secretaries) should (if possible) work from home, but in any case, not come to court. Oral proceedings were only conducted in urgent cases. After about four weeks, the courts started slowly to work without or only with a few restrictions.

In Bermuda, at the start of the pandemic in March 2020, the Magistrates' Court, the Supreme Court and the Court of Appeal were compelled to reduce court operations. The Court of Appeal commenced hearing all cases remotely and to date still do. The Magistrates' Court has employed a hybrid of in-person and virtual hearings. The Supreme Court has only been able to hear a handful of jury trials.

In Brazil, the courthouses have been partially closed for some time in the beginning of the pandemic. Initially, each court established its own rules of operation. Then, on March 19th, 2020, the National Council of Justice established an extraordinary duty regime, to

standardize the functioning of the Judiciary services, with the objective of preventing contagion by the coronavirus, and guaranteeing access to Justice.

In Canada, starting in March 2020, most courthouses have been partially closed with a small minority fully closed and a small minority open. While some trials were cancelled or postponed, in some provinces they were not. Nonetheless, all urgent, emergency, and essential matters were heard rarely in person but mostly by internet-based video conferencing or by telephone. By the end of May, beginning of June 2020, most courts returned to hearing regular matters, with some hearings in-person. In certain provinces, courthouses reopened in fall 2020. All matters have continued to be heard mostly by telephone or by video. The decisions to close the courts were made by the Chief Justices in consultation with stakeholders, such as the Minister of Justice, the court administration, the provincial health authorities, and Health Canada.

In Chile, the courts remained partially closed for approximately three months in 2020.

In Croatia, the courts have not been shut at all during the pandemic. The President of Supreme Court delivered rulings about how courts should operate during the pandemics.

In Cyprus, the courts did not close during the pandemic but access to courts was restricted. The Cyprus Supreme Court issued Directives regulating the operation of the courts.

In Denmark, the courts were partially shut down from mid-March until the end of April. The court system now works normally and has worked almost normally during the second shut down in 2021.

In Estonia, there were no closures of courthouses due to the pandemic. All courts were working on regular hours and there has always been at least a minimum staff.

In France, the Minister of Justice announced the closure of the courts on March 15, 2020. The management of the crisis was centralized, and all courts had to implement the PCAs (plans de continuité de activité = plans of continuity of activity). On May 11, 2020, the PCAs were lifted, and it started a transitory two-week period of transition to reopening with the aim that each jurisdiction could adapt the pace and scope of resumption of activity to the health situation of the region and that of its personnel. In September 2020 activity of the courts was normal again.

The Common Courts of Georgia were not closed during the pandemic, but the access to court was restricted and only online sessions were permitted during the lockdown. The High Council of Justice adopted the recommendation to regulate access to Justice during the pandemic. During the lockdown, the hearings were postponed at the latest possible date allowed by law.

In Germany, courthouses in general remained open throughout the whole pandemic. Courts were not entirely closed at any stage of the pandemic, but very generally only reduced their services at certain times. During the first lockdown (March and April 2020), Ministries of Justice and/or court administration encouraged judges to hold in-person

hearings or trials only in urgent cases. During the second lockdown (since December 2020), courthouses were not closed at all. However, measures were taken to reduce the number of persons within the courthouses.

In Israel, all courthouses remained open throughout the pandemic. The Minister of Justice declared a “special state of emergency,” which was in effect intermittently over the course of three lockdowns. While that declaration was in effect, hearings were held on specific matters set forth in the correspondent regulation.

In Italy, emergency laws suspended all proceedings (civil, criminal, administrative) from March 9 to May 11, except the urgent ones (almost full lockdown - phase 1), the latter being held mostly remotely, meaning that only the judge and the court clerk sat in the courtroom during the hearing, while the parties were remotely connected via Teams. Judicial proceedings resumed with strong restrictions, especially aimed at avoiding the presence of people in the courts. This was ‘phase 2’, starting from May 12, 2020, and ending on July 31. In that phase, the Heads of the Courts were entitled to choose other cases to be analyzed, in addition to the urgent ones, according to the local health situation. After July 31, 2020, judicial activities fully resumed.

In Japan, courthouses have not been closed due to the pandemic.

In Kazakhstan, a decree of the President of the Republic declared a state of emergency throughout the territory of country from March 16 to May 11, 2020. At that time, the courts worked online, the trials were conducted via videoconference. Some courts remained completely closed for 7 to 14 days.

In Latvia, in-person work in courthouses has not been maintained during the pandemic. People could communicate with the court in written format or electronically.

In Lebanon, the courthouses were closed by a decision of the Lebanese government which declared a state of health emergency in the country for several periods of time during 2020 and 2021.

In Liberia, the courthouses have never been closed fully or partially. However, court’s attendance, as it relates to Court’s staffers, and party litigants have been regulated, by the Honorable Supreme Court in line with the National Government’s Health Policies. On April 20, 2020, the Supreme Court issued Judicial Order # 8, which suspended Jury trial, for defendants charged with indictable offenses, who desired to use this constitutional right. That Judicial Order also restricted the number of cases tried per day to two. On September 20, 2020, the suspension on Jury Trials was lifted by the Supreme Court.

In the Principality of Liechtenstein, the courthouses were never fully closed, but the access was only restricted for the audience. A temporary law (so-called COVID-19-VJBG) entered into force on April 8, 2020, which has since been prolonged several times (currently until September 30, 2021). According to this statute, court hearings and trials could be replaced by technical means like videoconferencing with the consent of the parties involved. During the first lockdown in April and May of 2020, the conference of

the Presidents of the Ordinary Judiciary strongly recommended trials with the physical presence of the parties and their representatives to be conducted only in urgent cases like pretrial detention and child custody.

In New Zealand, although courthouses in general remained open throughout the whole pandemic, there was closure and then restricted access at heightened Alert levels 3 and 4. Any restricted access was supported at all levels by remote participation. During the first lockdown (March and April 2020), the Ministry of Justice, Chief Justice and Heads of Bench worked cooperatively and by consensus took measures to reduce the number of persons within the courthouses.

In North Macedonia, no court was closed, fully or partially, due to the pandemics, but access to courts was partially restricted. Parties and other participants with court summons were allowed to enter the buildings and attend court proceedings, but not the public in general. The President of the Republic declared State of emergency in March 2020 and the Government issued a Decree with force of a law which determined that the time flow and the deadlines defined by procedural laws in all court proceedings (both civil and criminal) were suspended and will resume after the state of emergency come to an end. That Decree authorized the Judicial Council to define a protocol for regulation of remote work.

In Norway, each court president decided how they would run their own court during the pandemic. Most court buildings have been partially closed for some time. This has been compensated to quite some extent by holding hearings digitally. From a formal point of view, it is not clear how the authority and responsibility is divided between individual judges, court presidents and the Norwegian Courts Administration (NCA). After the pandemic hit Norway and the Government introduced various general infection control measures, the NCA communicated to the courts the importance of continuing the courts' work, but when some courts decided to suspend most part of their work during the first few days, the NCA could not order them to do otherwise. The lack of a clear division of powers within the judicial system regarding the formal authority to decide on measures did not turn out to be a big problem in practice.

In Panama, courts suspended terms from March 16 to June 19, 2020, and the courts were closed from March 23 to May 8, 2020, according to resolutions of the Supreme Court.

In Paraguay, some courts have been partially closed during approximately two months due to the pandemic.

In Peru, the courts have been closed from March 16, 2020, to July 2020, except for a group of emergency courts that worked partially. Later, the courts have been operating partially, with a maximum capacity of 50% of people and mainly doing remote work. The 50% capacity remains, with a large part of the staff and judges doing remote work. The provisions are dictated by the Executive Council of the Judicial Power in merit of its autonomy as the governing body of the Peruvian Judicial Power.

In Poland, on March 12, 2020, the Ministry of Justice recommended to close the courts and postpone the hearings in non-urgent cases from March 13, 2020, to March 31, 2020. That recommendation was extended until June 15, 2020, when the courts have been opened again. The decisions were made by the Presidents of the courts.

In Portugal, the Superior Judicial Council determined on March 11, 2020, that only the judicial services regarding the safeguard of fundamental rights should be held. Those exceptional measures were regulated afterwards by the Law n° 1-A/2020, of the 19th of March and were lifted by the Law n° 16/2020, of the 29th of May. The Law n° 4-B/2021 of the 1st of February 2021 and the Law n° 13-B/2021, of the 5th of April 2021 regulated the period regarding the second lockdown (from 22nd of January 2021 to the 6th of April 2021). Portuguese courthouses have never been fully closed.

In Serbia, during the state of emergency, and several days after it was rejected by the National Assembly (from March 17, 2020, to May 11, 2020), courthouses in Serbia were partially closed. Trials only took place in urgent proceedings, meaning those that could not be delayed (detention, domestic violence, interim measures, etc.), while trials in other cases have been cancelled or postponed. Parties' access to courthouses was limited, and only the ones with court summons were allowed to enter, while the documents issued by the courts were communicated primarily via mail. Since May 11, 2020, courthouses are open to parties, and trials are taking place in all procedures, in accordance with the usual schedule and the recommended protection measures.

In Slovenia, courthouses have been closed for some time due to the pandemic. There was no full closure of the courts. Court presidents and some court staff had always to be present to coordinate the work in each court. Courthouses have been partially closed from March 16, 2020, to May 31, 2020, and from October 20, 2020, to January 31, 2021. Based on the provisions of the Courts Act only the President of the Supreme Court of the Republic of Slovenia has the power to close or restrict the work of courthouses.

In Spain, the Royal Decree 463/2020, of March 14, established that, for the purposes of the state of alarm, the competent authority to order the closure of all activities was the Government, which decided to confine the population for more than two months due to the pandemic. This has led to a virtual stoppage also of jurisdictional activity. The exceptional regulations have allowed the concentration of political and administrative powers in certain authorities; although the General Council of the Judiciary was not among the authorities, in practice, it has been recognized that the General Council has that capacity by virtue of its exclusive competence over the statute of judges. A minimum of attention to citizens has been guaranteed in the courthouses and this activity has had to be carried out with reduced staff or with shifts of officials, that is, with limited personal resources.

In Sweden, very few courthouses have been partially closed due to the pandemic. Urgent cases – however – have been dealt with. The decision to limit the work of the courthouses (or not) was made by each Chief Justice. Most courthouses worked regularly during the pandemic.

In Taiwan, no courts have been fully closed. The Judicial Yuan, the highest judicial administrative institution in Taiwan, is the authority entitled to determine principles regarding whether to restrict or cease the court sessions under special circumstances, inter alia, the pandemic. The Judicial Yuan published a guideline for this purpose, establishing that, except for urgent cases, judges are strongly recommended to postpone all court sessions.

In Uruguay, by decision of the President of the Supreme Court of Justice, it was established that the courts of the entire country would operate under a “sanitary on-duty regime”. This regime was later regulated by the Supreme Court of Justice, by a resolution of March 16, 2020. The Parliament issued a law on April 28, 2020, that declared that the Supreme Court of Justice and the Contentious Administrative Court, in exercise of their constitutional powers, are competent to establish extraordinary judicial on-duty regimes during states of emergency. By a resolution of April 30, 2020, the Supreme Court of Justice ordered the progressive restart of the regular activities of the Judicial Power, extending the extraordinary sanitary on-duty regime until May 15, 2020. In 2021, the Supreme Court of Justice declared a new extraordinary judicial on-duty regime, which lasted from March 25, 2021, to May 30, 2021, when it started a transitory period, extended until June 30, 2021, with limited work, to prepare for resuming the activities with full capacity.

In the United Kingdom, the work of the courts and tribunals was initially consolidated into fewer buildings until the rest of the courts could be made COVID-safe. 159 court buildings remained open, 116 were open for staff but not the public and 78 were temporarily suspended. Decisions were made jointly by the Lord Chief Justice and Lord Chancellor (Secretary of State for Justice). On 23 March 2020, the Lord Chief Justice ordered that no new trials should start in the Crown Courts but work immediately commenced to restart jury trials. The pause in jury trials was brief and they restarted on 11 May 2020. Thanks to remote hearings and the use of telephone and videoconferencing, no significant pause has been seen elsewhere in the justice system, although waiting times have increased in many places. The impact has been felt differently in different jurisdictions and in different parts of the country. Wales has no backlogs to speak of, while the number of criminal trials in London (and Wales) has risen.

In the United States, specific policies varied depending on jurisdiction. Federal courts adopted closure orders and pandemic-related policies generally on a court-by-court basis. For example, the Supreme Court of the United States initially postponed its oral arguments in March and April 2020, and then began hearing cases virtually in May. It continues to hear cases remotely to this day. Most federal circuit courts also suspended in-person oral arguments. The majority of these suspensions remain in effect, but courts are looking at ways to reopen in person proceedings as circumstances permit. Federal district courts implemented their own COVID-related policies. Many district courts initially closed to the public completely and postponed all in-person proceedings. Other district courts continued to remain open but encouraged judges, staff, attorneys, and litigants to use technology to limit in-person appearances when possible.

At the state level, state courts adopted varying policies during the pandemic. At the outset of the pandemic, many state courts either restricted or suspended in-person proceedings. The most common policies that state courts adopted include suspending jury trials, limiting in-person proceedings, restricting access to courthouses, extending filing deadlines, and increasing the use of telephonic and video conferences. Many of the state courts that closed to the public are in the process of safely re-opening.

**b) During that period as mentioned above, were in-person operations maintained for urgent cases? Were the most vulnerable judges and officials excused from in-person work? What circumstances were taken into consideration for the judge(s) or court official(s) to be excused from in-person work?**

Argentina reported that urgent cases were dealt virtually and, exceptionally also in-person, during the period the courts remained closed. Judges and staff belonging to the risk groups have been formally exempted from performing tasks in-person. However, the acceptance of such exemption was very low among judges and officials, who belonged to those risk groups, since the virtual management of cases was much more difficult at first. It has been considered within risk groups to those older than 60 years, who presented preexisting conditions (respiratory or cardiac illnesses, problems of pressure, among others); and those who had children in school age, because their classes were suspended or limited to virtuality.

In Armenia, not only urgent cases, but also trials in all criminal cases were held in-person, as the law does not provide for online trials in criminal cases. People who are 60 years old or older were considered as belonging to the vulnerable groups, as well as people with preexisting conditions. Although people in those categories were allowed to work from home during the pandemic, judges have always been present at the workplace during that time, due to the fact they had to hold the trials of criminal cases in-person, and because online hearings in civil cases have been held in the courts.

In Australia, whether in-person operations were maintained for urgent cases varied from state to state (or territory). Due to Victoria's extended period of lockdowns, minimal in-person hearings were occurring for quite some time, even if they were urgent. However, this was because the matters were mostly able to proceed virtually. If a matter was urgent and needed to proceed in-person, approval was required. Throughout the various lockdowns and different stages of restrictions, those who were vulnerable or had vulnerable family members were excused from in-person work. Most of court staff were able to conduct their required work from home.

In Austria, urgent matters should still be dealt with during the lockdown. Regarding criminal cases, priority was given to cases concerning arrested defendants. In the field of civil law, oral proceedings could only be conducted if there was risk to life, safety, freedom, or to prevent serious and irreparable damage to the party. Parties could only come to court after having made an appointment in advance. Only persons belonging to



risk groups defined by law (e.g., those who have specific health problems) were excused from work. As judges are quite flexible with the organization of their work, they decided individually on the time spent at the court, to postpone hearings etc.

In Bermuda, in-person operations were maintained for urgent cases. It was at the discretion of the assigned judicial officer as to whether they wanted to conduct in-person hearings.

In Brazil, the courts maintained in-person operations for urgent cases, but with a restricted flow of people, besides maintaining the on-call system for that purpose too. All judges and officials identified as at risk-group, which include people who are 60 years old or older, pregnant, and breastfeeding women, and those with chronic, immunosuppressive, cardiac, respiratory, or other diseases, that could lead to an aggravation of their general health condition in case of contagion, were excused from in-person work.

In Canada, while the courthouses were closed or partially closed, urgent matters were dealt with by way of video conference, or telephone conference. Urgent matters were also heard in-person if the presiding judge considered it useful or necessary. No judge was forced to conduct an in-person hearing. Vulnerable judges (i.e., having medical conditions or if living with vulnerable persons) were excused from in-person work. Court officials attended court, but some were excused for medical reasons too.

In Chile, people who do not have a remote connection have been assisted in order to grant them a connection point to remote trials. All personnel of the judiciary, including judges, worked remotely, establishing minimum shifts for face-to-face work, leaving out risk groups according to the parameters established by the Ministry of Health.

In Croatia, even if courts were not formally shut down, their operation were adjusted in a way to reduce their work with the parties at a minimum possible level. In first instance courts, only urgent cases were heard (i.e., family cases, domestic violence, and all cases regarding vulnerable persons). Other hearings were postponed, and where possible online hearings were conducted. Judges and members of the staff were not obliged to come to work every day and work from home was organized wherever possible. The Courts of Appeals and The Supreme Court functioned normally for the cases where there were no public hearings and where hearings were conducted online.

In Cyprus, in-person operations of the courts have been maintained for urgent cases throughout the pandemic. No specific process has been put in place for excusing vulnerable judges and officials from in-person work. However, special arrangements can be agreed on a person-by-person basis, in consultation with the Administrative President of the District Court where the judge is placed and with the Supreme Court. Any such special arrangements must be supported by adequate medical documentation.

In Denmark, only critical tasks were handled from mid-March until the end of April, 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.

In Estonia, the remote work was already widely used by judges also before the pandemic outbreak. In addition, Estonian judiciary already has had several years of experience in using videoconference in court hearings, therefore this tool was most widely used during pandemic.

In France, in-person operations were maintained for urgent cases. People at risk or vulnerable were excused from in-person work and should work remotely when possible. Those who were included in that group were defined by the High Council of Public Health (HCSP). Due to the uncertain health context and the responsibility given to heads of the courts in the management of the crisis, the activity of the courts has been exclusively organized on a voluntary basis.

In Georgia, in-person operations were only permitted for urgent cases. Special regulations and rules were in place in case of vulnerable judges and court officials. They were placed remotely with special medical treatment under the regulations of the Ministry of Labor, Health and Social Affairs of Georgia.

In Germany, judges dealt with urgent cases at all times and wherever it was required by law to conduct in-person hearings, at least in urgent cases, judges did so. Especially vulnerable judges or other officials were not automatically excused from in-person work, except in case of pregnancies. Generally, pregnant judges or court officials were excluded from in-person work that included contact with external parties. However, such colleagues were usually enabled to work at home. Compared to the entire number of judges, prosecutors and court staff in Germany, there were only a few cases in which judges or court staff asked to be entirely absent from work due to medical conditions. Those requests were handled differently by each court administration. In several cases, judges or court staff were excused from in-person work, but generally, in such cases risks were reduced, by enabling the respective person to work from home where that was possible, or, where this was not possible, rules were made to reduce the attendance time in court rooms (e.g., rotation models). In several cases, secretaries asked not having to keep minutes in court rooms even without referring to medical conditions that would indicate special vulnerability. Since individual solutions had to be found for those individual cases, there was no general rule established for that. E. g., attendance times in court rooms were reduced, but no general relief from court duties was granted.

In Israel, in-person operations were maintained. Vulnerable judges and officials were excused from in-person work on grounds of special health challenges of their own or of their family members; or special personal circumstances such as a judge or official heading a one-parent family, who could not leave young children unattended.

In Italy, urgent proceedings were not suspended even during phase 1, when there was almost a full lockdown.

In Japan, even under the state of emergency declared in April 2020, courts continued to accept new cases and conduct in-person proceedings for urgent cases. Judges and court officials worked from home depending on the spread of COVID-19 in Japan. They were allowed to take special leave according to regulations if they or their families had fever or other symptoms of a cold.

In Kazakhstan, judges and employees of the judicial system were released from work in case of illness based on a sick leave. Depending on the number of judges and staff who fell ill, a decision was made to completely close the court or only the building itself with functioning through a remote work format.

In Latvia, cases could be examined in-person if it was possible to comply with epidemiological safety requirements (use of masks and hand sanitizer, maximum number of people allowed in the room and distancing between them) Those measures ensured epidemiological safety, therefore special excuses for in-person work of judges and officials were not necessary.

In Lebanon, face-to-face work was limited to emergencies and to criminal cases, especially cases of detainees. Thus, judges and officials have limited their attendance at courthouses for those purposes.

In Liberia, all cases are conducted in-person, except in some special cases, such as rape cases, where the hearing is done via camera, to hide the identity of the victim, to prevent societal stigmatization. During the pandemic, in-person operations remained in effect.

In Liechtenstein, during the first lockdown in April and May of 2020, the conference of the Presidents of the Ordinary Judiciary strongly recommended trials with the physical presence of the parties and their representatives to be conducted only in urgent cases like pretrial detention and child custody. Only judges with Corona-infections or in quarantine were excused from taking part in court sessions.

In New Zealand, judges always dealt with urgent cases and wherever it was required by law conducted in-person hearings. There was a sufficiently broad margin of discretion for judges, lawyers and court staff to be generally excused from in-person work. The criteria focused upon applicable Alert Levels and the vulnerability of the applicant or their family members. Judges and court staff excused from in-person work were usually enabled to work remotely.

In North Macedonia, according to the decision of the government and the Judicial Council, proscribed urgent cases were obligatory processed and tried in-person. All court officials with health conditions or with kids under the age of 10 were excused from work. They had to present appropriate documentation and apply to exercise the right not to come to work, while presidents of courts decided upon their requests.

In Norway, cases where the law has a fixed limit for case-handling time, (for example pre-trial detention, child custody cases) were always handled according to the law. If a judge or court staff were especially vulnerable, it was up to the president of the court or

other leaders to discuss special measures. There was no national definition in what circumstances someone was excused from going to work.

In Panama, during the lockdown, the courts were on duty for urgent cases. Judges and court officials included in the population at risk worked remotely.

In Paraguay, during the closure, the on-site operation was maintained for urgent cases. Several judges and court officials have been exempted from working face-to-face, due to their preexisting conditions or their age.

In Peru, judges of the courts designated to operate during the period of emergency, should examine urgent cases, attending their offices when required. Regarding risk personnel, it was established that, in no case, the staff would be comprised of people in vulnerable conditions.

In Poland, there were no public trials at all. The administrative staff and clerks were allowed to come to courts but only one person was allowed in a single room.

In Portugal, urgent cases were handled in-person and the rest of cases could be handled with teleconference systems. The Portuguese government decreed that everyone within the most vulnerable groups could work from home.

In Serbia, during the state of emergency, judges and members of the judicial staff were allowed to work from home, although in-person operations for judges and judicial staff were organized in courthouses for urgent cases. Judges and other staff belonging to the “vulnerable categories” of employees (persons over 65 years of age, persons suffering from chronic diseases, or persons with children under 12 years of age) were not obliged to work in-person.

In Slovenia, all cases deemed urgent by the Courts Act (criminal detention cases and interim injunctions in civil cases) were always dealt with in-person. There were no specific provisions dictating that particularly vulnerable judges and court staff could be exempted from in-person work. Each judge and court clerk were treated separately. Only in specifically justified cases were vulnerable judges and court staff excused from in-person work based on medical documentation.

In Spain, in-person operations were maintained for urgent cases, while courts have been partially closed. Regarding the population at risk, their previous health situation has been considered, to encourage remote work, where appropriate.

In Sweden, urgent cases were managed in-person everywhere. Each individual Chief Justice decided upon excusing the most vulnerable judges and officials from in-person work.

In Taiwan, in-person operations were discouraged. Court sessions via legally admissible videoconferences were encouraged where appropriate technology is available. In cases where in-person operation is necessary, it must be conducted with full observance of

Covid 19 public health guidelines. The vulnerability of judges and officials were not considered by the Judicial Yuan's guidelines on in-person work. However, the guidelines did not deter the courts to determine otherwise upon their discretion.

In Uruguay, in-person operations were maintained for urgent cases, during the sanitary on-duty periods. The Supreme Court exempted judges and officials included in the population at risk from working, based on the medical documentation presented by them or because they were over 65 years of age.

In the United Kingdom, in March 2020, at the beginning of the outbreak, steps were taken to ensure that as much work as possible could continue and the rollout of new technology was accelerated to expand the use of telephone conferencing and video hearings. During periods of lockdown the Lord Chief Justice made it clear that hearings requiring the physical presence of parties and their representatives and others should only take place if a remote hearing is not possible and if suitable arrangements can be made to ensure the safety of all concerned within the interests of justice. Vulnerable judges and staff were able to work remotely, but equally courtrooms remained open, and often a hybrid approach was taken allowing for some participants to be present, and others to join remotely. Judges had authority to make decisions about attendance (including their own) on a case-by-case basis. Government guidance has been followed in relation to Clinically Vulnerable and Clinically Extremely Vulnerable judges and staff.

Courts throughout the United States adapted to virtual proceedings. Most courts encouraged or mandated that proceedings be held telephonically or by video conference. Some of the courts that closed completely to the public allowed some ongoing, urgent proceedings to continue in person. For these continuing in-person operations, courts were generally amenable to requests from court staff to work remotely. These decisions were typically made on a localized basis. The need for widespread remote proceedings posed distinct problems in criminal cases, particularly since criminal defendants have the constitutional right to trial by jury. Additionally, the Federal Rules of Criminal Procedure constrain a court's ability to hold certain proceedings by videoconference. To address this, Congress passed the Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act"). The CARES Act allowed federal courts to temporarily conduct initial appearances, detention hearings, revocation hearings, and several other proceedings via video conference or telephonic conference if video was unavailable. Pleas and sentencing could also be conducted by video conference with the consent of the defendant upon a finding of the Chief Judge. As a result, federal courts continued to process many criminal cases during the pandemic that did not require a jury trial. But the CARES Act did not authorize federal courts to hold criminal trials by video or telephone conferencing, requiring courts across the United States to temporarily postpone jury trials.

**c) While the Judiciary buildings remained closed (fully or partially), did the judges and officials work from home? If so, please state whether *all* judges and court**

**officials worked from home or only a percentage of them; if only a percentage, please share which percentage exactly.**

In Argentina, all judges and officials have worked and continue to do so remotely. Regardless, they worked in-person in greater or lesser percentages according to the need and if they belonged or not to a risk group.

In Armenia, courts in the Republic of Armenia were not closed during the pandemic. They operated regularly, respecting anti-epidemic protocols.

In Australia, whether buildings were closed (partially) varied depending upon the state or territory. In Victoria for example, during the strict lockdowns, no one was supposed to be in the office unless absolutely necessary. As restrictions eased, judges had more autonomy over their chambers and whether they would attend the office in person or remain working from home. It is not possible to provide an exact percentage of staff due to the fluctuating restrictions in each state and territory and the variation day to day. However, the Supreme Court of Victoria indicated that the number of employees working from home was between 40% and 90%.

In Austria, judges were always able to go to the court without restrictions (only advised to work from home as much as possible). As most judges did not have access to data base and files from their home, they went to court regularly. The problem was the lack of laptops (and procurement problems at that time) provided by the courts, as it is not allowed to have VPN-access to court data base with private computers. Only in spring 2021 the last laptops were delivered. Only judges already working with digital files (introduced in some courts, only in civil cases) could work from home completely.

In Bermuda, judicial officers used their discretion as to whether they wished to work from home. Approximately 60% of them worked from home.

In Brazil, during the extraordinary on-call regime, each judicial unit maintained a remote service channel and all judges and court officials worked from home.

In Canada, most judges did a combination of in-person work at the office and work from home. In provinces where courthouses were fully closed, all judges worked from home. In other provinces, it can be estimated that up to 85% worked from home.

In Chile, 100% of the Judiciary is operating remotely.

In Croatia, judges and officials, especially of appellate courts and the Supreme Court, were working from home. In general, daily working hours were reduced to four hours, members of the staff were working in shifts, and also work from home was organized wherever possible (judges and court assistants). Approximately 50% of all staff and judges were working from home.

In Cyprus, judicial buildings have never been fully closed. They have always been in operation. However, during the periods when the epidemiological situation in Cyprus was

particularly serious, judges worked on rotation. A rotation system was drawn up whereby approximately 50% of judges worked from home. A similar system was drawn up for court officials in accordance with guidelines issued by the Ministry of Labour and the Ministry of Health.

In Denmark, judges were sent home, while courthouses remained partially closed. Due to the digitisation of cases like the civil ones, judges were able to conduct many of their functions from their homes.

In Estonia, even during the most severe period of the pandemic, courthouses have not been closed. Most of judges and court personnel worked from home, but time to time judges worked in-person, according to their will and need.

In France, there are no statistics available on remote work among judges since they are free to organize their working time in-person or remotely with no other obligation than to be present at their hearings. Regarding court staff, no statistics on remote work during the first lockdown has been provided either. It is important to have present that, in general, the court staff didn't have proper equipment to work from home and that is why the face-to-face work of civil servants remained predominant.

In Georgia, the Supreme Court judicial building was never closed during the pandemic. Judges and court staff were working either in-person or remotely. Especially court staff worked on rotation.

In many German states, judges were able to work largely from home. Whether or not that was possible did largely relate on the technical means available at each court. In some parts of Germany judges do not yet have access to laptops, which made working from home hard or impossible. In other parts those technical means already existed or were acquired. The situation of court staff was quite different throughout Germany. Working at home is often not possible for court staff. In some parts of Germany, court staff worked reduced hours during the lockdown, lowering the number of colleagues present at court at a time. During the second lockdown, most court staff worked regularly at court, but were advised to wear masks if a certain social distance towards others could not be maintained.

In Israel, all judges who were not hearing cases in court worked from home after the "special state of emergency" had been declared. In periods of very high morbidity, 70 – 80 percent of court officials were on paid leave and the rest worked from home, or in person on a rotational basis. Meaning that every day 10 percent of the 'emergency workers' worked in-person and the rest worked from home. The numbers of in-person workers gradually rose. As of June 2021, all judges and court officials have returned to in-person work.

In Italy, while the judiciary buildings remained closed, judges and court officials worked mostly from home, in variable percentage according to the pandemic status.

In Japan, the courthouses were not closed, but judges and court officials worked from home to reduce the flow of visitors in the courts and avoid the contact among them.

In Kazakhstan, during the quarantine period, depending on the transition of a particular region to the red zone, at least 80% of court officials were sent to remote work.

In Latvia, part of the judges and court clerks worked from home during the pandemic. The number of people working from home depended on technical support (court computer suitable for remote work). There are no statistics on how many judges worked remotely. However, it can be assumed that most part of judges worked from home during pandemic, at least partially (for example, participating in studies, preparing decisions etc.). On the other hand, the number of assistants who worked from home was no more than 5 – 10%.

In Lebanon, judges and officials were not able to work from home, only in some exceptional cases.

In Liberia, judiciary buildings were never closed; as such, in-person operations were maintained.

In Liechtenstein, during the two lockdowns, judges could choose between working from home or appearing in the courthouse. Detailed information is not available.

In New Zealand, many judges were able to work from home. Those who attended courthouses did so under strict separation protocols at heightened Alert levels. Plans were developed to have teams of judges work separated shifts. Generally, judges and staff were kept apart. Once the Alert Levels relaxed this social distancing was maintained. Court staff worked reduced hours or alternated shifts during the lockdown, lowering the number of colleagues present at court at a time.

In North Macedonia, according to the decision of the Judicial council, judges were allowed to work from home. Work from home refers to writing decisions and reading case files and attending online meetings and conferences. However, no online trials or other official proceedings were held from home by any judge. The staff worked in-person in the courts and sanitary protocols were implemented to avoid the risk of contagious.

In Norway, most judges and officials have worked remotely from time to time but there are no available statistics on that aspect.

In Panama, only courts that were in heads of provinces operated remotely, as they could count with internet services. Those courts that are found in smaller towns remained closed and a contact number was offered in case of urgency. Approximately 80% of the courts have internet in the country.

In Paraguay, while the courts were partially closed, judges and court officials were working at a percentage of 50%.



In Peru, the President of the Judicial Branch has decided to authorize the Presidents of the Chambers of the Supreme Court to operate remotely, starting from March 16, 2020, until the end of the “state of national emergency.” On April 6, 2020, the Presidents of the Superior Courts of Justice, in whose Judicial Districts there were courts already operating cases in electronic format, were allowed to provide the necessary measures to remotely process the files during the national emergency. On April 24, 2020, it was approved the massive implementation of VPN for users of the Judicial System. Some courts obliged the judges to go to the courthouses to collect the files and bring them to their homes so that they could continue sentencing them, what was criticized because it endangered the safety of the judges and of the cases.

In Poland, at that time, the technology did not allow working from home. The judges took files home to prepared for trials (reading, making notes, preparing draft decisions). Both the judges and the staff were allowed to work at the courts but with social distance.

In Portugal, except for some in-person handling of cases, the judges worked from home during both lockdowns. Court officials worked from home or in a system of working shifts.

In Serbia, judges and staff were allowed to work from home, although they were obliged to remain available to their direct superiors.

In Slovenia, while the Judiciary buildings remained partially closed, all judges who didn't have to deal with urgent cases in-person in the courts, worked from home. At the start of the declared pandemic, some judges wanted to exercise the right to “non-work” due to force majeure due to child protection (schools were closed and classes were held online), but the Judicial Council decided that this option didn't apply to judges as they are state officials (same as for ministers and MP-ies). Judicial staff worked differently depending on whether the nature of their work allowed them to work from home. Court clerks and judge's assistants worked mostly from home, working in court only if they were assigned to be on duty. The registrars had to be always present on the basis of the on-call schedule. Typists and other court staff were on hold, only working from home for a limited time to complete transcripts of audio recordings of the main hearings. Most court staff anyway invoked force majeure for child protection reasons and because all public transport was stopped. The percentage of court staff working from home is estimated around 40%.

In Spain, while the lockdown caused by the pandemic, not only face-to-face activity has taken place, but also the remote work. This system has been presented as voluntary, although, in practice, it has been carried out almost widely. Spanish judges, as well as Public Prosecutors, were already used to taking cases to their homes to decide them, even before the pandemic. Its effectiveness has anyway depended on the means available in each territory and on the will of the judges to do so. The lack of a real operational judicial digital file in all territories and, especially, with respect to criminal jurisdiction, has made remote working difficult.

In Sweden, most court operated in-person as mentioned before.

In Taiwan, as the CECC announced the national Level 3 Covid-19 alert, the regulation allowed 50% of the court staff to work from home. Almost all judges worked from home, while other court officials took shifts to work remotely and in-person. According to the guidelines set by the Judicial Yuan, once the CECC announced the national Level 4 Covid-19 alert, only a limited amount of judges and officials were allowed to access their offices.

In Uruguay, not all judges and officials were able to work remotely, considering that not all courts count on digital systems that allow the home office.

In the United Kingdom, there are no figures available for the number of judges who worked from home during the pandemic period. At the beginning of the pandemic there were around 1500 staff from the courts and tribunals service (HMCTS) working from home, predominantly staff working at HMCTS headquarters. Steps were taken quickly to enable more operational staff to work from home (with computers being made available) and by the end of March 2020 that figure had risen to around 3,100. By the peak of the pandemic in July 2020, around 5000 operational staff and around 1500 headquarters staff were working from home and high numbers have been maintained since then. As of 19 May 2021, 3800 operational staff and 1900 headquarters staff are working from home – this is around 28% of the total workforce.

In the United States, jurisdictions that enacted closure or stay-at-home orders generally considered court operations as essential. Therefore, while many courts closed to the public, some judges and court employees could work from the courthouse or remotely. Work-from-home related decisions were typically made on a localized or even judge-specific basis. Many courts throughout the United States encouraged judges and employees to work remotely and hold proceedings virtually to limit the spread of COVID-19. The percentage of judges and court employees that worked from home varies by jurisdiction.

**d) After the reopening of the courthouses, did all judicial activities return to being in-person or did part of the work continue to be done online?**

In Argentina, not all judicial activities have returned to being in-person yet (June 2021), and remote work has been incorporated on a large scale.

In Armenia, the question does not apply, as courts have not been closed during the pandemic.

In Australia, once the lockdowns started to ease and courthouses began to reopen, the Commonwealth Courts started to hear some matters in person, while the remaining were still being held virtually. As at May 2021 (prior to Victoria's fourth lockdown), many matters were again being heard in person. This varied slightly on the preference of the judge. Some judges conducted their matters fully in person (where possible), some conducted dual in person and virtual hearings, and others remained fully virtual. In some

instances, matters were required to be heard in a dual in person/ virtual format due to the limit on resources and the need to accommodate for those who could not attend in person. In or around late March 2021, judges were encouraged to start hearing some of their matters in person again. However, some judges are and will continue to operate purely by electronic means due to their respective health conditions, with the assumption that they do not resume in person matters until the majority of the population has been vaccinated. The judge and their chambers will often have some autonomy as to the way they conduct their matters, whether in person or online.

In Austria, it was still possible to work from home, if the necessary equipment was available. Although the rules for remote work were quite flexible, it was almost impossible for court clerks to work from home. Almost only those working with digital files had that possibility.

In Bermuda, there is still a hybrid form of in-person and remote hearings.

In Brazil, most of the court continue to hold hearings and trials remotely.

In Canada, in some provinces, there has still not been a full reopening of courthouses. Nevertheless, judicial activities continue to operate by Zoom, Teams, teleconference, or videoconference. Some cases that are incompatible with remote work, such as criminal trials, are heard in person. Trials in civil cases have resumed in person as well in most provinces. It is well accepted and expected that some hearings will continue to be held virtually. Decisions are currently being made on what will remain virtual in a more permanent (or hybrid) way.

In Chile, remote work has been maintained in the Judicial Power until the end of the state of exception on June 30, 2021.

In Croatia, only a part of the work in some courts and some judges' work were still conducted online but mostly as an exception than a rule.

Although Cyprus courts haven't been fully closed at any time during the pandemic, the Supreme Court issued Directives that allowed part the work to be done online. Up until today, part of the work (especially in the Civil Courts) is still conducted remotely.

In Denmark, the lockdown resulted in very large backlogs. When the courts reopened at the end of April, there were six weeks' work of unprocessed cases. The courts have handled those on evenings and Saturdays.

In Estonia, until now in most cases the parties have the possibility to ask for the virtual hearing, instead of an in-person hearing in courthouse. It is up to the judge to decide, whether hear a case in the courtroom or to use e-channels. Many parties started to prefer e-hearings or to participate in face-to-face court hearings through videoconference.

In France, after the start of the reopening of the courts on May 11, 2020, the recovery plan provided for a transitional phase until June 2, during which remote work was

privileged. Only officials whose presence was necessary were called to return to the courts and normal working conditions were ensured from June 2. During this transitional phase, the average presence came back to 75% among the staff and 82% among the judges.

In Georgia, the question does not apply, as courts have not been closed during the pandemic.

In Germany, since the outbreak of the pandemic, more and more judges, and to a lower extent court staff and also public prosecutors, have been working at home where that was possible. Videoconferencing tools have been used more and more frequently to conduct hearings. Many hearings and trials are conducted in-person at court, especially in criminal law, less so in civil law. Overall, online hearings are still rather an exception than the rule in Germany, only a few courts very actively pushed forward the use of video conference tools for a significant number of cases.

In Israel, judicial activities are currently being conducted in-person. However, translation services and typing can be done remotely via videoconferencing. Judge assistants are allowed to work from home one day a week.

In Italy, after the reopening, most of judicial activities returned to being in-person, except for 1) arrested defendants, whose presence at the trials is granted by videoconference; 2) closing arguments by the lawyers at civil hearings, which were replaced by written discussions.

In Japan, courthouses have not been closed, and in-person operations have been maintained. In civil cases, a telephone conferencing system was often used since before the pandemic. In addition, a web-conferencing system was introduced in some district courts in February 2020 and then put into full operation in all district courts nationwide in December 2020. Preparations for introducing the web-conferencing system were initiated before the pandemic as part of the process toward the digitalization of civil proceedings.

In Kazakhstan, after the state of emergency was lifted from May 11, 2020, the resumption of court proceedings was carried out taking into account the restrictive measures in force in each region. The work continued online, but at the same time, cases were also conducted in-person in compliance with safety protocols.

In Latvia, all the pandemic restrictions applicable to court operations are still valid. However, it is expected that also after the reopening of courthouses for in-person operations, courts will more widely take advantage of the opportunity to hear cases using videoconferencing platforms, which in many cases is the most convenient way, whether for the court or for the parties.

In Lebanon, after the reopening of the courts, the interrogation of detainees continued to be largely conducted by videoconference.

In Liberia, the question does not apply, as courts have not been closed during the pandemic.

In Liechtenstein, all judges of the ordinary judiciary have returned to their working places in the courthouse. At the Administrative Court and at the Constitutional Court (Staatsgerichtshof), all judges are working part time, as these courts don't possess their own buildings.

In New Zealand, courthouses in general remained open even during lockdown periods. At heightened alert levels courtroom fittings were adapted to maintain separation between judge, jurors, prosecutors and defence. Special arrangements were made for prisoner/defendants and security staff.

In North Macedonia, in-person activities continued during the whole period of pandemic, with some exclusions. Online work was not implemented widely and fully.

In Norway, part of the work is still being done online. This was already possible before the pandemic, but it will probably take place to a larger extent now, as judges became more used to it.

In Panama, judges were asked to develop the necessary mechanisms to resume operations at maximum capacity. For that purpose, a manual was issued that regulated the face-to-face and virtual work and each Judicial Office also had to draw up a manual with its own working routine.

In Paraguay, after the reopening of the courts, work has been carried out regularly and most judges and court officials, who belong to the risk group because of their age, continue to work remotely.

In Peru, it was established that from July 17 to July 31, face-to-face work in the courts would be carried out from 9 a.m. to 2:00 p.m. and remote work would be done for eight hours a day. Since then, this hybrid, face-to-face and remote system has been maintained, prioritizing the latter.

In Poland, after the reopening of the courthouses, all the activities returned to be in-person. In civil procedure it is allowed to hear parties and witnesses online. In criminal proceedings this possibility is still limited.

In Portugal, after the fully reopening of all courthouses, judicial activities regarding examination of evidence returned to be held in-person. All other activities could be held via teleconference.

In Serbia, following the complete reopening of the courthouses, all judicial activities were resumed the same way they were performed before the epidemic, with respect of sanitary measures.

In Slovenia, after the reopening of the courthouses, all judicial activities returned to being in-person, except in cases of admission of people to psychiatric establishments against their will. Those are still conducted via videoconferencing.

In Spain, after the reopening of the courts, the law has established temporal criteria, while the sanitary risk lasts, to promote telematic actions (except in criminal cases) and to regulate the capacity of judicial buildings, as well as sanitary protocols, which has resulted in a face-to-face activity but with shifts, remote work for the other officials non present at the court, and with limited in-person attendance of citizens to the courts.

In Sweden, the question does not apply, as most courthouses worked regularly during the pandemic.

In Taiwan, the question does not apply, as until now no courthouses have been closed in the country.

In Uruguay, after the sanitary on-duty regime of 2020, judicial activities resumed face-to-face again. In relation to 2021 a similar situation is envisaged.

In the United Kingdom, some court work is continuing to take place online, including some remote hearings, where that is deemed necessary. Generally speaking, it has been found that remote hearings are preferable where an advocate might otherwise have to travel some distance for a short administrative hearing. However, the taking of evidence is sometimes not as good when not in person. Remote attendance can also lose the opportunity for advocates to discuss the approach outside of the courtroom which can narrow the points or lead to acceptable guilty pleas etc.

Courts in the United States still widely perform many judicial activities remotely, especially at the appellate level. The Supreme Court of the United States and most federal appellate courts continue to hold oral arguments via video or telephone conference. Many state appellate courts also hold virtual oral arguments. As the pandemic eases, the appellate courts will adapt to resuming in-person proceedings. Trial courts faced more problems during the pandemic. They necessarily encounter more people, conduct more proceedings, some of which are not easily held virtually, and generally must promptly address their cases. Despite these constraints, trial courts throughout the United States largely succeeded in operating virtually. Although trial courts are beginning to hold more in-person proceedings at this time, much of the work is done virtually.

**e) What are the precautions that have been adopted by the Judiciary in your country due to the pandemic (such as hand sanitizer, masks, etc.) for the protection of judges, court officials, attorneys, parties and the public in general?**

The following precautions have been mentioned by most jurisdictions: hand sanitizer, use of masks (compulsory in some countries or just encouraged in others), social distancing,

disinfection of the courts, ventilation of the rooms, plexiglass partitions, limiting of the number of people in the rooms, and body temperature measuring.

Sweden was the only jurisdiction that informed that there have been no joint measures in the matter.

Some additional precautions were also mentioned by other jurisdictions such as:

Australia: a) a limit of the number of people able to be in the court room, offices and chambers at once, b) practitioners, litigants, members of the public and court staff are all required to log their attendance when they enter the court building. An application has been designed that enables users to scan a QR code to add their details in to ensure contact tracing can be conducted, if necessary, c) lecterns and microphones were not to be shared, d) the supply of water jugs and glasses in the court room was discontinued, e) and restrictions on the use of hard copy documents in court (among other measures).

Austria: from January 2021, the use of FFP2 masks in courts became mandatory.

Cyprus: obligatory PCR/rapid tests to all detainees before they appear in court and Regular compulsory PCR/rapid test for judges, court officials, attorneys, etc.

France highlighted that the first masks did not arrive in jurisdictions until almost a month after the start of confinement. These were reserved for court staff, not being intended nor to the public or to lawyers, but, in practice, masks have most often been taken from stocks for people who appeared in court without a mask.

Georgia: papers and documents have been received via a special box in the reception of the courts.

Germany: a) In many courts, court users must provide their data and fill out a declaration that they do not suffer from symptoms related to Covid-19, such as cough or fever, before being allowed to enter the court building, b) the court administration set up regulations that required judges to open the windows for a certain time in certain intervals depending on the size of the courtroom and the number of people present.

Israel: a) the duty of any person who enters a courthouse to declare that he/she is not coughing, has not experienced fever during the week before, and has not been in contact with a COVID-19 patient in the previous two weeks, b) as of June 2021, most precautions have been lifted due to good control of the pandemic and a large percentage of the population who have been vaccinated.

New Zealand: a national contact tracing application has been designed that enables users attending different locations to scan a QR code or manually add their details into a National Health Database. All courts strongly encouraged court users be they judges, lawyers, staff or public to record their courthouse, courtroom, or court counter visits.

Slovenia: list of those present at each court hearing, which must be kept for at least a month.

Taiwan: anyone who entered a courthouse are required to send a text message to the CDC server and is required to fill out a health declaration form, stating his or her covid-19 related health conditions.

United States: requiring all persons to verbally affirm that they have no flu-like symptoms to enter the courthouse.

## **2) The pandemic and digital cases**

**a) Before the pandemic, were the cases already being handled digitally in your country? If not, please explain if this measure was taken after the start of the pandemic.**

In Argentina, the electronic system used by the National and Federal Justice tended to the absolute digitization of the proceedings and files. Due to the pandemic, it was not possible to work in any other way, with which much progress has been made in the digitization of what has been done previously, while the current cases are 100% digital. There is a tendency towards absolute paperlessness and the disappearance of the physical file.

In Armenia, the cases weren't being handled digitally before, but during the pandemic, based on a decision of the Supreme Judicial Council, the document circulation in the courts has been carried out electronically. The documents have been sent and received by e-mail. Interested parties are also able to get acquainted with the case materials electronically.

In Australia, whether and to what extent cases were being heard virtually varied on the court's jurisdiction and location. Many Australian courts were well equipped to deal with digital hearings. Prior to the pandemic, the Supreme Court had almost all court files and associated filing processes digitalised. The measures taken at the start of the pandemic in this Court were to enable hearings where all or most participants could remotely connect into the hearing. The Commonwealth Courts also had capacity for digital hearings. However, while the capability was there, it was used in a different capacity prior to the pandemic. For example, the Federal Court had videoconferencing and audioconferencing available, but it was only used for those appearing from another state, territory, country, prison, or detention centre etc. These facilities were never used to conduct hearings like they have been during the pandemic. That is to say, there would always be the majority of people appearing in person and just a digital connection to the person not able to appear in person at the Court's location. Not long prior to the pandemic, electronic trials were introduced in some courts. This saw all documents and material being produced by electronic means only, so that no hard copy documents were required. This step was targeted more at saving paper as people were still appearing in person in the court room. However, since the pandemic, more matters have started to transition to be completely electronic.



In Austria, digital files are being introduced currently. The project started long before the pandemic. Only civil cases at some courts are handled digitally. The pandemic did not speed up this process, as hardware must be procured, and software development is still ongoing. But the acceptance by judges is better now as they experienced the benefits during the crisis.

In Bermuda, prior to the pandemic audio/visual links and digital means were rarely used in the Court. Since the pandemic it is being used on a regular basis.

In Brazil, there was already the digital process before the pandemic, but trials were not held virtually.

In Canada, cases were not processed digitally before the pandemic. Since the pandemic, the judicial systems have been adapted and upgraded. Most, if not all, can now manage proceedings through Teams or Zoom.

In Chile, the cases were already being handled digitally before the pandemic.

In Croatia, all communication among judges and parties was already handled digitally, but classical paper communication is not forbidden.

In Cyprus, no cases were handled digitally before the pandemic. This measure was implemented after that. In accordance with the Directives of the Supreme Court, part of the work became online. This included e-mail communications between the judge and the parties regarding the proceeding. A digital Court platform for the electronic filing and management of cases is being developed currently and will be implemented in the coming months.

In Denmark, all civil cases and some criminal ones were already handled digitally except for the hearings and testimonies of witnesses.

In Estonia, the possibility to handle the cases electronically had been introduced more than 10 years ago. Several fields (administrative courts) were already required by law (with few exceptions) to use only electronic casefiles in the proceedings. The process of digitization and creation of paper-free court proceedings is expected to happen in the near future.

In France, apart from emergencies, cases were not being handled digitally before the pandemic. The Directives of March 25, 2020, broadened this possibility to a few jurisdictional acts by adapting some of the provisions of criminal and civil proceedings: authorization of requests for documents during the investigation, appeals and appeals in cassation by e-mail, use of videoconferencing for hearings. The courts appeared very late in the dematerialization of their exchanges, both in civil and criminal matters. The Winci software (monitoring of civil cases, editions of the documents necessary for the management of procedures, control of deadlines, edition of judgments and production of statistics), was not accessible remotely. However, currently, after promising experiments, the use at distance for this software exists and is under development. In criminal matters,

the courts have no secure solution for exchanging procedural documents with investigation services and the lawyers. However, in courts where it was tried, the digital criminal procedure (PPN) has shown its value during confinement: sharing of files, signing of acts, transmission of procedures and exchanges with investigative services and lawyers. The health crisis, on the other hand, highlighted the delay in the dematerialization of the criminal chain at the level of the courts of appeal. Finally, the electronic signature is still not effective.

In Georgia, online court hearings were not held before the pandemic on a regular basis. Cases were heard online only exceptionally.

In Germany, electronic files were only partially introduced before the pandemic. Some states have sped up the process of introducing electronic files since the outbreak of the pandemic.

In Israel, the digital handling of cases began in January 2007. The implementation of the system was completed in 2010.

In Italy, civil proceedings have been digitally handled for 10 years. All documents and decisions are electronic, not in paper, and electronically filed. The digital criminal proceeding is being set up. Such project started before the pandemic.

In Japan, since before the pandemic, the phone conferencing system was often used in conducting proceedings in civil cases. A video conferencing system is also available under certain conditions to connect courts when hearing witnesses in both civil and criminal proceedings. In addition, a web conferencing system via Internet connection was put into full operation at all district courts nationwide in December 2020. Preparations for introducing the web-conferencing system were initiated already before the pandemic as part of the process toward the digitalization of civil proceedings.

In Kazakhstan, the digitalization of judicial proceedings, which has started in 2015 as part of the National Plan “100 concrete Steps,” made it possible to completely transfer courts to online work during the pandemic. The work on digitalization of Kazakhstan's justice continues.

In Lebanon, digital case processing is not being implemented either before or during the pandemic.

In Liberia, cases were not handled digitally before the pandemic and are still not.

In Liechtenstein, cases were not handled digitally before the pandemic. Nevertheless, already before the outbreak of the pandemic the introduction of electronic files was planned by the government and the ministry of Justice.

In New Zealand, carrying out eFiling by an electronic document system and email was common pre-Covid. Any material received by the court by a means other than eFiling was additionally scanned or uploaded (depending on the format in which it is received)

to its case management system. The exception to this general description is that since 2012 urgent Family Court work, and since 2017 judicial decision-making in this jurisdiction, has been enabled in a fully electronic end-to-end on-screen process. Called National E-Duty, it enables any judge anywhere to urgently determine applications.

In North Macedonia, digital technology in handling of cases was used prior to the pandemic. All cases were digitally processed with scanning and forming an e-case file, and automatically assigned randomly to judges via software called ACCMIS (Automated Court Case Management Information System). The Ministry of Justice is currently undertaking a huge effort to implement full digitalization of the judiciary. This process includes an obligatory e-filing, use of digital signature as well option for online trials.

In Norway, it was possible to run cases digitally or semi-digitally before the pandemic. Because of the sanitary crisis, the possibility to do so was extended by the introduction of interim amendments to the procedural law.

In Panama, in some jurisdictions such as maritime, intellectual property and competition law, files were already digitized. In most jurisdictions, distributions of cases are digital.

In Paraguay, before the pandemic, there were already electronic files in some courts of the Capital. The same procedure was carried out in some judicial districts in the countryside during the pandemic.

In Peru, the implementation of the electronic judicial file had already begun in some and very limited courts. After the start of the pandemic, the project has continued. Unfortunately, the digitization process is incipient and in June 2021 the digitization of files at the national level did not reach 5% of the total.

In Poland, cases were not handled digitally and still are not, because the files are not electronic (or scanned).

In Portugal, cases were already handled digitally except for the investigation phase on criminal cases. This has not suffered changes during the pandemic.

In Serbia, only a small number of cases have been handled digitally before the pandemic. The applicable Serbian legislation does not recognize and regulate digital procedures as such.

In Slovenia, only four procedures were conducted electronically before the pandemic, namely: land registry, company register, insolvency proceedings, and enforcement proceedings. Nothing has changed in this area since the epidemic was declared.

In Spain, the Courts do not have a true digital file. Usually, the computer equipment of courts lacks the specifications to receive and process e-files. Thus, what is called a digital file generally consists of a scanned physical file, lacking indexing, and the utilities of a digitized system.

In Sweden, the parties can sometimes join the court hearings via video. Each judge decides whether such measures should be taken or not.

In Taiwan, all cases had been digitalized before the pandemic. In some proceedings, such as in tax law, commercial law, IP law, and civil law, parties have been able to file lawsuits or respond them online.

In Uruguay, files were not being handled digitally and this has not been implemented yet.

In the United Kingdom, cases were already being handled digitally but the extent of this varied by jurisdiction. Witnesses have been giving evidence remotely for decades. The Civil Justice system, which was already technologically able, moved immediately to remote hearings. Remote hearings are now used in over 12,000 Crown Courts and also used by magistrates in overnight remand cases. The use of audio and video technology was rapidly expanded to enable judges and magistrates to conduct remote hearings. Arrangements were put in place to use telephone, video and other technology to continue as many hearings as possible remotely.

In the United States, case management in federal and state courts is largely handled through information technology systems. Case documents, such as pleadings, motions, and petitions, can be filed with federal courts online using the Case Management/Electronic Case Files (“CM/ECF”) system. Electronic case filing first became available in the late 1990s, and as of 2012, every federal appellate, district, and bankruptcy court accepts electronic filings. The public can also access and download copies of court documents via PACER—Public Access to Court Electronic Records. States have adopted similar electronic filing and document access systems for both attorneys and the public to use.

**b) Before the pandemic, were procedural acts such as hearings, testimonies of witnesses and trials carried out by video conference? If not, please inform if this measure was taken after the start of the pandemic.**

In Argentina, only exceptionally procedural acts were carried out by videoconference. Since the pandemic, the holding of hearings in semi-in-person mode (with, for example, the witness in court and the parties virtually) or purely virtual, has become generalized.

In Armenia, before the pandemic, procedural acts weren’t carried out by video conference. During the pandemic, the civil and administrative courts were provided with technical means and as a result it has become possible to conduct civil and administrative cases (court hearings) online with the consent of the trial participants. As for criminal cases, the law does not provide for online proceedings.

In Australia, procedural acts were occasionally carried out by video prior to the COVID-19 pandemic, however, the frequency and percentage of matters proceeding by video during the pandemic increased tremendously. Further, prior to the pandemic, there was

often a cost involved in using video facilities and leave was required from the presiding judicial officer.

In Austria, video conference was only possible and used to hear witnesses or parties living far from the court. During the pandemic a Covid-law was introduced to allow holding hearings completely by video conference. A special ZOOM solution was provided by MoJ. But it is mandatory that the parties agree to have a video conference. Judges always must be present at the court during a hearing, so hearings from their home are not possible.

In Bermuda, prior to the pandemic audio/visual links and digital means were rarely used in the Court. Since the pandemic it is being used on a regular basis.

In Brazil, although the cases were being handled digitally before the pandemic, procedural acts, such as hearings or testimonies of witnesses, were carried out only in-person. Trials held by videoconferencing were adopted after the beginning of the sanitary crisis.

In Canada, prior to the pandemic, video conferencing was used on rare occasions, mostly for trial management conferences or judicial case conferences, expert witnesses, if they were from out of province and in-custody inmates for pre-trial appearances. A few courts were equipped with video conferencing capability before the pandemic. The use of these technologies exploded after the pandemic. Video conferencing is used on a regular basis, but most matters have largely migrated to being done by Zoom or Teams, including before Courts of Appeal and the Supreme Court of Canada.

In Chile, video conferencing was not used prior to the pandemic. The system has been then adapted to hold hearings of all kinds remotely.

In Croatia, procedural acts weren't carried out by video conference, except for some criminal cases related to protected witnesses, defendants in custody etc.

In Cyprus, before the pandemic, no substantial procedures were carried out by video conference. Very limited exceptions included remote evidence given in criminal trials by vulnerable witnesses and expert evidence given from abroad. This has not changed after the start of the pandemic. Hearings and testimonies are not conducted via video conferencing.

In Denmark, the hearings and testimonies of witnesses were not carried out by video conference before the pandemic, and neither after that.

In Estonia, it was already possible to carry out procedural acts by video conference before the pandemic according to law.

In France, the use of videoconferencing was extended by law in 2004 and generalized to all jurisdictions in 2006. The device can be used at different stages of the judicial process, investigation through to the sentencing discussions, including the hearing.

In Georgia, the video conference was used only in exceptional cases.

In Germany, procedural acts such as hearings, testimonies and trials in general were not carried out via video conference before the pandemic, although legal possibilities already existed. In some areas of law, these legal possibilities were extended after the outbreak of the pandemic, and especially the technical means for conducting video conference were largely extended since then.

In Israel, procedural acts were held by video conference before the pandemic, mainly when witnesses were overseas and unable to appear in court in person.

In Italy, procedural acts weren't carried out by videoconference before the pandemic. This measure was taken after the start of the pandemic, and this measure is likely to remain.

In Japan, before the pandemic, a closed network-based video conferencing system was available for testimonies of witnesses, for example, but a video conferencing system via Internet connection (web conferencing system) was not used.

In Kazakhstan, before the pandemic, by request of the parties, due to the impossibility of their appearance at the court session, their interrogation could be carried out by videoconference. After the beginning of the emergency regime, the courts were able to implement 100% of their functions in e-format without the presence of the parties in the courtroom.

In Lebanon, the videoconference interviews of detainees and the hearing of witnesses were first introduced following the pandemic and this measure remains optional until now.

In Liberia, before the Covid-19 pandemic, procedural acts like hearings, taking testimonies of witnesses, and the trial processes were not carried out via video conference.

In Liechtenstein, procedural acts were not carried out by video conference before the pandemic, and neither after that.

In New Zealand, before the COVID-19 pandemic procedural acts were carried out by remote participation with the frequent use of audiovisual technology. Since the end of the major lockdown in late May 2020 the frequency and percentage of matters proceeding this way has significantly increased.

In North Macedonia, the use of videoconference is proscribed in Criminal procedure law for purposes of testimonies in case when defendant/witness is not able to attend the trial in court. However, this option was rarely used, partially due to any video recording equipment. Civil cases are being audio recorded as an obligation, while no testimonies are carried out by videoconference. No online trials (with use of video technology) were held before the pandemic.

In Norway, it was possible to some extent to have hearings digitally or semi-digitally before the pandemic. Through the introduction of the interim amendments to the procedural law, the possibility to do so was increased.

In Panama, procedural acts were already carried out by video conference before the pandemic.

In Paraguay, before the pandemic, procedural acts were not carried out by videoconferences. This began to take place after the pandemic.

In Peru, before the pandemic, all procedural acts were carried out in person. Due to the prolonged state of emergency, measures were implemented to carry out these proceedings virtually. At present, the hearings, interviews, etc. are carried out through the Google Meet Platform.

In Poland, procedural acts were not carried out by videoconferences. In civil procedure it is allowed to hear parties and witnesses online. In criminal proceedings this possibility is still limited.

In Portugal, procedural acts were carried out by video conference, but only regarding witnesses that were too far from the courthouse where the trial was being held. During both lockdowns this was widened to lawyers and witnesses regardless how far they were from the courthouse.

In Serbia, procedural acts, such as hearings of witnesses or defendants, were carried out by video-links, while the proceedings themselves took place in courthouses.

In Slovenia, before the pandemic, in accordance with the provisions of procedural laws, courts could only conduct individual hearings of a witness or party via videoconference, but not the entire main hearing. There were no changes even during the pandemic. The court could even hold a main hearing only if all the parties agreed. In particular, lawyers were strongly opposed to the main hearings via videoconference, although encrypted links were provided in 2020.

In Spain, the procedural rules already provided for the carrying out of certain procedural actions (hearings of witnesses or experts) by electronic means, albeit on an exceptional basis, before the pandemic. The situation has been reversed and has now become the general norm, being the most frequent system, although with some exceptions in the criminal jurisdiction.

In Sweden, the parties can sometimes join the court hearings via video. Each judge decides whether such measures should be taken or not.

In Taiwan, before the pandemic, part of the hearings, especially testimonies of witnesses, have been allowed to be carried out by video conference in almost all proceedings. Trials fully carried out by video conference are not allowed in all proceedings. As the pandemic

escalated, the scope of remote trial in criminal cases were further expanded by a special Covid-19 Act, which will be no longer in force after the pandemic is over.

In Uruguay, before the pandemic, almost all procedural acts were carried out in person. Only some specific acts in criminal cases were carried out by videoconference.

In the United Kingdom, procedural acts were held by video conference before the pandemic.

In the United States, prior to the COVID-19 pandemic, it was permissible to use video conferencing and other electronic communication technology for limited criminal and civil proceedings in both federal and state courts. The use of video conferencing technology in criminal proceedings is subject to constitutional limitations because the Sixth Amendment guarantees a criminal defendant's right to confront witnesses against him. Thus, the criminal defendant generally must be physically present at the critical stages of the proceeding, such as the plea, trial, and sentencing. Many states prohibit the use of video conferencing in certain types of criminal proceedings, such as criminal trials or sentencing hearings, whereas other states allow video conferencing for most types of criminal proceedings, including those involving witness testimony, so long as the defendant consents. Video and telephonic conferencing is more widely accepted and utilized for some types of federal and state civil proceedings, but usually for unavailable witnesses or telephonic hearings. During the COVID-19 pandemic, the use of video conferencing to conduct court proceedings expanded. The CARES Act provided an avenue to conduct certain federal criminal proceedings via video teleconferencing if the Judicial Conference of the United States found that emergency conditions due to the pandemic would materially affect the functioning of federal courts.<sup>4</sup> After the Judicial Conference made this finding on March 29, 2020, chief district judges, under certain circumstances and with the consent of the defendant, were permitted to temporarily authorize the use of video or telephone conferencing for certain federal criminal proceedings. Many state courts temporarily suspended any limitations on using remote technology to conduct depositions, appearances, hearings, and other civil proceedings, and a few courts even held civil jury trials remotely with the consent of the parties. With constitutional and fairness considerations in mind, courts are assessing how the use of video conferencing in civil and criminal proceedings might be incorporated into regular practice after the COVID-19 pandemic.

**c) Were measures taken so that people who do not have regular access to the internet could participate in virtual procedural acts?**

No measures in this regard have been reported by the following jurisdictions: Argentina, Armenia, Croatia, Denmark, Japan, Latvia, Lebanon, Liberia, Liechtenstein, North Macedonia, Norway, Peru, Poland, Portugal, Slovenia, Spain, Sweden, and Uruguay.

Other jurisdictions reported the following measures:



Australia: those who did not have regular access to the internet were generally able to appear by telephone. However, this was ultimately up to the judge as it was not always appropriate. Some judges would default to audioconference where there were internet issues. In the Federal Court, where video was not possible and/ or it was not possible or appropriate for an appearance by audioconference, the person would be able to attend the Court in person (restrictions permitting) to appear by video from the courtroom and participate in the digital hearing that way.

Austria: if there is no access to internet, the hearing will take place at the court.

Bermuda: in a small number of cases hearings were conducted telephonically.

Brazil: rooms with internet access were set up in some courts to enable people to participate in the virtual hearings.

Canada: the courts have accommodated those without access to internet by conducting matters by telephone where possible or even sometimes facilitating attendance in person.

Chile: Zoom connection points have been placed in courts and it has been managed with the local network, city halls and schools, access points for those living in the most remote towns, especially in rural areas.

Cyprus: if the party does not have access to internet access, that person may appear in court in person.

Estonia: courts offered special rooms with respective equipment so that people without access to internet can participate in the hearings through electronic channels. Local governments providing social care have also provided support for vulnerable parties to participate in digital hearings.

France: there are structures called “houses of justice and law” in cities not provided with a jurisdiction which allows litigants to have access to the internet. However, they could not be strengthened during the lockdown, for lack of additional dedicated resources.

Georgia: if the party didn't have access to the internet, he/she could appear at the court, according to the decision of the judge, if the stage of pandemic allowed the presence of the parties.

Germany: Virtual procedural acts are generally not undertaken against the will of the parties involved.

Israel: hearings on matters of arrests were carried out virtually via equipment purchased by the court administration. A hotline was established for people in need of urgent relief in family matters. Community relations help desks in many courtrooms around the country were managed by volunteers who helped unrepresented parties with technical matters.

Italy: the defendants could use devices provided by police at the police station to participate in their trials.

Kazakhstan: the judicial system has provided the maximum technical opportunity for citizens to participate in court proceedings through mobile gadgets.

New Zealand: The courts adapted by allowing the use of existing facilities for remote participation within and between different court districts.

Panama: access to the internet was guaranteed especially for vulnerable people.

Paraguay: measures have indeed been taken so that all persons have access to the internet to participate in procedural acts carried out digitally.

Serbia: at the beginning of the pandemic, trials for criminal charges related to the declared pandemic were allowed to be conducted via Skype. Defendants were in special detention units in three cities in Serbia, where they had permission to access the internet and use the means for video conferencing.

Taiwan: people who do not have regular access to the internet would be guided to participate in the online proceeding via the equipment in the nearest judicial facility, such as the courthouse or the prosecutors' office.

United Kingdom: The judicial approach is to be as flexible as possible, to facilitate the participation of these groups. Telephone hearings have remained an option throughout and the practice of using "hybrid hearings" has also developed where some participants attend remotely, others in person and often for only some of the time in each instance.

United States: many proceedings were conducted telephonically rather than over a videoconferencing platform requiring access to the internet. Additionally, the U.S. federal government and many states have developed plans and devoted funding toward expanding reliable high-speed internet services to communities across the country.

**d) For the performance of the virtual judicial acts, were equipment and internet broadband provided to judges and court officials or did they have to use their own resources?**

In Argentina, many years ago each judge had been given a notebook that - despite its age - is functional to work remotely. Most judges have given that notebook to a court official so that they can work remotely. The internet connection used is that of each judge or official.

In Armenia, before the pandemic, every judge and court official had been provided with a computer and internet connection.

In Australia, judges and court staff were able to make use of court equipment when working remotely and where necessary the courts assisted to ensure that judicial officers

had appropriate access to internet to undertake their role. Those staff members who have made long term arrangements to work from home (irrespective of the pandemic) are required to pay for their own equipment for their home office.

In Austria, cameras and headsets were provided, also laptops, but not enough. It is not allowed to use a private laptop or computer for that purpose. Judges and staff have to make sure they have good internet access (at their own costs) if working from home.

In Bermuda, the equipment is provided to the judicial officers if they wish, but they incur the expense of home internet services.

In Brazil, judges and court officials had to use their own resources (equipment and internet), when working from home.

In Canada, judges working from home used their own resources and their own broadband, but if someone did not have the required equipment or access to software, it would have been made available. In terms of cost, there was a mix between judges using their limited incidental allowance and administration support. Home internet can be claimed as an incidental expense.

In Chile, judges and court officials had to use their own resources (equipment and internet), when working from home.

In Croatia, judges and court officials had to use their own resources (equipment and internet), when working remotely.

In Cyprus, in the beginning of the pandemic, no equipment or internet broadband was provided. After a few months, internet broadband was made available to all judges. It is expected that each judge will be issued with all necessary equipment.

In Denmark, judges and court officials had to use their own resources (equipment and internet), when working from home.

In Estonia, personal internet broadband was widely used before the pandemic as the e-work from home was widely accepted.

In France, most judges are equipped with laptops, which operate with their personal internet broadband. On the other hand, court officials barely worked remotely during the first lockdown because they were not provided with laptops to be able to work from home.

In Georgia, equipment and internet were provided for the judges and the staff members. In case of work from home, personal laptops were provided as well.

In Germany, hardware and software are usually provided to judges. If judges or court staff decide to work from at home, they have to use their private internet access, which is generally not provided or reimbursed.

In Israel, the Administration of Courts purchased 188 sets of large screens, cameras etc., which were distributed to all courts as needed for virtual judicial acts carried out from

courtrooms. Judges and court officials are also provided with equipment and broadband internet at home and do not incur the expense of home internet services. The use of private resources by judges or court officials is forbidden for reasons of data security and privacy protection.

In Italy, all judges have been equipped with laptops for longtime. All courts are connected to the net. During the pandemic, the Ministry of Justice provided judges with software Team and organized online courses for learning how to manage it. They had to use their private internet broadband from home, without reimbursement.

In Japan, the necessary equipment and internet broadband connections have been provided to judges and court officials so that they didn't need to use their own resources.

In Lebanon, the Ministry of Justice has made the internet service available to criminal judges as well as the software necessary for videoconferences.

In Liberia, no equipment and internet broadband were provided to judges or court officials, considering that judicial acts are not carried out virtually in the country.

In Liechtenstein, the judges have to use their own resources if they want to work from home. Also, they have no remote access to the case management system, which doesn't facilitate home office.

In New Zealand, hardware, software, broadband and mobile phones are usually provided to judges.

In Norway, all judges already had their personal laptop, where they had access to the case management system and other necessary tools. In response to the pandemic, it was decided that all other court staff also should have a personal laptop and online access to the systems.

In Panama, equipment and internet were provided for the judges and the staff.

In Paraguay, equipment has been provided to allow judicial acts to be carried out virtually. However, high-speed internet is not available, and in many cases judges and officials use their own internet and their own equipment to telematic hearings.

In Peru, the vast majority of judges and judicial personnel use their own resources for the execution of virtual proceedings.

In Poland, cameras and big tv screens were installed in some of the court rooms.

In Portugal, judges and court officials have personal computers assigned to them by the courts. As to internet and other resources, they had to use their own.

In Serbia, judges and court officials were provided with equipment and internet access only in the courthouses.

In Slovenia, judges and court staff had to use their own equipment, especially internet broadband access. It wasn't until the autumn of 2020 that first supreme and then higher judges were given official laptops, with most first-instance judges expected to get them by the end of this year. There is no provision for the supply of computer equipment for court staff.

In Spain, judges had to use their own resources (equipment and internet), when working from home.

In Sweden, judges and court officials weren't provided with equipment and internet access for remote work.

In Taiwan, laptops were distributed to all judges, so that they could connect to the internet and intranet while working from home. Judges use their own broadband at their own cost when work from home.

In Uruguay, only in some courts, equipment has been given to the judges for the remote work, and kits have also been provided for connection via zoom. No high-speed internet connection has been provided and the judges had to use their personal internet connection outside the courthouses.

In the United Kingdom, best possible use was made of the equipment currently available; laptops were provided to all judicial office holders and also to all support staff and there is internet access within court buildings. Mobile phones have been made available more widely to clerks to facilitate liaison with the parties and their representatives.

In the United States, generally, courts varied widely on the type of equipment provided to judges and court officials during the COVID-19 pandemic. Judges, court officials, and attorneys were provided with guidance on how to adapt to proceedings held on virtual and telephonic platforms. Additionally, the U.S. Courts' COVID-19 Task Force published a report containing recommendations for courts seeking to conduct jury trials and convene grand juries during the pandemic.

### **3) The pandemic and Judicial Independence**

**a) Has the Judiciary in your country been called upon to decide on the legality of restrictions on fundamental rights imposed due to the pandemic? If so, give an example of government measures that have been challenged in court.**

Armenia, Bermuda, Chile, Denmark, Italy, Kazakhstan, Lebanon, Liberia, Liechtenstein, Paraguay, Peru, Sweden, Taiwan, and Uruguay answered no to this question.

The following jurisdictions stated that the Judiciary has been called upon to decide on the legality of the referred restrictions:

In Argentina, government measures restricting free movement, as well as face-to-face attendance at schools, have been challenged in court.

The Judiciary in Australia has been called upon to decide the legality of restrictions on fundamental rights imposed due to the pandemic on a few occasions. These legal proceedings challenged restrictions introduced by both the federal and state governments in relation to matters such as border closures and mandatory quarantine.

In Austria, restrictions to businesses/shops during the first lockdown and restrictions to free movement of people have been challenged in court.

In Brazil, there were lawsuits questioning the legality of restrictions on fundamental rights imposed due to pandemic, especially referring to the closing of stores, businesses, and schools. Travel restrictions within the country have also been challenged, considering that some roads were blocked by local governments during the first lockdown.

In Canada, courts had to determine whether restrictions on religious gatherings, on the number of shoppers in stores, travel restrictions, compulsory mask wearing, lockdown measures and curfew were Charter compliant.

In Croatia, only some measures adopted by health authorities have been challenged before the Constitutional Court.

In Cyprus, the constitutionality of some government measures has been questioned in courts. The contested measures included restrictions to travel and people coming into Cyprus at the start of the pandemic, the legality of curfews imposed at various times, mandatory mask wearing, restrictions on the right to attend church services and other mass events.

In Estonia, there were several cases. For example, convicted criminals complained about restrictions placed on the possibility of meeting their relatives, and on open-air walking time.

In France, the Court of Cassation has ruled on some 40 occasions, regarding disputes related to or arising from the provisions of the directive which adapted the criminal procedure to the state of health emergency.

In Georgia, the Constitutional Court has been called upon to decide whether the recent amendments to the Law on Public Health, approved by the Parliament, meet the formal requirements for the restriction of the rights established by the Constitution of Georgia. On their basis, the Government of the country was given not only the power to restrict basic human rights, but also to establish regulations other than those prescribed by law. The plaintiff stated that the extensive delegation of legislative power by Parliament threatens the principles of democracy and the separation of powers.

In Germany, countless cases including urgent preliminary proceedings have been brought to the administrative courts regarding measures taken by the executive, respectively the

Federal Constitutional Court as far as legislative measures were concerned. Examples of such cases: limitation to meet other persons, curfew regulations, closure of stores, restaurants, cultural institutions, and schools, orders to wear masks in the public, in supermarkets and stores, and, especially after reopening schools, orders to wear masks at school, and quarantine regulations.

In Israel, many petitions have been presented to the High Court of Justice (*Bagatz*) regarding restrictions of fundamental rights imposed due to the pandemic. Examples include restrictions on participating in demonstrations, prayers, and religious ceremonies, the lockdown orders; mask wearing; restrictions on the operation of businesses that do not sell essential products; closure of airports; mandated quarantine for any person entering Israel from abroad; the government's decision to authorize the use of means available to the security services for purpose of epidemiological investigations.

In Japan, a restaurant chain company filed a suit against the Tokyo Metropolitan Government for compensation, alleging that the order by the government to stop services from 8:00 p.m. until 5:00 a.m. on the following day, which was issued under the Act on Special Measures for COVID-19, infringed the company's freedom of business.

In New Zealand, the High Court of New Zealand, the third-highest court in the judicial hierarchy, made a formal declaration of illegality in a case in which the legality of aspects of the New Zealand government's lockdown measures in response to the COVID-19 pandemic had been challenged. The High Court decided as follows: "*While there is no question that the requirement was a necessary, reasonable and proportionate response to the COVID-19 crisis at that time, the requirement was not prescribed by law and was therefore contrary to s 5 of the New Zealand Bill of Rights Act.*" All other challenges to the lockdown and the Government's early COVID-19 response have failed.

In North Macedonia, during the state of emergency, several initiatives, challenging the legality of restrictions of fundamental rights imposed by the Government, were submitted to the Constitutional Court. In some of them, the Constitutional Court ruled in favor of the claim, abolishing the decrees of the government. As an example, the decree with force of law, adopted by the government, which proscribed - among others, salaries of the judges to be cut to the minimal wage for two months, was abolished by the Constitutional Court.

In Norway, there was one case regarding the legality of regulations imposing quarantine duty on Norwegian citizens returning from their cabins in Sweden – these cabins typically being situated just across border. The court of first instance found that the regulation in question was not sufficiently merited and thus invalid. However, the court of appeal came to the opposite conclusion. Presently, it is not known whether cabin owners will appeal to the Supreme Court.

In Panama, it has been challenged, for example, the curfew imposed to control the pandemic.

In Poland, government restrictions related to the freedom of public meetings and obligatory wearing of masks outdoor were challenged in courts.

In Portugal, some people have been obliged by health officials to quarantine, even with a negative test to COVID-19 and the courts decided that without the declaration of state of emergency that measure was against the Constitution.

In Serbia, the Constitutional Court received several claims against the introduction of the state of emergency in the country. They have been all rejected. The Regulation on measures adopted during the state of emergency and the Regulation on misdemeanors for breaching the Minister of Interior's Order on restrictions and prohibitions of movement of persons on the territory of the Republic of Serbia have been also submitted to the Constitutional Court. Part of those regulations were declared unconstitutional by the Court.

In Slovenia, the Constitutional Court declared the unconstitutionality of several articles of the Infectious Diseases Act, which was the basis for the Government of the Republic of Slovenia, which issued a number of Ordinances/Decrees restricting important human rights. The Constitutional Court also declared some decrees unconstitutional (e.g., whereas they have not been published in the Official Gazette, whereas they have inadmissibly restricted the crossing of the state border, etc.). (Regular) courts voided fines for misdemeanors imposed by police or health inspectors because the act was not a misdemeanor (high school students demanded the opening of schools in the city's main square and police officers fined them).

In Spain, the Constitutional Court has admitted several claims of unconstitutionality against the declaration of the state of alarm and its extensions, and, specifically, if the state of alarm provides legitimate base to the restrictions of rights granted by it. Above all, the most controversial measure has been the mandatory nature of home confinement, which has lasted for more than two months.

In the United Kingdom, in the case of *R (Dolan) v Secretary of State for Health and Social Care*, the Court of Appeal rejected a judicial review of the coronavirus regulations for England. The opening paragraph of the judgment sets out the challenge: "The appellants challenge regulations made in response to the Covid-19 pandemic on 26 March 2020 and since which introduced what was commonly known as a "lockdown" in England. They submit that the regulations imposed sweeping restrictions on civil liberties which were unprecedented and were unlawful on three grounds. First, the Government had no power under the legislation they used to make the regulations, namely the Public Health (Control of Disease) Act 1984, as amended by the Health and Social Care Act 2008 ("the 1984 Act"). Secondly, the regulations are unlawful applying ordinary public law principles; and thirdly they violated a number of the Convention rights which are guaranteed in domestic law under the Human Rights Act 1998 ("HRA"). Although the regulations were amended on several occasions and have since been repealed, the appellants contend that it remains important that the legal issues which arise should be authoritatively determined in the public interest."



In the United States, several government measures undertaken during the COVID-19 pandemic have been challenged as unconstitutional. Many federal and state courts temporarily suspended all jury trials in the interest of public health and safety during the COVID-19 pandemic. Criminal defendants whose trials were delayed challenged the suspension as a violation of their constitutional right to a speedy trial. The Ninth Circuit concluded the temporary suspension of jury trials due to the COVID-19 pandemic did not unconstitutionally deprive criminal defendants of their right to a speedy trial. Additionally, state social distancing restrictions were challenged on religious liberty grounds. Many of these restrictions were upheld as necessary and tailored emergency measures by appellate courts. Later in the pandemic, in a series of decisions, the U.S. Supreme Court blocked the implementation of certain state COVID-19 restrictions on religious activities on the grounds that the state measures unconstitutionally burdened the plaintiffs' right to free exercise of religion by restricting religious activity more than non-religious activity.

**b) Have the judges who have made the judicial decisions that analyzed restrictive measures imposed by the government of your country been criticized and/or attacked by authorities or even by the public due to their decisions?**

Although some of the following jurisdictions stated that there was some criticism of court decisions relating to the pandemic, none of them reported personal criticism or attacks on judges who made such decisions: Armenia, Australia, Austria, Bermuda, Canada, Croatia, Cyprus, Denmark, Estonia, France, Israel, Italy, Japan, Kazakhstan, Lebanon, Liberia, Liechtenstein, New Zealand, North Macedonia, Norway, Panama, Paraguay, Peru, Portugal, Serbia, Spain, Sweden, Taiwan, UK, Uruguay, USA.

On the other hand, the following jurisdictions reported that judges have suffered personal criticism and attacks due to the decisions they made on the issue: Argentina, Brazil, Poland, and Slovenia.

Germany stated that only one individual judge has been publicly criticized for rescinding an executive order for children to wear masks at school, as it seemed that said judge had assumed his competence arbitrarily against the law.

**c) Has any judge undergone disciplinary proceedings in your country because of a decision that he/she has made about the restrictive measures adopted by the government due to the pandemic?**

Only Germany reported the case of a judge that could be subjected to disciplinary proceedings if found to have assumed his competence arbitrarily against the law.

No other jurisdiction referred cases of disciplinary proceedings against judges because of decisions made on restrictive measures adopted by governments due to the pandemic.

**d) Have judges and court officials in your country suffered a decrease in wages or a delay in the payment of their salaries due to the pandemic? If so, did this measure occur only with the judges and court officials or with the public sector as a whole?**

Most jurisdictions responded that judges and court officials haven't suffered a decrease in wages or a delay in the payment of their salaries due to the pandemic.

The following jurisdictions made some remarks on this issue:

Bermuda: Some judges have consented to austerity measures imposed by the Government, and others have not.

Canada: in Manitoba judges agreed to work extra two weeks last summer, Québec judges were asked to sit six extra days last summer on a voluntary basis and Alberta trial judges had four weeks of their vacation cancelled.

Georgia: The Judges of the Supreme Court of Georgia has refused on bonus salary and transferred money to the fund that was created for the fight against pandemic.

Israel: the Knesset revoked the annual update in the wages of the Prime Minister, all ministers, deputy ministers, judges, and their equivalents.

Liberia: Judges and court officials have suffered delays in the payment of their salaries due to the pandemic, as the entire public sector of the country.

New Zealand: Judges voluntarily agreed to waive any increase for both the fiscal years ending September 2020 and 2021. In addition, some judges have agreed to donate 20 % of their salary to charity.

North Macedonia: The government has signed a Decree in April 2020, which proscribed a cut of the wages of public officials, judges, and prosecutors, among others, in April and May 2020, to a minimal wage. This was also challenged by the Association of judges in the Constitutional Court and the Court promptly decided to abolish such decree.

Slovenia: After the end of the epidemic, the entire public sector, including judges and court staff, payday was postponed from the 5th day of the month to the 15th day of the month.

Uruguay: In April 2020, the creation of a solidarity fund to cover the expenses caused by the Covid-19 pandemic was approved by law. To finance this fund, a tax of up to 20% of public sector salaries was created, including judges. The exact percentage depended on the salary range. This tax was paid for two months. In 2021, another law was approved, which created a new tax on salaries of the public sector to finance the Covid-19 Fund also for two months.

**4) Regarding the topic of 2022, you are kindly requested to choose between the following options:**

a) Maintain the topic that was decided upon in 2019 – “Disciplinary Proceedings and Judicial Independence”. (    )

b) Choose a new topic entirely. (    )

If you select this option, please share your topic suggestion: \_\_\_\_\_

**The vast majority of the jurisdictions chose to maintain the topic that was decided upon in 2019 – “Disciplinary Proceedings and Judicial Independence”**

**Judge Walter Barone  
President of the First Study Commission  
International Association of Judges- IAJ**