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**EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE
(CEPEJ)**

GUIDE ON THE USE AND DEVELOPMENT OF REMOTE HEARINGS

**This Guide complements the CEPEJ Guidelines on videoconferencing in judicial
proceedings**

*Adopted at the 44th plenary meeting of the CEPEJ
(Strasbourg, 4-5 June 2025)*

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I. Introduction

1. This Guide¹ aims at providing an overview on the use of remote hearings considering the experiences of the member States of the Council of Europe and beyond. It advocates for a thoughtful and balanced approach to integrating remote hearings into the justice system, ensuring that technological advancements enhance rather than hinder access to justice in line with Article 6 of the European Convention on Human Rights (ECHR), the “Right to a fair trial”. This Guide complements the “Guidelines on videoconferencing in judicial proceedings”, adopted by the European Commission for the Efficiency of Justice (CEPEJ) of the Council of Europe, at its 36th plenary meeting in June 2021.

2. This Guide covers practical aspects of remote hearings and discusses their impact on fundamental rights and judicial proceedings. It underscores the necessity of maintaining the integrity of judicial proceedings, ensuring equal participation for all parties, and protecting the rights of defendants and litigants. It contains a compilation of different practices adopted by the states in this area to offer a comprehensive overview of effective strategies, challenges encountered, and lessons learned. It is addressed to policymakers and legal practitioners.

3. The Guide is organised into four sections:

- i. the use and development of remote hearings, through an analysis of trends in the availability, deployment and use of remote hearings in recent years, using official statistics collected by the CEPEJ;
- ii. analysis of relevant case law of the European Court of Human Rights;
- iii. a selection of good practices presented under different thematic headings, such as hybrid hearings, hearings concerning refugees, electronic evidence, accessibility, and existing national or regional guidelines.
- iv. A summarising checklist.

¹ This Practical Guide was elaborated on the basis of a draft prepared by the experts of the CEPEJ: Marek Świerczyński (Poland) and Alexandre Palanco (France).

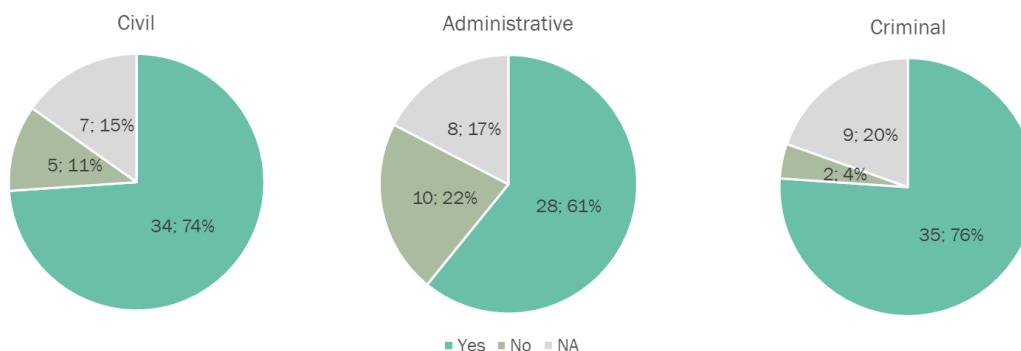
II. Remote hearings' use and development

4. The COVID-19 pandemic prompted a swift and significant shift toward the widespread use of videoconferencing technology, enabling court hearings to proceed without all participants being physically present in court buildings. Although in-person hearings should remain the norm, remote hearings offer notable benefits in terms of accessibility and flexibility.

5. The pandemic has highlighted the challenges and potential risks associated with the use of remote hearings, particularly when implemented urgently without adequate preparation. Insufficient safeguards could compromise the right to a fair trial. Therefore, the continued implementation of remote hearings requires careful consideration of all technological, procedural, and legal prerequisites to ensure that this tool is introduced as a secure, inclusive, and effective mechanism in court proceedings.

6. The data below² illustrate how remote hearings are used in different European countries. They highlight the rapid adoption and growth of this practice and technology, as well as some of the challenges and impacts associated with this transformation of court proceedings.

A. Existence of Remote Hearings by matter



7. The data shows a significant adoption of remote hearing capabilities across different types of legal proceedings in most European countries. Criminal proceedings have the highest number of countries (35) allowing remote hearings, slightly more than civil and commercial cases (34). Administrative cases have the lowest adoption rate for remote hearings, with only 28 countries allowing them and 10 countries explicitly not permitting them. The results in administrative cases are underestimated due to non-existence of separate administrative jurisdiction in some countries. Only 5 countries reported that remote hearings are not possible in civil and commercial cases 10 in administrative and only two in criminal. Seven to nine to countries did not provide data (NA) on this question.

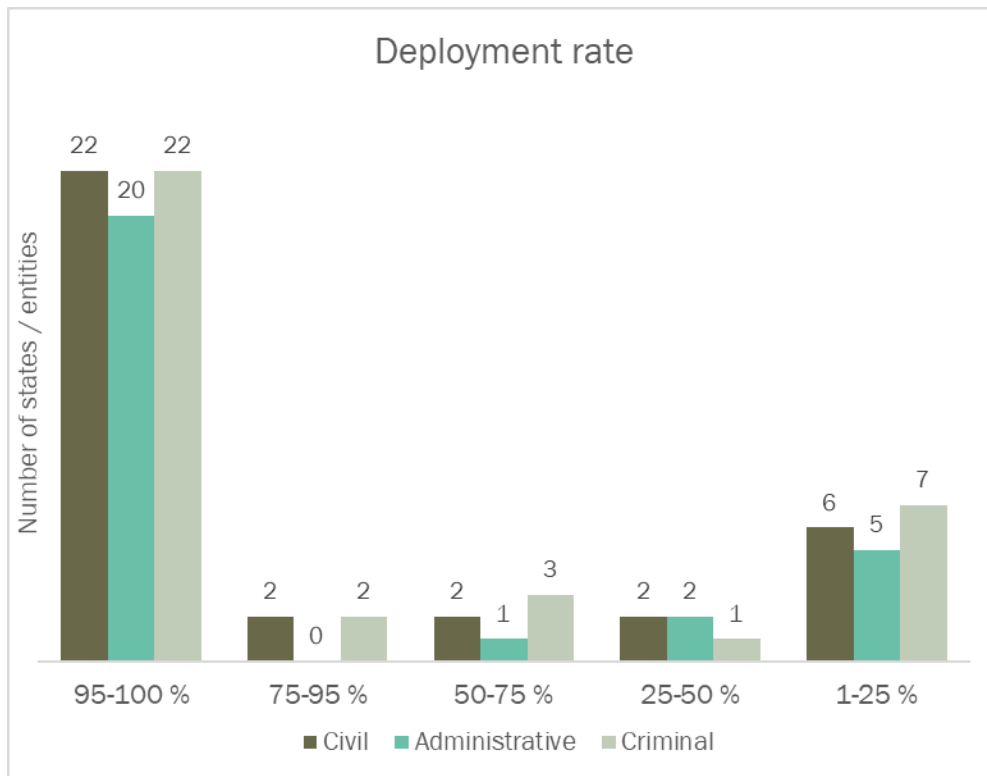
8. Some countries allow remote hearings for certain types of proceedings. For example, Bosnia and Herzegovina only allows remote hearings for criminal cases. but Croatia, Estonia, Finland, Poland, and Spain, allow remote hearings for all types of proceedings.

9. This data shows that while remote hearings have been widely adopted across Europe, there is still variation in implementation across different types of proceedings and between countries. The higher adoption rate in criminal proceedings is particularly noteworthy, as it indicates a willingness to use technology even in potentially sensitive cases.

² The data was collected through the CEPEJ evaluation scheme of the 2024 Evaluation Cycle (2022 Data).

10. Information about the existence of remote hearings by country and matter is complement by the level of deployment of tools for remote hearings (deployment rate) and the actual remote hearings held (usage rate) per matter, both measured as percentage of the overall hearings of the reference period.

B. Deployment of remote hearings

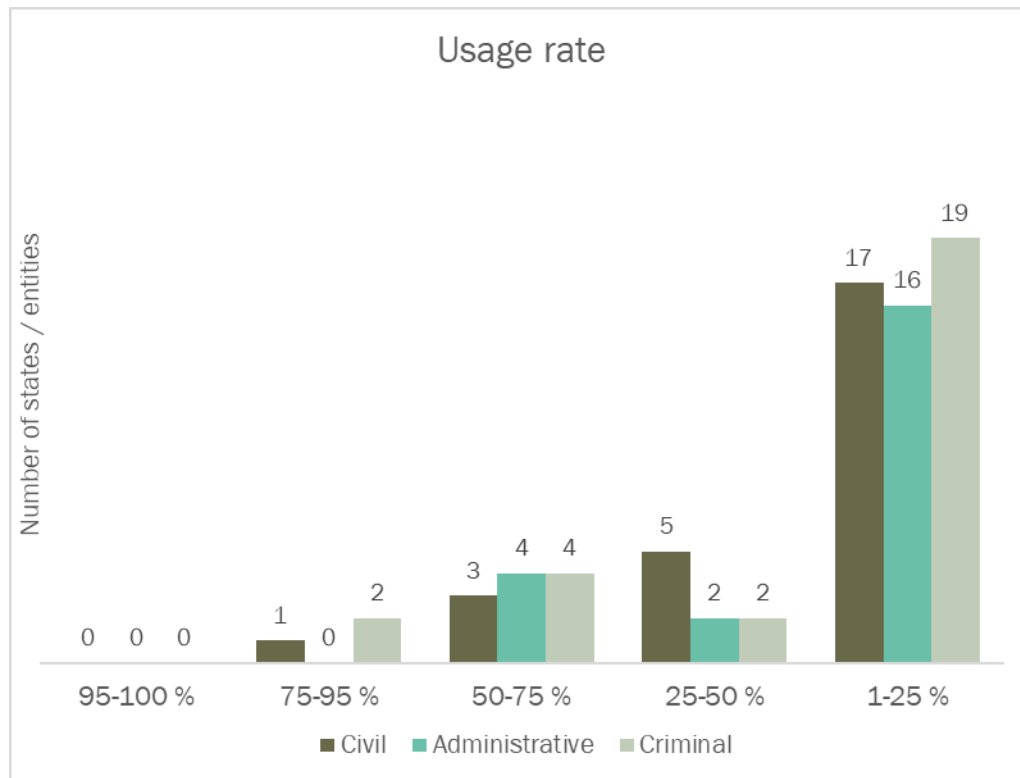


11. The chart above depicts the deployment rate (functional presence) for the countries where remote hearings are available. The deployment rates for remote hearings are similar and generally high across civil and commercial, administrative, and criminal proceedings.

12. A significant number of countries (22,20 and 22) have achieved near-complete deployment (95-100%) in civil/commercial, administrative and criminal proceedings, respectively, suggesting a strong commitment to remote hearing proceedings.

13. Nevertheless, there is still a considerable number with low deployment rates or non-availability, indicating potential for further expansion of remote hearing capabilities.

C. Usage of remote hearings



14. The chart above presents the usage rate for the countries where remote hearings are available. It indicates the level of use of the remote hearings across all instances and categories of cases in each matter (civil, criminal, and administrative). It is calculated as the ratio between the number of remote hearings that were organised and the total number of hearings where remote hearing was possible in the reference year.

15. The usage rates for remote hearings are logically lower than the deployment rates across all types of proceedings.

16. Despite high deployment rates, the actual usage of remote hearings remains low in many countries, with the majority falling in the 1-25% range across all proceeding types. The disparity between high deployment rates and lower usage rates is logical since the objective is not to have all hearings organised remotely but to use the technology up to its maximum potential as a facilitator in the process and an efficiency booster. The numbers show significant potential for increased utilisation of remote hearing technology in many countries.

17. Criminal proceedings show slightly higher usage rates compared to civil/commercial and administrative cases.

18. A small number of countries show high usage rate (75-95%) for civil and for criminal matter.

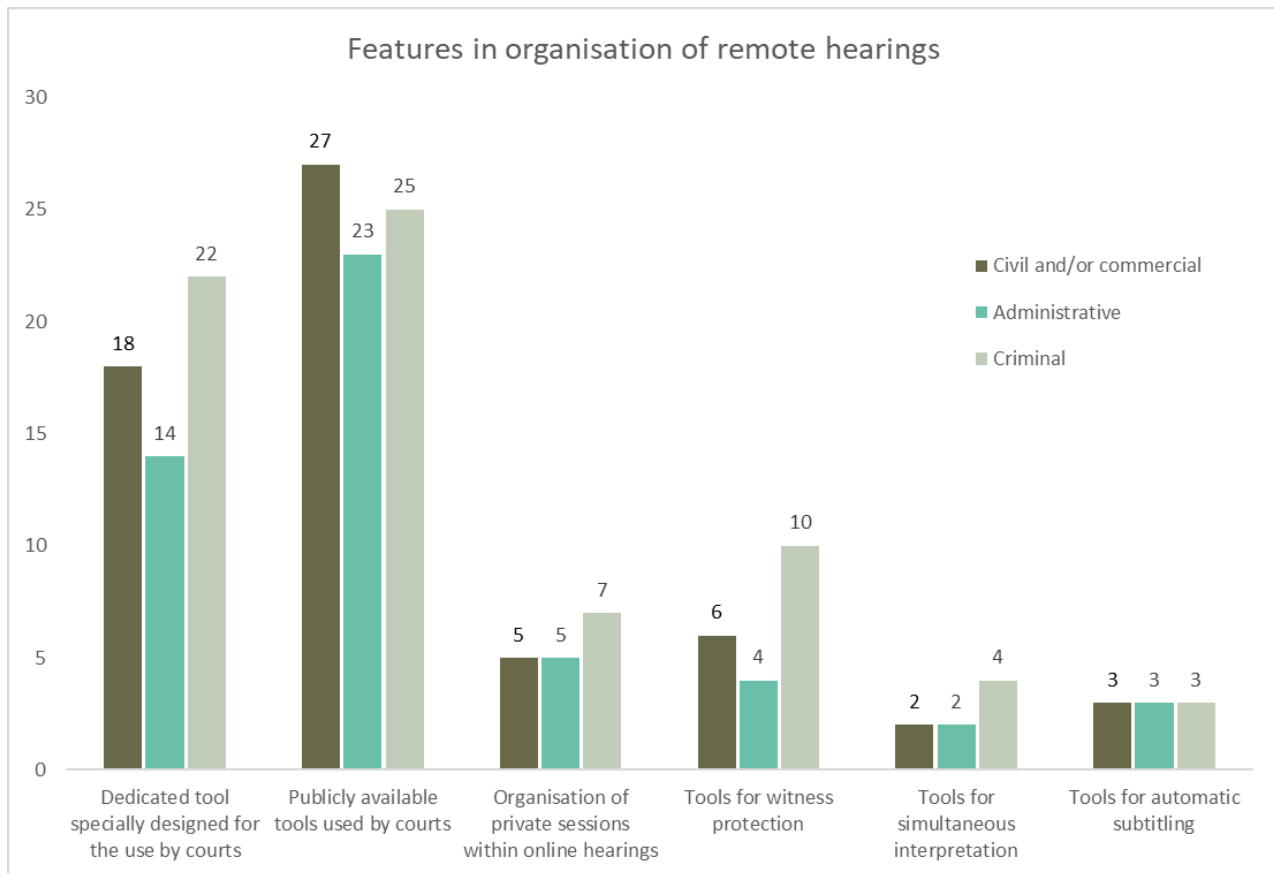
19. While the infrastructure for remote hearings is widely available, there are still barriers to their widespread use. These could include factors such as technological challenges, legal restrictions, or preferences of judges and litigants.

20. The full data and responses from member states on the deployment and usage rate of remote hearings per matter follows.³

³ NA (no information available), NAP (not applicable); Albania ALB, Andorra AND, Armenia ARM, Austria AUT, Azerbaijan AZE, Belgium BEL, Bosnia and Herzegovina BIH, Bulgaria BGR, Croatia HRV, Cyprus CYP, Czech Republic CZE, Denmark DNK, Estonia EST, Finland FIN, France FRA, Georgia GEO, Germany DEU, Greece GRC, Hungary HUN, Iceland ISL, Ireland IRL, Italy ITA, Latvia LVA, Lithuania LTU, Luxembourg LUX, Malta MLT, Republic of Moldova MDA, Monaco MCO, Montenegro MNE, Netherlands NLD, North Macedonia MKD, Norway NOR, Poland POL, Portugal PRT, Romania ROU, Serbia SRB, Slovak Republic SVK, Slovenia SVN, Spain ESP, Sweden SWE, Switzerland CHE, Türkiye TUR, Ukraine UKR, UK-England and Wales UK:ENG&WAL, UK-Northern Ireland UK:NIR, UK-Scotland UK:SCO, Israel ISR, Morocco MAR.

States / entities	Civil		Administrative		Criminal	
	Deployment rate	Usage rate	Deployment rate	Usage rate	Deployment rate	Usage rate
ALB	1-25 %	1-25 %	1-25 %	1-25 %	1-25 %	1-25 %
AND	NA	NA	NA	NA	NA	NA
ARM	NA	NA	NA	NA	NA	NA
AUT	95-100 %	1-25 %	95-100 %	1-25 %	95-100 %	1-25 %
AZE	1-25 %	1-25 %	1-25 %	1-25 %	1-25 %	1-25 %
BEL	1-25 %	1-25 %	95-100 %	1-25 %	1-25 %	1-25 %
BIH	NAP	NAP	NAP	NAP	50-75 %	1-25 %
BGR	NA	NA	NA	NA	NA	NA
HRV	95-100 %	NA	95-100 %	NA	95-100 %	NA
CYP	NAP	NAP	NAP	NAP	NAP	NAP
CZE	25-50 %	1-25 %	25-50 %	1-25 %	25-50 %	1-25 %
DNK	NA	NA	NA	NA	NA	NA
EST	95-100 %	25-50 %	95-100 %	50-75 %	95-100 %	1-25 %
FIN	95-100 %	25-50 %	95-100 %	1-25 %	95-100 %	25-50 %
FRA	NA	NA	1-25 %	1-25 %	NA	NA
GEO	95-100 %	1-25 %	95-100 %	1-25 %	95-100 %	1-25 %
DEU	95-100 %	1-25 %	95-100 %	1-25 %	NAP	NAP
GRC	1-25 %	1-25 %	1-25 %	1-25 %	1-25 %	1-25 %
HUN	95-100 %	1-25 %	95-100 %	1-25 %	95-100 %	50-75 %
ISL	95-100 %	NA	NAP	NAP	95-100 %	NA
IRL	50-75 %	1-25 %	NA	NA	50-75 %	1-25 %
ITA	95-100 %	25-50 %	NAP	NAP	75-95 %	50-75 %
LVA	50-75 %	1-25 %	50-75 %	50-75 %	50-75 %	25-50 %
LTU	95-100 %	NA	95-100 %	NA	95-100 %	NA
LUX	NAP	NAP	NAP	NAP	NA	NA
MLT	95-100 %	25-50 %	95-100 %	25-50 %	95-100 %	1-25 %
MDA	95-100 %	1-25 %	95-100 %	1-25 %	95-100 %	1-25 %
MCO	NAP	NAP	NAP	NAP	95-100 %	1-25 %
MNE	NA	NA	0%	0%	NA	NA
NLD	95-100 %	1-25 %	95-100 %	1-25 %	95-100 %	1-25 %
MKD	NAP	NAP	NAP	NAP	95-100 %	50-75 %
NOR	25-50 %	25-50 %	25-50 %	25-50 %	1-25 %	1-25 %
POL	95-100 %	1-25 %	95-100 %	50-75 %	95-100 %	1-25 %
PRT	95-100 %	NA	95-100 %	NA	95-100 %	NA
ROU	95-100 %	NA	95-100 %	NA	95-100 %	NA
SRB	1-25 %	NA	NAP	NAP	1-25 %	NA
SVK	95-100 %	1-25 %	95-100 %	1-25 %	95-100 %	1-25 %
SVN	95-100 %	1-25 %	95-100 %	1-25 %	95-100 %	1-25 %
ESP	95-100 %	50-75 %	95-100 %	50-75 %	95-100 %	50-75 %
SWE	95-100 %	NA	95-100 %	NA	95-100 %	NA
CHE	1-25 %	1-25 %	1-25 %	1-25 %	1-25 %	1-25 %
TUR	75-95 %	50-75 %	NAP	NAP	95-100 %	75-95 %
UKR	NA	NA	NA	NA	NA	NA
UK:ENG&WAL	75-95 %	75-95 %	NA	NA	75-95 %	75-95 %
UK:NIR	95-100 %	NA	95-100 %	NA	95-100 %	NA
UK:SCO	95-100 %	50-75 %	NA	NA	NA	NA
ISR	25-50 %	1-25 %	25-50 %	1-25 %	25-50 %	1-25 %
MAR	NA	NA	NA	NA	NA	NA

D. Features of remote hearings

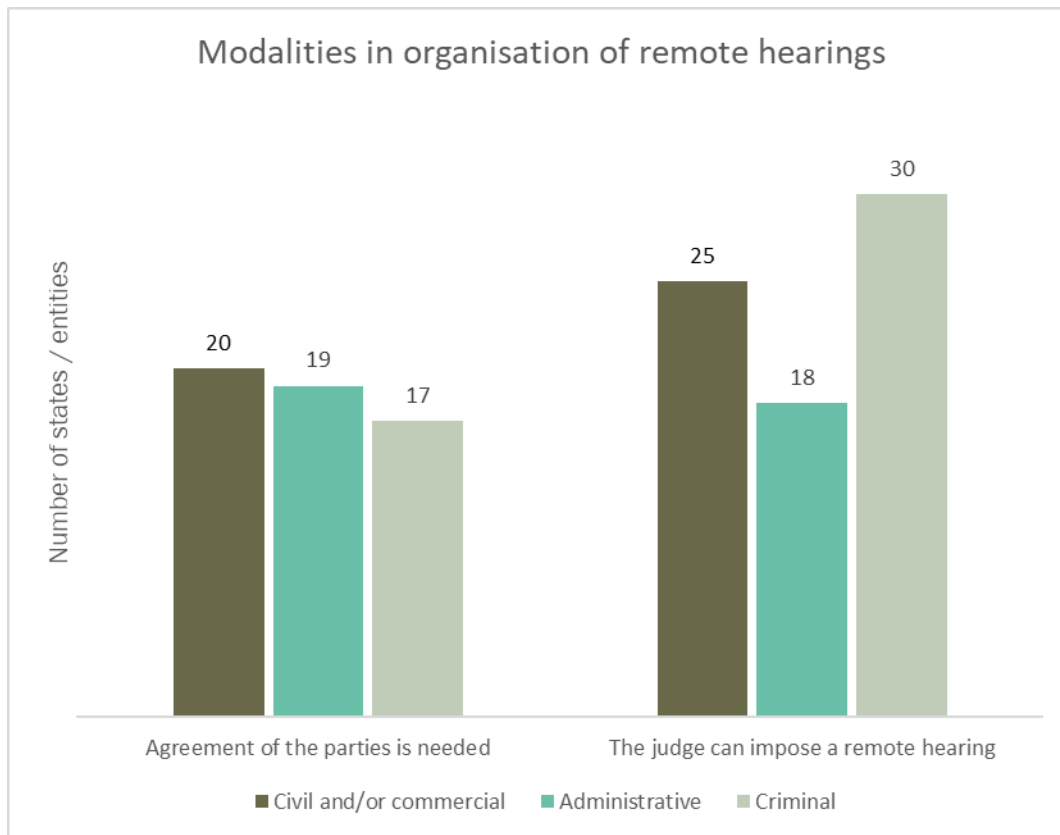


21. The adoption of remote hearing tools varies significantly across member states according to their technological infrastructure or policy priorities: while some countries use both specialised court tools and standard ones, others depend on just one type.

22. Lower adoption rates of certain features may be due to challenges like technical complexity, cost, or legal restrictions.

23. Only a limited number of countries have mechanisms in place to allow private consultations during remote hearings, raising concerns about privacy and confidentiality between the client and the lawyer. The irregular use of simultaneous interpretation and automatic subtitling could also be problematic for people who do not speak the language of the country participating in remote hearings. In addition, the low uptake of features such as automatic transcription and witness protection tools demonstrates significant potential for development and investment.

E. Agreement of parties or judge's decision?



24. There is no uniform approach on whether consent is required or if judges can impose remote hearings without parties' agreement.

25. In civil and commercial cases, there is a preference for allowing remote hearings without parties' consent, giving judges more discretion.

26. For administrative cases there is a slightly stronger preference for parties to decide if they are willing to participate in online hearings.

27. For criminal cases data is suggesting the strongest emphasis on giving judges more discretion in the decision to impose remote hearings.

28. Overall, Member States are still seeking a balance between efficiency, access to justice and respect for procedural rights in remote hearings. The flexibility observed in some jurisdictions may be a sign of an evolving approach, allowing for adaptation to the specific circumstances of each case.

29. This analysis provides a snapshot of current practices,⁴ but it is important to note that policies on remote hearings may continue to evolve.

⁴ For detailed data on remote hearings visit CEPEJ STAT and the dashboard on the ICT questions, see: <https://public.tableau.com/app/profile/cepej/viz/ICTQuestionExplorerEN/ICTQUESTIONEXPLORERDASHBOARD>

F. Feedback from other authorities

30. The Office of the United Nations High Commissioner for Human Rights (OHCHR) has raised concerns about violations of the right to a fair trial stemming from the use of remote hearings, particularly during the pandemic. These hearings present several challenges, including digital barriers for indigenous peoples and rural communities, language issues due to insufficient interpretation, and risks to confidentiality between detainees and their counsel. There are also difficulties in verifying the identity of parties, managing evidence, and preventing third-party influence on witnesses. In response, OHCHR has implemented trial monitoring and developed a guidance document to outline safeguards for ensuring fair online hearings.⁵

31. The Remote Courts Worldwide website has documented updates from 168 jurisdictions that have conducted remote hearings, primarily through video, indicating a broad international adoption of remote court systems. Countries that had already begun digitising their courts before the pandemic adapted obviously more easily to remote hearings.⁶

32. A World Bank's report noted that court digitisation levels increased in many economies, with 77 out of 120 economies introducing additional electronic features in their courts. However, the pandemic also exacerbated the digital divide between developed and developing economies in this area.⁷

33. Users who attended hearings remotely appeared more likely to be satisfied with their overall experience compared to those who attended in person. A recent UK study revealed that 63% of remote hearing participants were satisfied with their overall experience, compared to 56% of in-person attendees. Satisfaction was particularly high among those who joined via video (67%), against audio only (60%). Across all jurisdictions and demographic groups, remote attendees were at least as satisfied as in-person attendee and more so. Additionally, remote participants reported more often that their experience exceeded expectations compared to in-person users (33% versus 25%). Among those who attended a video hearing, 38% felt their experience was better than expected, compared to 31% of audio hearing users.

34. Most users in the UK did not encounter technical issues during remote hearings, but for those who did, it posed a significant challenge. The UK study shows that among public users who experienced technical problems, the most commonly reported are important: inconsistent audio quality, such as audio cutting in and out (46%), disconnections affecting themselves or others (39%), echoes (36%), inconsistent video quality for those using video (31%), time delays between users (17%), difficulties connecting via links or access codes (14%), and grainy or dark images (13%).

35. User survey in UK revealed that overall, 19% of participants had concerns about privacy during their hearing. These concerns were more common among those who attended in person (23%) than those who attended remotely (17%) and were particularly prevalent in family court hearings (24%) or magistrates' or Crown Court hearings (26%). Interviews with public users indicated that those attending remotely felt safer, less anxious, and more comfortable being in their own homes.⁸

⁵ See: <https://www.ohchr.org/en/stories/2023/08/trial-monitoring-protect-right-fair-trial> and <https://www.ohchr.org/sites/default/files/documents/issues/ruleoflaw/Briefer-Online-hearings-justice-systems.pdf>

⁶ See: <https://remotecourts.org/country/europe.htm>

⁷ See: <https://documents1.worldbank.org/curated/en/099825001082425972/pdf/IDU1f91ae60616eb614fd61866c1278bcc8c700e.pdf>

⁸ See: J. Clark, Evaluation of remote hearings during the COVID 19 pandemic. Research report, HMCTS, December 2021, p. 27, 29, 48, 55 - 56, 65-80, 82 - 83, 86

36. The University of Glasgow's School of Law and Ipsos Scotland conducted research on the adoption and use of remote hearings during the COVID-19 pandemic in Scotland. The study, published in August 2023, found potential benefits for vulnerable court users and advantages in terms of time, cost, and comfort but also common challenges including technical problems and digital literacy barriers. Remote hearings were seen as having potential benefits for certain groups of vulnerable court users (such as children and young people with additional needs, and parties who had experienced domestic abuse) in terms of allowing easier, more effective participation.⁹

⁹ See: Scottish Civil Justice System Study (2023), PPDAS1332082 (08/23), ISBN: 978-1-83521-167-0, available at www.gov.scot/socialresearch.

III. Remote hearings in the European Court of Human Rights case law (article 6 of the European Convention on Human Rights)

ECtHR, 5th October 2006, Marcello Viola c. Italy, 45106/04

“67. Although the defendant's participation in the proceedings by videoconference is not as such contrary to the Convention, it is incumbent on the Court to ensure that recourse to this measure in any given case serves a legitimate aim and that the arrangements for the giving of evidence are compatible with the requirements of respect for due process, as laid down in Article 6 of the Convention”.

37. The case law of the European Court of Human Rights regarding remote participation (e.g. videoconferencing) during judicial proceedings appears rather limited. However, the Court has laid down guiding principles that would help the States to use videoconferencing in a manner compatible with the right to a fair trial as enshrined in Article 6 of the Convention.¹⁰

38. Although this case law on the matter pertains almost exclusively to the criminal limb of Article 6 of the ECHR, the Court reiterated similar principles regarding its civil limb in a case related to a court hearing on parental responsibility where the father was not granted visa to attend.¹¹

A. General principles regarding remote hearings

39. Concerning the use of videoconferencing, the Court stated that this form of participation in proceedings “is not, as such, incompatible with the notion of a fair and public hearing”.¹² This compatibility “as such”, however, goes hand in hand with a review of the manner in which videoconferencing is used in any given case.¹³

40. Firstly, the State must be able to demonstrate that the defendant's participation in the proceedings by videoconference “serves a legitimate aim.”¹⁴

41. Secondly, the arrangements for participation in the proceedings by videoconference must be compatible with the requirements of respect for due process.¹⁵ On this subject, in cases concerning the judicial use of videoconferencing the Court has already held that “any measures restricting the rights of the defence should be strictly necessary”.¹⁶ So when a less restrictive measure may suffice it should be preferred.

42. Additionally, the Court reformulated these criteria by placing at the centre of its review the respect for the “overall fairness of the trial.”¹⁷

B. ‘Legitimate aims’ for remote hearings

43. The first aspect of the review carried out by the Court in cases of appearance by videoconference concerns the legitimate aim invoked by the State.

¹⁰ Marcello Viola v. Italy, § 67

¹¹ Jallow v. Norway, §64

¹² Marcello Viola v. Italy, § 67; Asciutto v. Italy, § 64 ; Alppi v. Finland (dec.), §19

¹³ Marcello Viola v. Italy, §§ 67 and 73-74; Bivolaru v. Romania (no. 2), no. 66580/12, § 138; Alppi v. Finland (dec.), §19

¹⁴ Marcello Viola v. Italy, § 67

¹⁵ *Idem.*

¹⁶ Marcello Viola v. Italy, § 62

¹⁷ Alppi v. Finland, §20

44. As in many other cases, this review appears largely formal in the Court's case-law. Thus far the Court has accepted several reasons given by the States, namely:

- Protecting public order, preventing crime¹⁸
- Protecting the right to life, liberty and security of witnesses and victims of crimes¹⁹
- Reducing the spread of COVID-19²⁰
- Reducing the delays incurred in transferring detainees and thus simplifying and accelerating criminal proceedings.²¹

45. With regard to the judicial use of videoconferencing, the Court always links this legitimate aim to other more general aims, such as the "right to a judgment within a reasonable time and the resulting need for the expeditious handling of cases of the court's caseload".²²

46. Lastly, in certain cases the Court has found that the State offered no argument to justify the choice of recourse to appearance by video instead of allowing the applicant to appear in person. The condition relating to the existence of a legitimate aim was therefore not met. However, it examined, as a matter of completeness whether the rights of the defence have been respected. This is the case, for example, when the accused is in the same town as the court where the hearing is being held,²³ or a fortiori when the accused has already been transferred to the town where the hearing is to be held.²⁴

C. Right to participate effectively in one's trial

47. Article 6 § 1 of the Convention guarantees the right of everyone charged with an offence to participate effectively in their trial, which includes, *inter alia*, their right not only to be present but also to hear and follow the proceedings.²⁵

48. The Court regularly reiterates that "in the interests of a fair and just criminal process it is of capital importance that the accused should appear at his trial".²⁶ That affirmation is based on two main requirements: the "defendant's right to a hearing", and "the need to verify the accuracy of his statements and compare them with those of the victim (...) and of the witnesses".²⁷ Furthermore, the defendant's presence at the first instance enables him to exercise his different rights under Article 6 § 3 (including the right to defend himself in person, the right to examine or have examined witnesses against him and the right to have the free assistance of an interpreter).

49. The Court thus establishes a veritable "right to be present in the courtroom", which "ranks as one of the essential requirements of Article 6".²⁸

¹⁸ *Asciutto v. Italy*, § 68

¹⁹ *Idem*.

²⁰ *Alppi v. Finland (dec.)*, § 22

²¹ *Marcello Viola v. Italy*, § 70; *Yevdokimov v. Russia*, § 43

²² *Idem*.

²³ *Gorbunov and Gorbachev v. Russia*, § 38; *Medvedev v. Russia*, § 30

²⁴ *Sevastianov v. Russia* § 72; *Orlov v. Russia*, § 105

²⁵ *Murtazaliyeva v. Russia* [GC], § 91; *Stanford v. the United Kingdom*, § 26

²⁶ *Lala v. the Netherlands*, § 33; *Poitrimol v. France*, § 35

²⁷ *Sejdovic v. Italy* [GC], § 92

²⁸ *Hermi v. Italy* [GC], §§ 58-59; *Sejdovic v. Italy* [GC], §§ 81 and 84; *Arps v. Croatia*, § 28

50. However, the Court regularly reiterates that “the physical presence of an accused in the courtroom is highly desirable, but it is not an end in itself”.²⁹ Therefore, the physical presence of the defendant by videoconference is not, per se, contrary to the requirements of Article 6.³⁰

D. Consent to participate by videoconference

51. There is little in the case law of the Court concerning consent by the accused to participation by videoconference. When this choice by the national authorities pursues a legitimate aim and the rights of the defence are respected, obtaining the consent of the person concerned does not appear to be a requirement for the purposes of Article 6 § 1 of the Convention.

52. Two remarks may nevertheless be made concerning States allowing defendants to refuse their consent.

53. First, the person concerned must be informed sufficiently well in advance that the hearing is to be held by videoconference. This guarantee will give him time to consult his/her lawyer and, if necessary, refuse to consent to this form of participation.³¹

54. And secondly, when a person refuses to consent to participation by videoconference, where provided for in domestic law and after consulting his counsel, the Court takes this refusal into account when examining a complaint concerning the lack of due diligence on the part of the national authorities to hear the accused in person.³²

E. Right to see/hear and be seen/heard

55. According to the Court, States must ensure that “the applicant is able to follow the proceedings and to be heard without technical impediments”.³³

56. The video link must enable the accused to see the courtroom and the people present there and to hear what is said. It must also enable the accused to be seen and heard by the people present and to make statements.³⁴

57. This possibility to be seen and heard also concerns the other parties, including the judge and the witnesses.³⁵

F. Right to defend oneself in person or through counsel

58. Regarding hearings by videoconference, the Court specifies that where a defendant communicates with the court by video link the exercise of the right to legal assistance “takes on a special significance”.³⁶

G. Absence of defence counsel

59. The Court has held that in order to receive a fair hearing, the applicant who appeared before the court via videoconference should be represented by a lawyer, especially when a representative

²⁹ Golubev v. Russia (dec.); Ulimayev v. Russia (dec), §37

³⁰ *Idem*.

³¹ Sevastyanov v. Russia § 72

³² Bivolaru v. Romania (no. 2), § 138

³³ Asciutto v. Italy, § 64

³⁴ Sakhnovskiy v. Russia [GC], § 98; Marcello Viola v. Italy, §§ 72-74

³⁵ Yevdokimov v. Russia, § 43

³⁶ Shulepov v. Russia, § 35; Grigoryevskikh v. Russia, § 92

of the public prosecution participated the hearing.³⁷ When a trial is held using videoconferencing, national courts must verify the reasons for the absence of the defendant's lawyer. On several occasions the Court has found a violation of Article 6 §§ 1 and 3 (c) when the court failed to ascertain the reason.³⁸

60. In those situations, national authorities are expected to guarantee the defendant's right by adjourning the hearing and/or appointing a new lawyer, even if the absence of the first lawyer is not imputable to them.³⁹

H. Communication with counsel during the hearing

61. According to the Court, States must provide the person on trial with the means of "effective and confidential communication with a lawyer".⁴⁰

62. Regarding the effectiveness of the communication, States have an obligation to ensure adequate facilities and time for consultation between the lawyer and the defendant.⁴¹

63. Regarding the confidentiality of the communication, the Court stated that "an accused's right to communicate with his/her lawyer without the risk of being overheard by a third party is one of the basic requirements of a fair trial in a democratic society and follows from Article 6 § 3 (c) of the Convention". To guarantee the effectiveness of that right the lawyer must be able to confer with his/her client and receive confidential instructions without surveillance.⁴²

64. The defendant must have the possibility of communicating with his/her lawyer over a secure line separate from the video channel set up and controlled by the national authorities. Otherwise, he would have legitimate reasons to feel uncomfortable about conferring with his/her lawyer.⁴³

65. National authorities must ensure that no third parties are present when the accused is conferring with his/her lawyer, even when they communicate by video conference or prior to a hearing where videoconferencing is to be used. The Court has explained that the presence of co-accused, fellow inmates or prison guards violates the right to the confidentiality of these exchanges.⁴⁴ It is for the respondent State to demonstrate that these conditions have been met.⁴⁵

66. In addition, when a conversation by video conference is intercepted, the actual content of the exchange or the date on which the accused became aware of the interception are irrelevant to the finding of a violation of the applicant's defence rights. Where there is no effective punishment to deter such interception, the accused may fear further interceptions in the course of the proceedings, and therefore hesitate to address issues likely to be of use to the prosecution.⁴⁶

I. Prohibition of inhuman or degrading treatment

67. The Court considers that the absence of publicity of a hearing, for example because the applicant participates by means of a videoconference, does not necessarily prevent a given

³⁷ Grigoryevskikh v. Russia, § 92; Shulepov v. Russia, § 35

³⁸ Grigoryevskikh v. Russia, § 92; Krylov v. Russia, § 47; Shulepov v. Russia, § 35; Shugayev v. Russia, §§ 53-55

³⁹ Sevastyanov v. Russia, § 73

⁴⁰ Asciutto v. Italy, § 64

⁴¹ Sakhnovskiy v. Russia [GC], § 97

⁴² *Idem.*

⁴³ Sakhnovskiy v. Russia, § 45

⁴⁴ Yudin v. Russia, § 42

⁴⁵ *Idem.*, § 43

⁴⁶ Zagaria v. Italy, §§ 33-35

treatment from failing into the category of degrading treatment. Therefore, a defendant's confinement in a metal cage during a hearing via video link amounts to degrading treatment in violation of Article 3 of the Convention.⁴⁷

J. Conclusion

68. The case law of the Court concerning videoconference hearings is of paramount importance as it establishes the general framework for the use of this technology and requires States to respect the rules related to the right to a fair trial. The Court's case law remains an evolving body of work and presents certain areas where additional guidance could help States ensure the effective and fully rights-respecting implementation of videoconference hearings.

69. First, the Court's case law predominantly focuses on criminal proceedings, often overlooking the potential implications of videoconferencing — both positive and negative — in other legal contexts. Additionally, the Court's case law primarily highlights the potential shortcomings of defendant States, thereby limiting its utility for those interested in a broader understanding of good practices or alternative approaches. Moreover, the Court's case law is relatively brief regarding the specific technological requirements or challenges associated with videoconference hearings. Issues such as internet connectivity, camera quality, or cybersecurity concerns—factors that could significantly influence the fairness of proceedings — are not fully addressed. Finally, the Court's case law does not thoroughly explore potential biases that might arise from videoconference hearings, such as the impact of virtual appearances on judges' perceptions of defendants or witnesses. This oversight leaves a substantial gap in the understanding of this technology's full implications on fair trial rights.

K. Index of the case-law cited

ECtHR, 25/10/2016, *Arps v. Croatia*, app. no. 23444/12
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ECtHR, 02/10/2018, *Bivolaru v. Romania* no. 2, app. no. 66580/12
ECtHR, 09/11/2006, *Golubev v. Russia* (dec.), app. no. 26260/02
ECtHR, 01/03/2016, *Gorbunov and Gorbachev v. Russia*, app. no. 43183/06+ECtHR,
09/04/2009, *Grigoryevskikh v. Russia*, app. no. 22/03
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ECtHR, 27/06/2017, *Medvedev v. Russia*, app. no. 5217/06
ECtHR, 18/12/2018, *Murtazaliyeva v. Russia* [GC], app. no. 36658/05
ECtHR, 21/06/2011, *Orlov v. Russia*, app. no. 29652/04
ECtHR, 02/11/2010, *Sakhnovskiy v. Russia* [GC], app. no. 21272/03
ECtHR, 27/11/2018, *Sakhnovskiy v. Russia*, app. no. 39159/12
ECtHR, 22/04/2010, *Sevastianov v. Russia*, app. no. 37024/02
ECtHR, 14/01/2010, *Shugayev v. Russia*, app. no. 11020/03
ECtHR, 26/06/2008, *Shulepov v. Russia*, app. no. 15435/03
ECtHR, 23/02/1994, *Stanford v. the United Kingdom*, app. no. 16757/90
ECtHR, 23/11/1993, *Poitrimol v. France*, app. no. 14032/88
ECtHR, 01/03/2006, *Sejdovic v. Italy* [GC], app. no. 56581/00

⁴⁷ *Karachentsev v. Russia*, §§ 50-54

ECtHR, 21/02/2017, Ulimayev v. Russia (dec.), app. no. 23324/04
ECtHR, 16/02/2016, Yevdokimov v. Russia, app. no. 27236/05
ECtHR, 11/12/2018, Yudin v. Russia, app. no. 9904/09
ECtHR, 27/11/2007, Zagaria v. Italy, app. no. 58295/00

IV. Remote hearings good practice selection

70. This good practice selection gathers recent developments from member States and third states regarding remote hearings, structured in line with the CEPEJ Guidelines on videoconferencing in judicial proceedings. These practices are based on much improved digital infrastructure and cybersecurity measures since the COVID -19 Pandemic, ensuring that remote hearings are not only feasible but also highly secure and efficient (see Consultative Council of European Judges (CCJE), Thematic study of the CCJE on lessons learnt as a result of the COVID-19 pandemic and their effect on the administration of justice, CCJE(2023)4, Strasbourg, 1 December 2023).

A. Improved legislation (Guideline 1)

71. Since the pandemic, States have made significant efforts to improve legislation on remote hearings, in particular to align themselves with the principles of the CEPEJ guidelines. The development of videoconferencing must be supported by specific safeguards and procedural rules to ensure the protection of the rights of all parties. In addition, some draft legislation has been criticised for failing to respect the rule of law in the context of remote hearings (e.g. in Germany).

A.1. Expanding the provisions to facilitate remote participation and observations (England and Wales)

72. The Criminal Justice Act 2003 (CJA 2003) allows for those taking part in criminal proceedings to do so remotely using 'live links' where it is in the interests of justice to do so. These provisions have been significantly amended as of 2022 with the enactment of the Police, Courts and Sentencing Act. The new measures recognise the importance of allowing courts greater flexibility in how audio and video technology is used. The court may make, vary or rescind a live link direction of its own volition or on application by a party to the proceedings. A party may only apply to vary or rescind a direction if there has been a material change of circumstances since the direction was given or last varied.

Sources:

- Presentation made by Claire Jukes – Senior Service Manager and Deputy Service Owner, HM Courts & Tribunal Service for the ECN Seminar #8 Good Practices for Remote Court Hearings.
- <https://www.coe.int/en/web/cepej/european-cyberjustice-network-ecn->
- <https://www.aber.ac.uk/en/media/departamental/lawampcriminology/doc/Remote-Hearings-Post-Covid-%28%29-1.pdf>
- Compilation of responses for CCJE Opinion No. 26, “Moving forward: use of assistive technologies in the judiciary”, Consultative Council of European Judges CCJE(2023)1 - United Kingdom, pp. 275 – 276.
- <https://cms.law/en/int/expert-guides/cms-expert-guide-to-digital-litigation/england-and-wales>

A.2. Public consultations and legislation based on “lessons learned” (Scotland)

73. As lockdown measures eased, the Scottish Government has learned lessons from this period by launching public consultations on the effects of the temporary legislation and changes to court processes. There was significant support for maintaining the measures introduced in the temporary legislation and for continuing the use of remote hearings in suitable cases. New court rules were approved in July 2023. The Scottish Civil Justice Council (SCJC) has set objectives aimed at enhancing digital access to information and utilising digital tools to improve access to legal services. Specifically, the Scottish Courts and Tribunals Service (SCTS) is dedicated to providing general

information on dispute resolution options and links to independent advisers and professionals who can assist potential litigants, along with technical information and guidance on the digital tools used by the courts. The SCTS came closer to these goals, exemplified by the development of website content offering advice and information.

Sources:

- <https://www.lawscot.org.uk/news-and-events/legal-news/new-rules-confirm-remote-and-in-person-court-hearings/>
- <https://www.scotcourts.gov.uk/coming-to-court/access-to-virtual-hearings>
- <https://cms.law/en/int/expert-guides/cms-expert-guide-to-digital-litigation/scotland>

A.3. Legislation aimed at enhancing the use of technology in court proceedings (Italy)

74. In Italy, positive experiences during the pandemic related to the remote hearings led to the legislative reform in 2022, aimed at enhancing the use of technology in both civil and criminal proceedings. This reform is included in the framework of the objectives of the ongoing Piano Nazionale di Ripresa e Resilienza (PNRR), aiming at making civil proceedings shorter and more efficient. Therefore, from January 2023, judges can dispose that hearings are held (i) by means of remote audio-visual connections when the presence of persons other than the attorneys, the parties, the prosecutor and auxiliaries of the judge is not necessary; or (ii) by the file and exchange of written notes. In both cases, parties can ask the judge to hold the hearing in person.

Sources:

- Consultative Council of European Judges (CCJE), Thematic study of the CCJE on lessons learnt as a result of the COVID-19 pandemic and their effect on the administration of justice, CCJE(2023)4, Strasbourg, 1 December 2023, p. 6 (no. 21).
- <https://assets.hcch.net/docs/d5cead86-20f5-425f-a685-6df5b3b93b46.pdf>
- <https://cms.law/en/int/expert-guides/cms-expert-guide-to-digital-litigation/italy>
- Compilation of responses for CCJE Opinion No. 26, "Moving forward: use of assistive technologies in the judiciary", Consultative Council of European Judges CCJE(2023)1 - Italy, pp. 145 - 146, 149.

A.4. Consistent digitalisation of the judiciary (Netherlands)

75. The Dutch judiciary is working on implementing the "Basisplan digitalisering civiel recht en bestuursrecht" (Basic Plan for Digitalisation of Civil and Administrative Law). This plan aims to make the judiciary digitally accessible for litigants and legal representatives in all civil and administrative law proceedings. The use of videoconferencing in criminal cases has expanded significantly since pandemic. This practice has continued and is seen as less burdensome for detainees in many cases.

Sources:

- <https://www.rechtspraak.nl/SiteCollectionDocuments/basisplan-reset-digitalisering-civiel-en-bestuur-versie-1.0.pdf>
- <https://www.dji.nl/justitiabelen/onderwerpen/telehoren>
- <https://www.rechtspraak.nl/Organisatie-en-contact/Rechtspraak-in-Nederland/digitalisering-rechtspraak>
- <https://cms.law/en/int/expert-guides/cms-expert-guide-to-digital-litigation/netherlands>
- Speech by Bart Jan van Ettehoven, Access to justice during and after the Coronavirus pandemic: an exchange of views – human rights restrictions, procedures adopted, lessons learned, Annual Judicial Seminar 2021 of the ECHR, Strasbourg, 10 September 2021

A.5. Reform of rules for videoconferencing in federal state (Germany)

76. The federal German parliament has adopted a bill to further promote the use of videoconferencing for oral hearings. Under the new legislation, Section 128a of the civil procedural code (ZPO) has undergone a fundamental change in concept. Judges gained the discretionary authority to order individuals or all parties to participate via video and audio transmission. If a videoconference hearing is ordered by the judge, parties can request to be exempted from this order, and the court must grant such requests. However, if both parties request a videoconference hearing, it will become the default mode, thereby limiting the judge's discretion. A first draft of the new legislation even introduced the need to justify any rejection of such requests, including the option to appeal (sofortige Beschwerde). This move has alienated the judiciary, sparked important discussion on the scope of judges' discretionary powers in the context of remote hearings and was widely viewed as a statement of distrust by the legislative branch towards the judges. It has been struck down in further deliberations and is not included in the final bill. Instead, the judge's discretion has been strengthened, as the final bill provides that a remote hearing should only be held "in suitable cases and if the court's resources allow it". The reform bill has also widened the use of taking evidence via remote hearings.

Sources:

- <https://cms.law/en/int/expert-guides/cms-expert-guide-to-digital-litigation/germany>
- <https://kpmg-law.de/en/law-to-promote-video-conferencing-technology-in-court-proceedings/>
- Presentation made by Jan Spoenle – Judge, Appeal Court of Stuttgart, Germany, Member of the CEPEJ-GT-CYBERJUST for the ECN Seminar #8 Good Practices for Remote Court Hearings.
- <https://www.coe.int/en/web/cepej/european-cyberjustice-network-ecn->
- Compilation of responses for CCJE Opinion No. 26, "Moving forward: use of assistive technologies in the judiciary", Consultative Council of European Judges CCJE(2023)1 – Germany, p. 117 – 118.

A.6. By-law on Holding Hearings Remotely (Croatia)

77. At the beginning of 2023, Croatia took a significant step towards modernising its judicial system by adopting the By-law on Holding Hearings Remotely. This new regulation provides a comprehensive framework for conducting court hearings and taking evidence through remote means. The introduction of this By-law is part of a broader effort to digitalise Croatia's civil justice system. The By-law outlines specific procedures and requirements for holding remote hearings, including: 1) The use of appropriate audiovisual devices and technical platforms for conducting hearings, 2) Guidelines for presenting evidence electronically, 3) Protocols for ensuring the security and integrity of remote proceedings.

Sources:

- https://rdd.gov.hr/UserDocsImages/SDURDD-dokumenti/Strategija_Digitalne_Hrvatske_final_v1_EN.pdf
- Compilation of responses for CCJE Opinion No. 26, "Moving forward: use of assistive technologies in the judiciary", Consultative Council of European Judges CCJE(2023)1 - Croatia, submitted by Duro Sessa, CCJE Member
- <https://cms.law/en/int/expert-guides/cms-expert-guide-to-digital-litigation/croatia>

A.7. Generalisation of the use of video hearings in non-criminal proceedings (France)

78. At the end of 2021, France adopted a provision within the framework of the Law on Confidence in the Judicial Institution, which generalised the use of videoconferencing in non-criminal proceedings. The new Article L111-12-1 of the Code of Judicial Organisation thus provides that “the presiding judge may, before court’s ruling in non-criminal matters, for legitimate reasons, authorise a party, witness, expert or any other person summoned who has expressly requested it to be heard by audiovisual means during the hearing or examination”. A decree adopted in January 2022 specifies the conditions for the use of remote hearings. The presiding judge may authorise it if certain conditions are met, including respect for the adversarial principle, the quality of the transmission, the confidentiality of exchanges, and the respect for the dignity and serenity of the proceedings.

Sources:

- https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000044557655
- https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000045086197

B. Focus on accessibility (Guideline 5)

B.1. Enhancing efficiency and flexibility in the court room (England and Wales)

79. Virtual hearings organised in England and Wales are now designed to improve accessibility through streamlined processes. This approach is intended to reduce waiting times and contribute to faster case resolution. User guidance is easily accessible online. Among others, VH platforms include checks for camera and microphone functionality, as well as built-in connectivity tests that run while an orientation video plays for the user. Users are alerted when the hearing is about to commence, allowing them to prepare and join promptly. This proactive approach minimises potential delays that could arise if participants are distracted or unprepared. When the judge or clerk initiates the hearing by pressing 'start hearing,' all participants, excluding witnesses, are automatically brought into the session. The judge and clerk can view the participant list to ascertain who is logged in and prepared for the hearing. This enables them to make informed decisions about the optimal starting time, enhancing efficiency and ensuring a smooth start to proceedings.

Sources:

- Presentation made by Claire Jukes – Senior Service Manager and Deputy Service Owner, HM Courts & Tribunal Service for the ECN Seminar #8 Good Practices for Remote Court Hearings.
- <https://www.coe.int/en/web/cepej/european-cyberjustice-network-ecn->

B.2. Dedicated access points at public institutions (Sweden)

80. In Sweden, courts have developed their own videoconferencing system as alternative to commercially available systems, to guarantee secure and reliable communication during legal proceedings. If a private individual is unable to participate in a video conference from home the person can attend the hearing from a separate room in the courthouse or from another public authority that can provide access to the video conference system. This ensures that all parties can participate in the legal process, regardless of their personal technical capabilities.

Sources:

- <https://pub.norden.org/temanord2022-518/>
- <https://cms.law/en/int/expert-guides/cms-expert-guide-to-digital-litigation/sweden>
- Compilation of responses for CCJE Opinion No. 26, “Moving forward: use of assistive technologies in the judiciary”, Consultative Council of European Judges CCJE(2023)1 - Sweden, pp. 249 - 250.

B.3. Virtual Desktop for Digital Interaction (Spain)

81. The Virtual Desktop for Digital Interaction (EVID) is providing civil servants with various functionalities for managing videoconferences. In 2022, EVID received numerous functional enhancements, such as the ability to sign documents during video conferences and an electronic identification system that is non-cryptographic. The Bill on Digital Efficiency of the public justice service introduces more specific regulations. It mandates that Public Administrations must provide videoconference systems that ensure compatibility, interoperability, and compliance with data protection regulations. Additionally, the bill introduces new concepts, such as secure access points (devices meeting certain technological requirements) and secure places (spaces that, in addition to technological requirements, have public officials to assist parties and ensure security and autonomy in declarations).

Sources:

- Compilation of responses for CCJE Opinion No. 26, “Moving forward: use of assistive technologies in the judiciary”, Consultative Council of European Judges CCJE(2023)1 – Spain, pp. 240, 245.

B.4. Implementing "kiosks" for diversifying access (USA)

82. Recognising the challenge some litigants face with technology, the New York Courts implemented "kiosks" within courthouses to support litigants attending virtual proceedings, offering access to necessary equipment and assistance. The New York Courts have expanded their reach by establishing partnerships with government buildings, libraries, community centres, and churches to establish additional "kiosks". These community-based locations serve as extensions of the Virtual Court Access Network (VCAN), aiming to provide accessible technology and support services to litigants in diverse neighbourhoods and communities.

Sources:

- <https://www.nycourts.gov/LegacyPDFS/press/pdfs/NYCcourtsPandemicPracticesReport.pdf>
- <https://remotecourts.org/>

B.5. Technical navigators for litigants without legal representation (Canada)

83. Canadian guidelines recommend courts to appoint a court staff member as a “technical navigator” to actively assist litigants, especially those without legal representation, in overcoming technical challenges. Such designated staff member should be trained in accessibility requirements and proficient with the virtual hearing platform utilised by the court. In cases where a participant has a disability necessitating assistive technology, courts should ensure early consultation with this resource person.

Sources:

- <https://www.fja.gc.ca/COVID-19/Virtual-Hearings-Operational-Considerations-Audiences-Virtuelles-Enjeux-Operationnels-eng.html>

B.6. Access to justice by vulnerable groups (Kenya)

84. In Kenya, the protection of vulnerable litigants (children, persons with disabilities, the elderly, minorities, marginalised communities, paupers, pregnant women, victims of trauma, and individuals in custody) is a priority across all Registry and Court proceedings. Recognising the individual barriers these groups may face, the judiciary has established E-Support Centres at each High Court station. These E-Support Centres serve as vital resources, specifically designed to aid vulnerable litigants in

accessing the ICT platforms used for court proceedings. They provide assistance such as guidance on how to use digital tools effectively, troubleshooting technical issues, and ensuring that necessary accommodations are made to facilitate their participation in legal proceedings.

Sources:

- <http://kenyalaw.org/kl/index.php?id=11536>

B.7. "The Judge listens to you" and "Chatbot PJ" Initiatives (Peru)

85. Peru courts implemented the tool called “El Juez te Escucha” (“The Judge listens to you”), which enables parties and their counsels to schedule interviews, in person or virtually, with the judges in charge of judicial proceedings. Recently, the use of the tool “El Juez te Escucha” has been made even more flexible. Judges often grant interviews without scheduling an appointment through this tool. Additionally, Peruvian Judicial Branch implemented the instant messaging system “Chatbot PJ”, which provides information or automated responses on the Judicial Branch’s services through technological and easily accessible platforms.

Sources:

- <https://busquedas.elperuano.pe/dispositivo/NL/1937066-2>
- <https://www.lexology.com/library/detail.aspx?q=f8d736d3-e051-4b90-bd3f-5848cac3bd1c>
- <https://prensaperu.pe/2021/12/31/poder-judicial-presenta-proyectos-de-innovacion-tecnologica-para-mejorar-los-servicios-de-justicia-y-la-atencion-a-los-usuarios/>
- <https://cms.law/en/int/expert-guides/cms-expert-guide-to-digital-litigation/peru>

C. Immigration cases (Guideline 8)

C.1. Remote Hearings for Immigration and Asylum Cases (Sweden)

86. Sweden has introduced remote hearings for immigration and asylum cases, which speeds up the process, reduces the number of pending cases and maintains procedural fairness and access to justice for all parties involved.

Sources:

- <https://www.migrationsverket.se/English/About-the-Migration-Agency/New-paths/2020/2020-03-25-Remote-hearings.html>

C.2. Lawyers and Court agreement regarding video hearings for asylum cases (France)

87. In France, lawyer organisations expressed their disagreement in 2018 regarding the holding of video hearings for asylum seekers, who are particularly vulnerable individuals. After several months of discussions and negotiations, the National Court of Asylum and the lawyer organisations reached an agreement on the conditions for the deployment of video hearings for the examination of asylum seekers’ appeals. The agreement, outlined in a practical guide, includes the principle of the asylum seeker’s consent to the video hearing, the presence of the interpreter alongside the applicant unless absolutely impossible, the training of all participants in the use of video, the principles and methods of recording at each stage of the hearing, and regular monitoring of this system by a steering committee involving representatives of the CNDA, the legal profession, as well as interpreters, doctors, and audio-visual experts. Thanks to this agreement, video hearings were able to begin in 2021 in Lyon and Nancy.

Sources :

- <http://www.cnda.fr/La-CNDA/Actualites/Les-video-audiences-vont-etre-deployees-debut-2021>

D. Identification (Guideline 10)

88. Numerous methods exist to strengthen the verification of participants' identities beyond displaying an ID or passport to a camera. These methods are designed to enhance security and verify the authenticity of individuals involved in remote hearings. By adopting identity verification practices, courts can reduce the likelihood of unauthorised access, safeguard sensitive information, and maintain the credibility of online judicial proceedings.

D.1. Digital Identity Verification (Estonia)

89. Estonia's advanced digital identity system (ID-kaart, Mobiil-ID, and Smart-ID) is widely used for secure authentication. In remote hearings, participants can verify their identities and sign documents digitally, ensuring a high level of security and trust in the process. This digital identity verification is unique and well-integrated into the legal system.

Sources:

- <https://pub.norden.org/temanord2022-518/>
- ID-kaart (ID Card): <https://www.id.ee/en/>
- Mobiil-ID: [ID.ee - Mobile-ID]: <https://www.id.ee/en/article/mobile-id-2/>
- Smart-ID: [Smart-ID] (<https://www.smart-id.com/>)
- <https://www.kohus.ee/en>

D.2. Digital signatures (Ukraine)

90. The Ukrainian Unified Judicial Information and Telecommunication System includes videoconferencing, which allows case participants to attend case hearings remotely. The system is secured against unwanted access by using digital signatures. To prevent unauthorised access to virtual hearings, users need to be authorised by the court to join a videoconference. A judge's secretary usually enables this option in the E-cabinet subsystem, access to which is granted only to users registered with a digital signature. If the party to the case participates in the videoconference mode outside the court premises, such participation is carried out using their own technical means and digital signature.

Sources:

- Compilation of responses for CCJE Opinion No. 26, "Moving forward: use of assistive technologies in the judiciary", Consultative Council of European Judges CCJE(2023)1 - Ukraine, pp. 262 - 267.
- <https://ajee-journal.com/new-steps-of-digitalisation-of-civil-justice-in-ukraine>
- <https://en.unba.org.ua/activity/news/8332-how-to-register-an-electronic-cabinet-in-the-ujits-video.html>

D.3. National digital identification system (Austria)

91. Digital signature is being used widely in Austria. Austria has now introduced an advanced digital identification system called ID Austria that can be used for court applications. This is a further development of the mobile phone signature (Handy-Signatur) and Citizen Card (Bürgerkarte). ID Austria enables users to verify their identity when using online public services.

Sources:

- <https://www.oesterreich.gv.at/en/id-austria.html>
- https://www.digitalaustria.gv.at/eng/insights/E-Gov-A-Z_EN/Key-technologies/ID-Austria.html

- Compilation of responses for CCJE Opinion No. 26, “Moving forward: use of assistive technologies in the judiciary”, Consultative Council of European Judges CCJE(2023)1-Austria

D.4. SingPass credentials (Singapore)

92. The civil justice system in Singapore has extensively adopted digital systems and technology. The eLitigation platform is only accessible via the SingPass credentials which is a trusted digital identity for easy and secure access used by every resident of Singapore. SingPass is managed by the Government Technology Agency (GovTech) and is one of eight strategic national projects that drive Singapore’s Smart Nation vision.

Sources:

- <https://sso.agc.gov.sg/SL-Supp/S914-2021/>
- <https://www.judiciary.gov.sg/singapore-international-commercial-court/forms-and-services/electronic-filing-service>
- <https://assets.hcch.net/docs/de65609a-9c97-49fd-a398-bab7a1a9106c.pdf>
- <https://cms.law/en/int/expert-guides/cms-expert-guide-to-digital-litigation/singapore>

E. Publicity & recording (Guideline 12 and 13)

93. Courts are now using various tools to ensure the publicity and recording of remote hearings in line with Article 6 of the Human Rights Convention. They have clarified methods and rules of access to virtual hearings for the public and media, balancing open access with the privacy and safety of participants. Additional safeguards in many jurisdictions include advance registration, personalised and password-protected links, and acknowledgments or undertakings from participants and observers not to record or broadcast proceedings. Good practices include live streaming of court proceedings to provide real-time public access, creating dedicated court portals where recordings can be accessed online, and granting special media access for accurate reporting. Public viewing rooms are set up in court buildings, and audio recordings of hearings are made available. Written transcripts are provided to the public, and secure cloud storage solutions are used to preserve recordings safely. Advanced virtual courtroom platforms replicate the physical courtroom experience, including recording and streaming features. Public notifications through court websites, social media, and traditional media outlets ensure that the public is informed about remote hearings. These tools collectively maintain transparency, accessibility, and accountability in the judicial process.

E.1. Remote observation (England and Wales)

94. On 28 June 2022, section 85A of the Courts Act 2003, and the Remote Observation and Recording (Courts and Tribunals) Regulations 2022 (‘the Regulations’) came into effect. These provisions allow the remote observation of proceedings in any court, tribunal or body exercising the judicial power of the State. As a result of these provisions, it is lawful to use video/audio livestreaming to transmit proceedings to the public and/or press. The Lord Chief Justice and Senior President of Tribunals have issued Practice Guidance to help judicial office holders throughout the justice system understand and apply the new law (the ‘Practice Guidance’). Participants will see a warning that the hearing will be recorded in the virtual waiting room. Recordings are available on request from a participant / general public/ media. Recordings can only be provided with judicial approval.

Sources:

- <https://www.judiciary.uk/guidance-and-resources/practice-guidance-on-remote-observation-of-hearings-new-powers/>

- Presentation made by Claire Jukes – Senior Service Manager and Deputy Service Owner, HM Courts & Tribunal Service for the ECN Seminar #8 Good Practices for Remote Court Hearings.

E.2. Guidelines for publicity of remote hearings (Canada)

95. The Office of the Commissioner for Federal Judicial Affairs Canada provides guidelines for the publicity of remote hearings. It reminds the courts that by reporting to the public on proceedings, the media helps to disseminate information widely and enhance public confidence in the court system. As such, if there are limits on the number of people who can attend proceedings virtually, similar to in person attendance, the courts should ensure that there are spots available for accredited/recognised media. It adds that making access to audio recordings of court proceedings available to accredited/recognised media after a hearing can also help to uphold the open court principle. In this respect the document refers to local guidelines such as British Columbia's Notice to Accredited Media re Access to Provincial Court Proceedings during COVID-19 and Undertaking of Accredited Media or the Ontario's Request Form/Undertaking to the Court for Access to Digital Court Recordings that applies to both its Superior and Provincial Courts and extends to stakeholders beyond the media, including litigants and members of the public.

Sources:

- <https://www.fja.gc.ca/COVID-19/Virtual-Hearings-Operational-Considerations-Audiences-Virtuelles-Enjeux-Operationnels-eng.html>

E.3. Digital recording of hearings: e-Record System (Poland)

96. Polish courts use an e-Record system, which is a comprehensive digital audio-video recording system used during court proceedings. This system ensures that all hearings, including remote hearings are accurately recorded and can be reviewed later, enhancing transparency and accuracy in the judicial process. The e-Record is particularly useful for remote hearings, as it provides a complete and reliable record of the proceedings. More than 2,500 courtrooms in Poland have been equipped with digital audio and video equipment for recording hearings. More than 9.2 million hearings have already been recorded that way. Parties to the case and other participants can access the recording of the hearing via the Courts Information Portal. The recordings also fulfil the role of electronic minutes of court sessions, which significantly shortens the time of the hearings and improved the culture of the sessions.

Sources:

- <https://www.polskacyfrowa.gov.pl/en/site/learn-more-about-the-programme/search-through-the-projects/good-examples-of-eu-funded-projects/trial-recording/>
- <https://assets.hcch.net/docs/360c61cb-331c-4537-b830-4e0697febcbf.pdf>
- Multi-aspect initiative to improve cross-border videoconferencing "Handshake", Workstream 1a, D1a Judicial use cases with high benefits from cross-border videoconferencing, p. 17.
- <https://cms.law/en/int/expert-guides/cms-expert-guide-to-digital-litigation/poland>

E.4. Streaming options for the court hearings (Norway)

97. The Norwegian Supreme Court has increased the use of streaming options for its court hearings, particularly for important cases. Furthermore, under the Norwegian Civil Procedures Act, it is intended for courts to record their hearings, both with audio and video equipment. The main intention behind this regulation is to document the case and to ease the proceedings before the Court of Appeal.

Sources:

- <https://www.domstol.no/en/supremecourt/news/2024/streaming-of-hearings-in-the-supreme-court/>
- <https://cms.law/en/int/expert-guides/cms-expert-guide-to-digital-litigation/norway>

E.5. Preventing unauthorised recording, posting or broadcasting (Canada)

98. The Office of the Commissioner for Federal Judicial Affairs Canada provides guidelines on unauthorised recording, posting, or broadcasting of remote hearings. To deter such activities, the guidelines advise courts to clearly notify virtual attendees of the rules in advance and at the start of a hearing. This includes any prohibitions on audio or video recording or taking still photographs, unless authorised by the court. The Office also provides sample statements for this purpose. Additionally, the Office recommends including a disclaimer in registration confirmations or other documents that provide access to a hearing. This disclaimer should state that by attending a virtual proceeding, the individual acknowledges and agrees to abide by the court's rules of access. It is recommended for the courts to provide hyperlinks to any applicable policies, notices, or practice directions and require attendees to acknowledge acceptance of the rules of access by clicking a link when logging in to the virtual platform or by stating that logging in implies acceptance of the rules.

Sources:

- <https://www.fja.gc.ca/COVID-19/Virtual-Access-Trial-Courts-Acces-virtuel-tribunaux-eng.html>
- <https://www.fja.gc.ca/COVID-19/pdf/Virtual-Access-Trial-Courts.pdf>

E.6. Public registration to follow the video-hearing (Switzerland)

99. In Switzerland, the Ordinance on the Use of Electronic Means for Audio and Visual Transmission in Civil Proceedings (OMETr) provides for the modalities of respecting the principle of publicity for video hearings. The court may allow the public to follow the audio and visual transmission in two ways: either at the court (e.g., on a large screen) or elsewhere by connecting to the videoconference or teleconference via electronic means. Individuals wishing to follow the videoconference, or teleconference must register on a list. Registration must be submitted to the court at least three business days before the procedural act, allowing the court to take the necessary measures. The court provides those who have registered with the necessary details no later than one business day before the procedural act. This primarily includes access information for online participation. If the public attends the court, the court will inform them of the time and location of the transmission. The court will also notify concerned parties of the prohibition on transmitting access details to unauthorized third parties or allowing them to follow the transmission in any other manner.

Sources:

- <https://www.newsd.admin.ch/newsd/message/attachments/86044.pdf>

F. Witnesses and experts (Guideline 14 and 15)

100. States are implementing innovative secure solutions to facilitate remote testimony for both experts and witnesses. These solutions incorporate advanced technologies to ensure the integrity, confidentiality, and reliability of remote testimonies, addressing logistical challenges and enhancing accessibility to legal proceedings.

F.1. Avoiding re-victimisation and protecting safety (Slovenia)

101. Vulnerable victims or witnesses can provide statements or testimony from a location outside the courtroom to avoid re-victimisation or to ensure their safety. In Slovenia, courts typically appoint

a court expert, often a clinical psychologist, to interview child victims in child-friendly rooms at social care centres. These interviews are recorded, and a videoconference link connects another room within the social care centre or the courtroom, allowing the rights of the suspect to be protected as well. Judges, prosecutors, and attorneys can send additional questions for the child to the expert via the internet. Slovenia also conducts multidisciplinary training for experts from various fields who are involved in interviewing children in child-friendly rooms using video links. It is recommended that all interviews with vulnerable individuals, be conducted in a child-friendly environment and recorded.

Sources:

- Multi-aspect initiative to improve cross-border videoconferencing "Handshake", Workstream 1a, D1a Judicial use cases with high benefits from cross-border videoconferencing, p. 33.

F.2. Handling Children's Testimonies (Finland)

102. Finland implemented remote testimonies and child-friendly practices in criminal proceedings, particularly for vulnerable witnesses. This approach combines elements of the "Nordic model" thanks to modern technology to create a more compassionate and effective judicial process. The use of remote testimonies via video link has become increasingly common, especially in cases involving vulnerable witnesses such as children and victims of sexual offenses. This practice serves multiple purposes: 1) Protection of witnesses: It shields vulnerable individuals from potential trauma associated with in-person court appearances, 2) Efficiency: Remote testimonies ensure that evidence is collected in a timely and effective manner, 3) Integration with judicial processes: The use of video technology for these purposes is well-established and integrated into the Finnish legal system.

Sources:

- https://phs.brage.unit.no/phs-xmlui/bitstream/handle/11250/2463073/the_nordic_model.pdf?sequence=1
- <http://www.diva-portal.org/smash/get/diva2:1498923/FULLTEXT01.pdf>

F.3. Identity of witnesses or expert witnesses (Czech Republic)

103. The Czech Civil Judicial Procedure Rules allow for evidence to be obtained via videoconferencing, enabling witnesses and expert witnesses to testify without being physically present. To address the challenge of verifying the identity of the person on the other side of the camera, the rules require a court employee to confirm the identity of the witnesses or experts. Parties involved in the proceeding have the right to be present during the collection of evidence and can raise objections regarding the quality of the audio or video transmission. A survey highlighted that highly skilled professionals, such as medical or forensic experts, often lack the time to travel to court due to their demanding jobs, making videoconferencing a practical solution.

Sources:

- <https://cms.law/en/int/expert-guides/cms-expert-guide-to-digital-litigation/czech-republic>
- Compilation of responses for CCJE Opinion No. 26, "Moving forward: use of assistive technologies in the judiciary", Consultative Council of European Judges CCJE(2023)1 – Czech Republic

F.4. Strong experience in hearing of witnesses and experts (Austria)

104. Austria has established the use of video conference systems in civil and criminal proceedings, including for the hearing of witnesses, parties, experts, and interpreters. The video conference technology allows judges to question individuals at a court closest to their residence that is equipped

with the necessary system. To schedule video conference hearings, judges can use a room reservation database available via the intranet which automatically notifies the person responsible for the video conference by email.

Sources:

- Multi-aspect initiative to improve cross-border videoconferencing "Handshake", Workstream 1a, D1a Judicial use cases with high benefits from cross-border videoconferencing, p. 15 - 16.

F.5. Remote Hearings for Civil Business in Civil Courts (Hong Kong)

105. The Hong-Kong Judiciary introduced the Technology Court to enhance the efficiency and effectiveness of court support services. The Technology Court is equipped with various facilities including video conferencing for witnesses to give evidence remotely and multimedia facilities to enable the presentation of evidence in different forms. Furthermore, closed circuit television is also available for the purpose of examination of vulnerable witnesses. Parties and their legal representatives may consult a video clip which demonstrates how the remote hearings (with the use of Video Conferencing Facilities), in particular the witnesses' remote testimonies, are conducted.

Sources:

- https://www.judiciary.hk/en/court_services_facilities/tech crt.html
- https://www.judiciary.hk/en/court_services_facilities/video.html
- <https://www.hklawsoc.org.hk/en/Support-Members/Use-of-IT-in-Court>
- <https://cms.law/en/int/expert-guides/cms-expert-guide-to-digital-litigation/hong-kong>

G. Taking evidence (Guideline 16 – 18)

106. States are using advanced secure solutions for taking evidence remotely, ensuring the integrity, confidentiality, and reliability of proceedings. These innovations overcome logistical challenges, making legal processes more accessible and setting new reliability standards. However, cross-border evidence taking remains an issue.

G.1. Blockchain Technology for Secure Documentation (Liechtenstein)

107. For remote hearings, blockchain ensures the integrity and security of submitted documents and evidence. By using blockchain, it is guaranteed that documents cannot be tampered with once they are submitted as evidence, providing additional security and trust in remote legal proceedings.

Sources:

- <https://www.globallegalinsights.com/practice-areas/blockchain-laws-and-regulations/liechtenstein/>
- <https://www.albanylawreview.org/article/75407.pdf>
- <https://www.liechtensteinusa.org/index.php/article/promoting-best-practices-and-protections-in-blockchain-technology>
- <https://practiceguides.chambers.com/practice-guides/blockchain-2024/liechtenstein/trends-and-developments/O17311>

H. Interpreters (Guideline 19-20)

108. Digital advancements in court proceedings and interpretation focus on ensuring that judges, interpreters, and participants have full access to both audio and visual content. This is crucial for maintaining fairness and accessibility in remote hearings, comparable to traditional in-person trials. Efforts are being made to incorporate advanced technologies, such as AI-driven transcription and translation tools, into remote hearings.

H.1. Interpretation in the Asylum Procedure (European Agency for Asylum EUAA)

109. The Practical Guide on Interpretation in the Asylum Procedure, developed with input from experts across EU and non-EU countries, offers essential guidelines for remote interpretation. It highlights that remote interpreting requires specific methods and comes with unique challenges. While in-person interpretation is generally preferred and recommended, it is crucial to prepare all necessary equipment well in advance of remote interviews. It's also important to agree with the interpreter beforehand on backup communication methods and protocols for addressing potential connectivity or technical issues. Ensuring clear audio communication during remote sessions is vital, similar to the standards expected in face-to-face interactions. If there are any issues with hearing or seeing participants, notifying the interpreter immediately is essential. For example, scheduling more frequent breaks during remote sessions, if possible, can be beneficial. Additionally, regularly checking the applicant's understanding throughout the session is important. Taking comprehensive notes and establishing protocols with interpreters for addressing potential issues can help ensure smooth proceedings. If any problems arise during the session, promptly communicating with the interpreters and implementing pre-agreed solutions is crucial. This proactive approach helps maintain the reliability and effectiveness of remote interpretation, ensuring fair access and adherence to procedural fairness.

Sources:

- Practical Guide on Interpretation in the Asylum Procedure, February 2024, https://euaa.europa.eu/sites/default/files/publications/2024-02/2024-Practical-Guide-Interpretation-Asylum-Procedure-EN_0.pdf
- <https://research.aber.ac.uk/en/publications/report-remote-hearings-post-covid>

H.2. Guidelines on naming conventions and technical requirements (Canada)

110. The Leeds and Grenville Provincial Offences Court in Ontario uses Zoom for remote interpretation services. Interpreters join virtual hearings via video to provide interpretation services, with specific guidelines for naming conventions and technical requirements. The provided platform allows interpreters to provide real-time translation without being physically present in the courtroom. Custom software applications allowing for easy transitions between languages are applied. There are options for both scheduled and on-demand interpreting services and support for various interpreting modes, including consecutive and simultaneous interpreting, compatibility with both spoken language and sign language interpretation.

Sources:

- <https://www.leedsgrenville.com/en/government/resources/Documents/POA/Interpreter-Guide-for-Remote-Hearings.pdf>

H.3. Physical presence of the interpreter beside the applicant (France)

111. In France, the physical presence of the interpreter beside the applicant during a video-hearing of the National Court of Asylum is the rule. The absence of the interpreter alongside the applicant must be exceptional and justified by the absolute impossibility of securing an interpreter in the applicant's language who can be physically present with them. In this situation only, the interpreter must be present in the room where the court sits.

Sources:

- https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000042775942/2021-05-01
- <http://www.cnda.fr/content/download/176710/1742484/version/2/file/Vademecum%20et%20annexes.pdf>

I. Adequate public funding and resources (Guideline 32)

112. Many states increased public funding and resources to facilitate effective videoconferencing in judicial proceedings. Notably, public uniform and nationwide ICT/VC platforms have been established. These platforms may feature functionalities such as web-based filing of court forms or evidentiary documents, document-sharing between court officials and parties, and the organisation of remote hearings.

I.1. Via Video project (Hungary)

113. In Hungary, the Via Video project has facilitated the implementation of a nationwide remote hearing system. Currently, all district courts, high courts, regional courts of appeal, and the Curia are equipped with telecommunications equipment, enabling videoconferencing access in all court buildings. The digitalisation of court proceedings in Hungary is carried out under the Digital Court Project, which aims to enhance the speed and efficiency of court administration. It covers the digitisation of court documents, electronic access to court records, the development of a search engine for the Collection of Court Decisions using artificial intelligence, and the availability of public records through automatic information transfer.

Sources:

- <https://birosag.hu/en/electronic-procedures>
- Compilation of responses for CCJE Opinion No. 26, “Moving forward: use of assistive technologies in the judiciary”, Consultative Council of European Judges CCJE(2023)1 – Hungary, p. 127 and f.

I.2. SEGBIS - Audio and Video Information System (Türkiye)

114. SEGBIS enables the real-time remote participation of detainees, experts, and witnesses in court hearings via video conferencing. SEGBIS ensures the secure and reliable transmission of audio and video, maintaining the integrity of the judicial process. This has been particularly useful in criminal cases, reducing the need for physical transportation of detainees and enhancing security.

Sources:

- Compilation of responses for CCJE Opinion No. 26, “Moving forward: use of assistive technologies in the judiciary”, Consultative Council of European Judges CCJE(2023)1 - Türkiye, pp. 253, 255 - 259.
- <https://assets.hcch.net/docs/eaafd3a7a-f239-46f6-85a9-1d03fa6a7c34.pdf>
- <https://www.morogluarseven.com/news-and-publications/virtual-justice-in-turkey-where-we-are-and-what-to-expect-from-the-future/>
- <https://www.researchgate.net/publication/364123375>

I.3. Portal Citius (Portugal)

115. The portal Citius serves as the primary digital platform for Portugal's civil justice system. While Citius itself may not directly provide videoconferencing capabilities, it is part of a broader digital ecosystem that includes such tools. Portuguese courts can conduct witness hearings via videoconference, enabling parties to attend remotely. Citius allows for the electronic initiation and processing of legal cases by digitalising case files and documents, the platform makes it easier for all parties to access necessary information during a videoconference.

Sources:

- <https://www.citius.mj.pt/portal/default.aspx>

- <https://tribunais.org.pt/Publicacoes/Distribuicao-de-processos/Consultar-distribuicao-de-processos-judiciais>
- https://e-justice.europa.eu/319/EN/facilities_in_eu_countries?PORTUGAL&member=1
- https://e-justice.europa.eu/content_automatic_processing-280-pt-maximizeMS_EJN-en.do?member=1
- https://mais.justica.gov.pt/wp-content/uploads/2024/03/livro_prr-2024-03-22-EN-digital.pdf
- Compilation of responses for CCJE Opinion No. 26, “Moving forward: use of assistive technologies in the judiciary”, Consultative Council of European Judges CCJE(2023)1 - Portugal, pp. 193 – 204
- <https://cms.law/en/int/expert-guides/cms-expert-guide-to-digital-litigation/portugal>

1.4. Digital measures covering the whole proceedings (Scotland)

116. The digital measures currently available in the Scottish courts cover the whole lifecycle of the case from submission of the claim, through all steps of the process, to the ultimate evidential hearing : ICMS (Integrated Case Management System) – to manage court processes and hearings; Civil Online – online submission and progress of claims (only certain cases, to be rolled out more widely); Objective Connect – collaborative platform for sharing documentary evidence; and Cisco Webex – video conferencing platform. Use of these tools is now widespread. Where the tools are available, they are used as standard unless there is reason not to do so, for example, where one party is digitally disadvantaged.

Sources:

- <https://www.gov.scot/publications/civil-justice-systems-pandemic-response/pages/3/>
- <https://www.scotcourts.gov.uk/docs/default-source/aboutscs/reports-and-data/reports-data/scts-digital-strategy---final.pdf?sfvrsn=4>
- <https://www.scotcourts.gov.uk/taking-action/civil-online-gateway/welcome2>
- <https://cms.law/en/int/expert-guides/cms-expert-guide-to-digital-litigation/scotland>

1.5. Digital transformation (Romania)

117. In October 2022, the Ministry of Justice approved funding for the first project related to the ‘digital transformation’ strategy, which allows for the purchase and deployment of network equipment for communication and data security, as well as processing and storage equipment, in courts and the Ministry of Justice.

Sources:

- <https://cms.law/en/int/expert-guides/cms-expert-guide-to-digital-litigation/romania>
- Compilation of responses for CCJE Opinion No. 26, “Moving forward: use of assistive technologies in the judiciary”, Consultative Council of European Judges CCJE(2023)1 – Romania

1.6. Comprehensive case portal (Lithuania)

118. The case handling system LITEKO has a comprehensive case portal which gives the court and parties in litigations access to all stages of the proceedings. All the files of the case, and audio recordings of the hearings can be uploaded and found in the portal. The Lithuanian Council of the

Judiciary also incorporated the CEPEJ guidelines already in 2021 into national recommendations on videoconferencing in judicial proceedings.⁴⁸

Sources:

- <https://pub.norden.org/temanord2022-518>
- Selected national good practices, CEPEJ-GT-CYBERJUST(2021)11, p. 3
- Compilation of responses for CCJE Opinion No. 26, “Moving forward: use of assistive technologies in the judiciary”, Consultative Council of European Judges CCJE(2023)1 - Lithuania, pp. 155 - 166.

I.7. Proactive role of the Judiciary in driving changes (San Marino)

119. The judicial system of San Marino is undergoing a phase of transition and technological modernisation based on consultations between the government, the judiciary and the professional association of lawyers in San Marino. COVID-19 has acted as a catalyst, requiring the immediate application of IT tools in judicial proceedings. Finance laws have specifically allocated financial resources to support this modernisation process. In addition, technological and human resources are being devoted to this effort, with the active involvement of all parties concerned and, in particular, direct and immediate dialogue between all stakeholders in the jurisdiction.

Sources:

- Compilation of responses for CCJE Opinion No. 26, “Moving forward: use of assistive technologies in the judiciary”, Consultative Council of European Judges CCJE(2023)1 - San Marino, pp. 225.

I.8. Equipping courtrooms and penitentiary institutions (France)

120. In France, the judicial IT Budget has more than doubled since 2018 as part of the Ministry of Justice's Digital Transformation Plan. A portion of the budget is allocated to the deployment of equipment (screens and accessories) enabling the use of videoconferencing in courts and penitentiary institutions. This deployment is currently proceeding at a rate of approximately 50 rooms per year.

Sources:

- <https://www.senat.fr/rap/l23-128-318/l23-128-3186.html#fn35>

J. True-to-life hearing experience (Guideline 33)

121. An increasing number of states are making significant efforts to create a realistic hearing experience, ensuring full communication and interaction between all parties involved and the person being heard. The goal is to provide videoconference participants with a sense of presence in the hearings. The technology aims to centre the image on the participants and allow observation of the speaker's body language.

J.1. Virtual Courtroom Pilot Project (Iceland)

122. Iceland has implemented a Virtual Courtroom Pilot Project that focuses on utilising advanced video conferencing tools tailored for judicial purposes, ensuring clear audio and visual transmission, which is crucial for maintaining the integrity of testimonies and enabling effective communication

⁴⁸ See: Recommendations on remote judicial hearings approved by the Judicial Council on 27 August 2021 - Rekomendacijos dėl nuotolinių teismo posėdžių patvirtinta Teisėjų Tarybos 2021 m. rugpjūčio 27 d.

between all participants. The system also includes features like real-time document sharing and private virtual rooms for client-attorney consultations during hearings.

Sources:

- <https://www.ruv.is/english/2021-02-23-icelands-vr-courtroom/>
- <https://www.112.is/en/resources/syndardomssalur>
- https://www.researchgate.net/publication/378476240_Testifying_in_Court_Virtual_Reality_as_a_Preparation_Strategy_for_Survivors_of_Sexual_Violence_in_Iceland

J.2.Continued modernisation process of the courts (Latvia)

123. The digitalisation of court proceedings in Latvia has been underway for many years and the courts have communicated through an electronic platform already since 2006. Courts and law enforcement authorities were equipped with video conferencing solutions to support remote hearings. Court hearings are recorded in audio and video which allows the parties to access digital recordings of the hearings in each instance. The courts are currently increasing the network speed and modernising the WiFi equipment and central infrastructure. Furthermore, the goal to provide 100% of judges with laptops has been reached and almost 50% of all court staff is equipped with laptops. New high-speed scanners and high-resolution document cameras have been installed in court offices and courtrooms. At this moment, 54% of all courtrooms are equipped with videoconferencing capabilities.

Sources:

- <https://pub.norden.org/temanord2022-518/>
- https://commission.europa.eu/document/download/fea85ed5-044a-493d-a3aa-c5dfb00efe26_en?filename=87_1_52802_input_mem_latvia_en.pdf
- https://e-justice.europa.eu/319/EN/facilities_in_eu_countries?LATVIA&member=1
- <https://assets.hcch.net/docs/11815546-3032-464d-8590-2609a196ab61.pdf>

J.3.High-Quality Video Conferencing Technology (Sweden)

124. Swedish courts use high-quality video conferencing technology to ensures clear audio and video transmission maintaining the integrity of testimonies and ensuring that all participants can effectively communicate. Today, all 650 courtrooms in Sweden are equipped for remote witness testimony and simultaneous interpretation. The technology also includes features such as real-time document sharing and private virtual rooms for client-attorney consultations during hearings.

Sources:

- https://www.cisco.com/c/dam/global/sv_se/solutions/collaboration/working-from-home/docs/cisco_report_on-virtual-meetings--why-and-how-sweden-will-become-the-world-leader.pdf
- <https://cms.law/en/int/expert-guides/cms-expert-guide-to-digital-litigation/sweden>
- Information provided by Karin Wennberg Boberg, Legal Advisor, Legal Department, Swedish National Courts Administration for the ECN Seminar #8 Good Practices for Remote Court Hearings

J.4.Standard camera framing during different phases of the hearing (France)

125. In France, video hearings before the National Court of Asylum have been divided into six distinct phases in the 'Vademecum on video hearings before the national court of asylum.' For each of these phases, the vademecum provides a standard setup for the different cameras (close up or wide angle) — one for the courtroom where the Court is seated and one for the remote hearing room

where the applicant and their lawyer are located. This planning of the video hearing aims to make it as similar as possible to an in-person hearing and to ensure a good understanding of the position of each actor of the hearing.

Sources:

<http://www.cnda.fr/content/download/176710/1742484/version/2/file/Vademecum%20et%20annexes.pdf>

K. Instructions for participants (Guideline 35)

126. Participants in legal proceedings should receive comprehensive guidance before the hearing on expected conduct, obligations, and procedural norms. This information is essential to ensure that all parties are aware of their roles and responsibilities, which helps fostering a fair and efficient judicial process. To enhance accessibility, many states are making this guidance available on the official websites of the courts. Additionally, tutorial videos are provided to help participants become familiar with courtroom procedures and the technological tools used during virtual or remote hearings. Participants and observers are typically given advice, on technical requirements and recommendations for specific platforms, such as necessary hardware and software. They receive step-by-step instructions and screenshots to assist with installation and connection to the platform. Guidance covers when and how to use features like microphones, cameras, and screen sharing, as well as frequently asked questions, troubleshooting tips, and steps to take in case of technical difficulties during the hearing. Practical tips for hearing participants include advance preparation and test runs, preparing litigants and witnesses, considerations for self-represented litigants, and addressing certain issues with the judge or registrar beforehand. Additionally, participants are advised on hearing etiquette and decorum, document management during the hearing, screen usage tips, and effective advocacy strategies in virtual settings.

K.1. Clear information for court users (Ireland)

127. Ireland provides clear, concise, and user-friendly instructions for court users on remote hearings, with references to legal sources for both civil and criminal proceedings. It emphasises that participants in remote hearings have the same protection as if they were physically present in court, and the court retains the same powers. It also stipulates that it is an offense to obstruct the participation of any person in a remote hearing or to interfere with the technology being used.

Sources:

- <https://www.citizensinformation.ie/en/justice/witnesses/remote-hearings-and-video-link-evidence>
- <https://www.courts.ie/remotecourts>
- <https://www.eolasmagazine.ie/digitising-the-courts>

K.2. Instructions and tailored videos (Netherlands)

128. The website Rechtspraak.nl provides detailed guidance on technical requirements and setup procedures for various devices and platforms, ensuring multi-platform accessibility. A video demonstrates how an online court session works.. It offers a visual guide that clarifies the process and etiquette of virtual proceedings, helping citizens understand what to expect and how to navigate the digital courtroom environment. Technical support is another crucial aspect addressed by the website. Citizens can contact the Rechtspraak Servicecentrum (RSC) for assistance, including testing audio and video connections before the session. The instructions also address security and privacy concerns. Additionally, the website provides clear guidance on how to securely submit documents and signed materials.

Sources:

- <https://www.rechtspraak.nl/online-zittingen-en-overleggen>

K.3. Detailed and tailored instructions for professionals (Australia)

129. The Supreme Court of Victoria has created comprehensive and detailed guidelines for practitioners on using videoconferencing and conducting remote hearings, available online. These instructions are not only available in text format but also as recordings and webinars, including customised tutorials. Participants to remote hearings receive practical recommendations on how to behave in accordance with applicable laws, best practices, and court etiquette.

Sources:

- <https://www.supremecourt.vic.gov.au/going-to-court/virtual-hearings/virtual-hearings-practitioners-fact-sheet>
- <https://www.supremecourt.vic.gov.au/going-to-court/virtual-hearings/virtual-hearings-tips-and-tricks-for-practitioners>
- <https://www.supremecourt.vic.gov.au/about-the-court/publications/the-dos-and-donts-of-virtual-hearings-webinar>

K.4. User-friendly instructions for participants (USA and Canada)

130. Best Practices for Attorneys Representing Clients at Remote or Virtual Hearings are issued by the Legal Aid Society of the District of Columbia. The guidance stands out for its clear and user-friendly language, making the procedures accessible to both attorneys and their clients. It covers essential aspects such as technical requirements, etiquette during hearings, and strategies for best client representation. It includes actionable tips that help attorneys navigate the nuances of virtual hearings, ensuring professionalism and efficiency.

131. The Connecticut Guide to Remote Hearings for Attorneys and Self-Represented Parties is a valuable resource, offering essential guidance on navigating the complexities of virtual courtroom settings. The inclusion of screenshots of applications enhances usability, providing visual aids that clarify technical setups and procedures.

132. The Best “Practices for Remote Hearings” provided by the Superior Court of Justice in Ontario is a comprehensive resource offering essential guidelines for participants in virtual court proceedings. Among others, it advises participants to close unnecessary applications and to concentrate on the hearing, which helps in minimising distractions and ensuring smoother proceedings.

Sources:

- <https://wclawyers.org/wp-content/uploads/2020/04/Best-Practices-for-Attorneys-Handling-Virtual-Hearings.6-8-20-c2.pdf>
- <https://jud.ct.gov/HomePDFs/ConnecticutGuideRemoteHearings.pdf>
- <https://www.ontariocourts.ca/scj/files/best-practices-remote-hearings.pdf>

K.5. User guide for legal professionals, participants and the public (Canada)

133. The Government of Quebec published a “User Guide for legal professionals, other partners, participants, and the public to access hearings via technological means”. This guide contains information on the rules to follow during hearings (prohibition of recording or broadcasting the hearing, prohibition of sharing received connection links), general instructions for the proper conduct of the hearing (keeping microphones muted, not using the “chat” function), and etiquette (being alone in a quiet room, avoiding inappropriate backgrounds, waiting for the judge's permission to speak). It

also includes technical information on how to participate in or attend an online hearing, presented in a very clear and instructive way (technical prerequisites and installation testing, downloading the Microsoft Teams application, receiving connection links, joining the hearing, available functions, recommendations for various technical issues).

Sources:

- https://cdn-contenu.quebec.ca/cdn-contenu/adm/min/justice/publications-adm/palais-justice-adm/MJQ_Guide_Audience_Teams-public_VF.pdf

L. Decorum and authority of the court (Guideline 35 in fine)

134. Several states are now addressing directly the issue of etiquette and authority in courts, which has become prominent due to mixed experiences during the pandemic. Adapting traditional courtroom practices to the virtual environment seems beneficial for upholding the integrity of legal proceedings.

L.1. Conduct Guide for Remote Appearances (Canada)

135. The Conduct Guide for Remote Appearances of the Alberta Court of Justice, published in 2022 and updated in 2024, includes various good practices and points of etiquette to ensure that participation in a remote hearing is effective and respectful of the court's solemnity. This list of expectations represents the minimum requirements for virtual appearances and is not exhaustive. The guide emphasises that remote participation is considered a court appearance, and participants must dress as if they are physically present in a courtroom. Counsel are expected to wear business attire. Inappropriate profiles or background photos are prohibited, and counsel must have a professional-looking background. Participants should conduct themselves as though they were physically in a courtroom, refraining from eating or drinking anything except water. Smoking, also with electronic cigarette, during the proceeding is not allowed. Additionally, counsel must use headphones with a microphone, and parties should use them if possible.

Sources:

- [https://albertacourts.ca/docs/default-source/pc/provincial-court-of-alberta-conduct-guide-for-remote-appearances-\(february-9-2022\).pdf?sfvrsn=544ccc83_19](https://albertacourts.ca/docs/default-source/pc/provincial-court-of-alberta-conduct-guide-for-remote-appearances-(february-9-2022).pdf?sfvrsn=544ccc83_19)
- Comp. <https://www.ontariocourts.ca/scj/notices-and-orders-covid-19/remote-hearings/>

L.2. Conduct Guide for Participants Joining a Hearing Remotely (Canada)

136. In Quebec, the Superior Court, the Court of Quebec, and municipal courts adopted in 2020 "Guidelines for Regulating the Use of Technologies in the Courtroom and the Conduct of Participants Joining a Hearing Remotely". Those Guidelines were revised in 2022 and are accessible online. They include a set of rules aimed at ensuring a minimum level of etiquette during hybrid hearings. They address various aspects such as the dress code for participants, conduct and language, the room used, communication between the participant and their lawyer, equipment, background, recording and broadcasting, as well as food and beverages.

Sources:

- <https://courduquebec.ca/fileadmin/cour-du-quebec/centre-de-documentation/toutes-les-chambres/LignesDirectricesTechnologies.pdf>

L.3. Good conduct and Authority of the Court (USA)

137. The Texas Access to Justice Commission's "Best Practices for Courts in Zoom Hearings Involving Self-Represented Litigants" recommends that participants "dress appropriately, as if they were attending an in-person court hearing". The North Dakota Courts' "Preparing for Your Remote

Hearing" guide advises participants to "choose a suitable, quiet location free from distractions" and "remain respectful and professional in their conduct and speech". The Louisiana Supreme Court's "Best Practices for Remote Appeal Hearings" states that "courts maintain the same authority and decorum expectations in remote hearings as they would in an in-person setting". The Minnesota Judicial Branch's "Remote Hearings" webpage notes that courts have "the ability to mute or remove disruptive participants from the remote hearing". These good practices are mirrored in many other national guidelines.

Sources:

- Texas Access to Justice Commission - "Best Practices for Courts in Zoom Hearings Involving Self-Represented Litigants": www.texasatj.org
- North Dakota Courts - "Preparing for Your Remote Hearing": www.ndcourts.gov
- Louisiana Supreme Court - "Best Practices for Remote Appeal Hearings": www.lasc.org
- Minnesota Judicial Branch - "Remote Hearings": www.mncourts.gov

L.4. Chief Justice practice directions on the authority of court (Kenya)

138. The Chief Justice of Kenya has issued detailed guidelines to uphold strict decorum during virtual hearings. Advocates and all participants must be properly dressed for these sessions. To maintain the solemnity of the proceedings, and as directed by the court, advocates may appear in their robes or appropriate professional attire. Order and discipline must be maintained throughout the hearing. No one shall speak unless granted permission by the court. All microphones should remain muted until given the floor, and cameras should be turned on. Advocates and participants must observe the same courtesies as in a physical courtroom. When addressing the court, advocates and litigants should speak slowly and pause intermittently to allow for interpretation. Additionally, submissions should be concise and precise, avoiding repetition of document content.

Sources:

- <http://kenyalaw.org/kl/index.php?id=11536>

M. Cybersecurity (Guideline 42)

139. Cybersecurity is essential for remote hearings, ensuring the integrity, confidentiality, and availability of the judicial process. This includes implementing secure communication channels, using encrypted video conferencing tools, and establishing strict authentication protocols for participants. Cybersecurity safeguards are necessary to maintain public trust in the judicial system.

M.1. Privacy, Security and Confidentiality Considerations (Canada)

140. The guidelines "Open Courts: Privacy, Security and Confidentiality Considerations Arising from Virtual Access to Public Hearings" highlight relevant considerations and good practices in assessing whether and how privacy, security and confidentiality issues can be safely and adequately addressed in a virtual court setting, particularly when providing virtual access to hearings for the media and the public.

Sources:

- <https://www.fja.gc.ca/COVID-19/pdf/Open-Court-Privacy-Security-and-Confidentiality.pdf>

M.2. Security Policies for Justice Information Systems (Italy)

141. Italy's Ministry of Justice has developed a comprehensive security strategy detailed in its plan "Piano per la Sicurezza Informatica dell'Amministrazione della Giustizia". This plan outlines access control measures for networks and workstations and emphasises coordination with national cybersecurity authorities, including the Department of Security Information (DIS). A key initiative

includes the implementation of Network Access Control (NAC) systems to manage and prevent unauthorized access across the justice infrastructure.

Sources:

- <https://cms.law/en/int/expert-guides/cms-expert-guide-to-digital-litigation/italy>
- <https://ca-salerno.giustizia.it/cmsresources/cms/documents/Piano%20per%20la%20Sicurezza%20Informatica%20dell'Amministrazione%20della%20Giustizia%202021.pdf>

M.3. Video conferencing units with end-to-end encryption (Hong-Kong)

142. To participate in remote hearings for civil proceedings, parties must be equipped with a video conferencing unit ("VC Unit"). There are three options for the VC Unit, namely hardware option, software option and browser-based option. For both hardware and software options, parties must ensure that their VC units support direct end-to-end encryption with the Judiciary's video-conferencing facilities and encryption protocol. To enable court users to participate in remote hearings using standard web browsers and regular computer devices, a browser-based option has been introduced. This option features end-to-end encryption, managed by the Judiciary's video-conferencing server system. Participants receive a unique meeting login ID and passcode for identity authentication, ensuring secure access and preventing unauthorised entry.

Sources:

- <https://cms.law/en/int/expert-guides/cms-expert-guide-to-digital-litigation/hong-kong>

M.4. Confidential communication with lawyer (Netherlands)

143. In the Netherlands, the police, prosecution, prison system, and judiciary utilise dedicated systems for internal and external communications, with international and cross-border videoconferences happening daily. The Netherlands have put in place an advanced use case which allows to secure the confidentiality of lawyer-client conversations. This system is based on a standard videoconferencing platform, is interoperable, so that all parties can easily participate. In the coming year a new e-court video conferencing system will be implemented. This video system has its own courtroom look and feel and offers extensive options for judges to direct the hearing, receive parties in specific lobbies, support remote interpreters and test the connections of litigants in advance.

Sources:

- Multi-aspect initiative to improve cross-border videoconferencing "Handshake", Workstream 1a, D1a Judicial use cases with high benefits from cross-border videoconferencing, p. 17 - 18.

N. Training (Guideline 55)

144. Several jurisdictions have introduced training programs to improve the effectiveness of remote proceedings, aiming to familiarise judicial staff with essential system components and good practices. New e-learning platforms provide interactive tools such as videos and podcasts, enabling judicial professionals to access training materials at their convenience. Online training for judges and court staff includes webinars and web-based courses that simulate the collaborative nature of in-person sessions. Furthermore, surveys among judges highlight the need for thorough training to address challenges like the lack of direct contact and technical issues, ensuring that judges are well-prepared to manage remote hearings effectively.

N.1. Trainings presenting the videoconferencing system (Bosnia and Herzegovina)

145. In Bosnia and Herzegovina, the Centres for Education of Judges and Prosecutors organise training sessions on the use of information technology in the judiciary. These sessions introduce judicial employees to the videoconferencing system and highlight its benefits. The training covers the fundamental elements needed to use the system effectively, as well as examples of good practices and its application within the judiciary in Bosnia and Herzegovina. Typically, the training is attended by members of the judicial staff who specialise in information technology.

Sources:

- Information provided by Esad Ibrahimović, Sistemski administrator II, Visoko sudsko i tužilačko vijeće Bosne i Hercegovine, High Judicial and Presecutorial Council of Bosnia and Herzegovina.

N.2. European Judicial Training Network (EJTN) Initiative

146. The EJTN has been actively involved in training judicial professionals across Europe on remote hearings. Among others EJTN holds seminars demonstrating remote hearings potential.

Sources:

- <https://ejtn.eu>
- <https://ejtn.eu/wp-content/uploads/2024/07/EJTN-Publication-The-Rule-of-Law-and-the-Good-Administration-of-Justice-in-the-Digital-Era.pdf>

N.3. Online Trainings of the National Judicial College (NJC) (USA)

147. The National Judicial College (NJC) offers several online training options for judges and court staff. It provides webinars on topics related to online trials and hearings, including jury management in virtual settings. The NJC offers web-based courses that replicate the collegial atmosphere of in-person courses, allowing judges to interact with colleagues from around the country. The trainings highlight also challenges in implementing remote hearing training, such as the need for flexibility in court-to-court communication, especially in cases involving children and the importance of involving IT developers to ensure tools meet the needs of justice professionals.

Sources:

- <https://www.judges.org/judicial-education/>

N.4. Surveys among judges (Slovenia)

148. The Supreme Court's Analysis and Research Unit conducts surveys among Slovenian courts to evaluate the benefits and drawbacks of using videoconferences in proceedings, generating insights to improve its practice. For instance, many Slovenian courts have reported that videoconferencing in criminal cases facilitates hearings that would otherwise be unfeasible due to a shortage of prison officers. However, the surveys also reveal notable disadvantages. Judges have expressed concerns about the lack of direct contact and the challenges of forming impressions during videoconferences. Ensuring the identity of witnesses presents additional difficulties, and technical issues, including potential IT facility incompatibilities, are common. Comprehensive training can address these challenges by equipping judges with the skills needed to effectively manage remote hearings and navigate technical issues.

Sources:

- Compilation of responses for CCJE Opinion No. 26, "Moving forward: use of assistive technologies in the judiciary", Consultative Council of European Judges CCJE(2023)1-Slovenia, pp. 232 - 233

O. Hybrid hearings (Fundamental principles)

149. Courts in many member states have now the option to schedule a 'hybrid' hearing, where some participants are in the courtroom while others join remotely. It is essential to ensure that the advantages and disadvantages of in-person and remote participation are clearly explained and understood by all parties, upholding the principle of equality of arms by making decisions with informed consent.

O.1. President of the High Court's rules on hybrid hearings (Ireland)

150. The President of the High Court's notice provides management rules for Dublin Court Proceedings. It introduces hybrid hearings in which the judge and the registrar sit physically in court and the practitioners and litigants have the option to attend and participate either in person in court or remotely. It underlines that any practitioner or litigant who chose to participate remotely must have the same ability and entitlement to address the court as they would have if physically present in person in court. While the judge and the registrar will be present in person in court, there is no obligation on practitioners or litigants to appear in person. They are entitled, if they wish, to participate remotely. To ensure that hybrid hearings work effectively and smoothly, it is essential that all participants in such hearings must always bear in mind that they must be capable of being seen not only by the judge but also by the other party or parties in the case. They must also ensure that their submissions are capable of being heard not only by the judge but also by the other party or parties.

Sources:

- <https://www.courts.ie/news/high-court-presidents-notice-michaelmas-management-dublin-court-proceedings>
- <https://www.courts.ie/content/requirement-regarding-attendance-remote-hearings>
- <https://www.lawsociety.ie/Solicitors/business-career-resources/courts-service-information/remote-hearings>

O.2. Video Hearing Platform for Remote and Hybrid Hearings (England and Wales)

151. The video hearing platform is designed in such a way that it allows the Courts & Tribunals Service staff to schedule both fully remote and hybrid hearings, accommodating timed slots with one or more participants, as well as multi-day hearings. The service is tailored to different participant roles, including judges, panel members, lawyers, witnesses, interpreters, court users, and includes links for custodial cases, public observers, and media reporters. Each user group receives a customised experience based on their specific needs. The platform offers virtual consultation rooms accessible from the virtual waiting room for participants to use before or after the video hearing. Court rules are explained to participants before they enter the hearing, and participants must digitally sign a declaration indicating they understand the rules. Each hearing has also a virtual waiting room displaying relevant information such as the time, hearing status, and other participants.

Sources:

- <https://www.lawsociety.org.uk/campaigns/court-reform/features/preparing-for-the-new-video-hearings-service>
- Presentation made by Claire Jukes – Senior Service Manager and Deputy Service, HM Courts & Tribunal Service for the ECN Seminar #8 Good Practices for Remote Court Hearings.
- <https://www.coe.int/en/web/cepej/european-cyberjustice-network-ecn->

O.3. Good practices for hybrid hearings (Canada)

152. The Ontario Superior Court of Justice has equipped Courtrooms with large screens to display remote participants in hearings. In-person participants must be mindful of camera and microphone placement. Remote participants are displayed on courtroom screens, visible to all in-person attendees. Court staff manage the technical aspects, including admitting remote participants. Judges can easily communicate with both in-person and remote participants. Document sharing systems allow both remote and in-person access to exhibits. These practices ensure that both in-person and remote participants can fully engage in the proceedings.

Sources:

- <https://www.ontariocourts.ca/scj/files/best-practices-remote-hearings.pdf>

O.4. Legislative Switch from Remote to Hybrid Hearings (Poland)

153. According to regulations regarding remote (hybrid) hearings of March 14, if the nature of the planned activities allows it and the rights of the parties are protected, a remote hearing may be held by order of the presiding judge issued: 1) ex officio – in which case a participant should notify the court of their intention to participate remotely at least 3 business days before the scheduled date; 2) upon the request of the person who is to participate, submitted within 7 days of receiving the notice or summons to the hearing. If the request is granted, other participants who also wish to take part remotely should notify the court of this intention in the described manner. Failure to submit the request or notification mentioned above will obligate personal attendance at the court building. When ordering a remote hearing, the presiding judge may also stipulate that a specific person may participate if they are present in another court building. This hybrid approach also relates to witnesses. If a party objects to a witness being heard remotely, the court will need to hear the witness in the courtroom. The Minister of Justice published the technical standards of software and hardware requirements necessary for participating in remote (hybrid) hearings. This allows the unification of requirements and capabilities of software used by the courts.

Sources:

- <https://assets.hcch.net/docs/360c61cb-331c-4537-b830-4e0697febcbf.pdf>
- <https://www.dentons.com/en/insights/alerts/2024/february/14/changes-in-civil-procedure>
- <https://dms-legal.com/en/new-provisions-concerning-remote-hearings-and-e-service-of-correspondence>

O.5. Hybrid Hearings Improvement Initiative (USA)

154. Through the initiative, the National Center for State Courts (NCSC) connected technology partners with selected courts from around the country to build and evolve the systems developed during the pandemic. Key new practices include developing comprehensive guidelines for selecting and evaluating technology platforms, establishing 'minimum viable products' for hybrid hearings (with a focus on appropriate hardware/software, trained staff and defined operational processes), the creation of satellite access points in small communities to enable users to participate in proceedings closer to home, and the establishment of mobile access points for sensitive cases such as domestic violence injunctions.

Sources:

- <https://www.ncsc.org/consulting-and-research/areas-of-expertise/access-to-justice/remote-and-virtual-hearings/hybrid-hearings>

O.6. Hybrid court hearings allowing for more flexibility (South Africa)

155. The South African litigation system currently relies extensively on technology, with platforms like “Court Online” being a daily tool for lawyers and litigants. Consequently, most court hearings are conducted virtually. The “Practice Directive” issued by the Office of the Chief Justice in 2022 allows for court hearings to be conducted online through videoconferencing or video-link. Judges retain the discretion to decide whether a case will proceed virtually or in-person. The Practice Directive fully accommodates hybrid court hearings, where judges have the flexibility to combine both in-person and online formats as they deem appropriate.

Sources:

- <https://www.judiciary.org.za/index.php/court-online/about-court-online>
- <https://www.supremecourtofappeal.org.za/index.php/2-uncategorised/46-practice-directions?showall=1>
- <https://cms.law/en/int/expert-guides/cms-expert-guide-to-digital-litigation/south-africa>

P. Alternative Dispute Resolution (ADR)

156. To ensure efficient, timely, and appropriate dispute resolution and de-escalation, states may implement a pyramid model of dispute resolution, where judicial adjudication serves as the final step. Amicable dispute resolution, supported by ADR mechanisms, often yields more satisfactory outcomes, that can also be conducted remotely.

P.1. Online Dispute Resolution - ADR Institute of Canada (Canada)

157. The ADR Institute of Canada (ADRIC) establishes detailed standards and offers training and certification process to guide practitioners, businesses, and institutions in carrying out ADR processes with consistency and professionalism. ADRIC places significant emphasis on Online Dispute Resolution as an evolving and accessible method for conflict resolution.

Source:

- <https://adric.ca/>

P.2. Multi-Door Dispute Resolution Division of the Superior Court of the District of Columbia in Washington D.C. (USA)

158. The Multi-Door Dispute Resolution Division (MDDRD) of the D.C. Superior Court offers various forms of (court-ordered) alternative dispute resolution (ADR). The MDDRD employs dispute resolution specialists (DRSs) who advise citizens and businesses with a legal problem on the optimal conflict resolution method for their dispute. This may be court proceedings, but also a form of (internalised) alternative dispute resolution, usually mediation. DRSs may act in conflicts that have already been brought to the DC Superior Court for adjudication but may also be approached by citizens who have not yet found a conflict resolution method.

Source:

- <https://www.dccourts.gov/superior-court/multi-door-dispute-resolution-division>

P.3. Alternative online dispute resolution platforms (Chile)

159. A notable development in Chile is the emergence of electronic alternative online dispute resolution platforms (eADR), for example by the Arbitration and Mediation Centre of the Chamber of Commerce. It encompasses digital systems designed to effectively address a wide range of conflicts in virtual environments. The Arbitration and Mediation Centre has been implementing eADR

mechanisms that facilitate dispute resolution between businesses, as well as between companies and their consumers or users.

Sources:

- <https://www.camsantiago.cl/en/sobre-nosotros/>
- <https://www.camsantiago.cl/en/e-cam/odr/>
- https://www.apec.org/docs/default-source/publications/2023/3/apec-workshop-on-enhancing-implementation-of-online-dispute-resolution/223_ec_apec-workshop-on-enhancing-implementation-of-online-dispute-resolution.pdf?sfvrsn=60e5678b_2
- <https://cms.law/en/int/expert-guides/cms-expert-guide-to-digital-litigation/chile>

V. Checklist for remote hearings

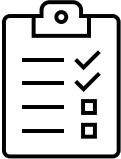
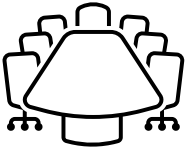

Conducting effective and secure remote hearings in judicial practice requires careful planning and preparation.

This visualised checklist recalls key measures to take when it comes to I) Preparatory measures, II) instructions for participants, III) Technical standards, IV) a True-to-life hearing experience, V) Security and reliability, VI) Technical Assistance.

A. Preparatory measures



Implement comprehensive preparatory measures, such as scheduling test sessions, join the videoconference in advance, and inform participants of potential technical difficulties.

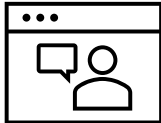
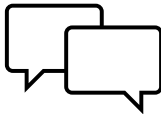
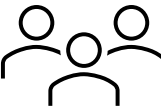
1	Test Videoconferencing 	Schedule a test videoconferencing session. Provide guidance on the platform. Allow participants to become familiar with the platform.	<input type="checkbox"/>
2	Join in Advance 	Have the court join in advance. Have participants join in advance. Resolve any technical issues before the hearing begins.	<input type="checkbox"/>
3	Inform Participants 	Inform participants of possible technical difficulties. Remind them to mute microphones when not speaking. Make practical arrangements for suitable locations.	<input type="checkbox"/>

		Ensure that proper equipment is available.	
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B. Instructions for participants

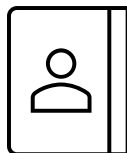


Provide clear guidance, such as outlining specific tasks, communicate effectively by ensuring all instructions are understood, and address issues promptly by resolving any concerns as they arise.


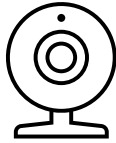
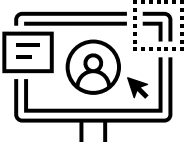
1	Provide Clear Guidance 	<p>Offer participants clear rules, instructions, and tutorials on the use of videoconferencing and the conduct of the remote hearing, in both text and video format.</p> <p>Make this guidance publicly available on the court's website, along with tutorial videos.</p>	<input type="checkbox"/>
2	Communicate Effectively 	<p>Give participants sufficient notice about the technical requirements, date, time, place, and conditions of the remote hearing.</p> <p>Include specific information such as technical requirements, rules on behaviour and decorum, relevant warnings and cautions, restrictions, link to the remote hearing, and contact information.</p>	<input type="checkbox"/>
3	Address Issues 	<p>Be aware of participants joining from different time zones when scheduling hearing times.</p> <p>Provide appropriate indications for real-time or deferred public and media access to the hearing.</p>	<input type="checkbox"/>

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C. Technical standards



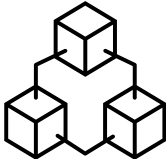
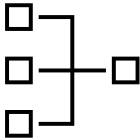

Adhere to industry-standard technical requirements for videoconferencing, ensuring interoperability, reduced transmission delays, and high-quality audio and video for all participants.

1	Interoperability and Connectivity 	<p>Use videoconferencing hardware that meets minimum industry standards.</p> <p>Maintain continuous and adequate connectivity.</p> <p>Enable parties to follow and effectively participate in proceedings.</p>	<input type="checkbox"/>
2	Technology-Neutral Approach 	<p>Implement technology-neutral videoconferencing rules.</p> <p>Ensure that all participants can see and hear the speaker.</p> <p>Guarantee that reactions of other participants are visible without disruptions.</p>	<input type="checkbox"/>
3	Minimum Standards 	<p>Meet minimum industry standards for videoconferencing technology.</p> <p>Ensure interoperability and reduced transmission delays.</p> <p>Provide a true-to-life hearing experience for all participants.</p>	<input type="checkbox"/>

D. True-to-life hearing experience



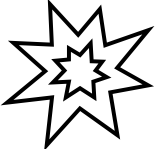


Establish stable connections, verify technical capabilities, and prepare the courtroom accordingly to ensure seamless proceedings and prevent any disruptions.

1	Secure Reliable Connections 	<p>Request remote participants to secure a reliable video connection of sufficient quality with adequate visibility and lighting to ensure a seamless experience.</p> <p>If the connection is poor, consider stopping and adjourning the hearing until the connection is secure and stable.</p>	<input type="checkbox"/>
2	Ensure Technical Capabilities 	<p>Verify that all participants have the necessary bandwidth, audio equipment, and visual equipment to fully participate in the remote hearing without disruptions.</p>	<input type="checkbox"/>
3	Equip the Courtroom 	<p>Provide the courtroom with a high-speed connection and high-quality devices to allow participants to be heard and seen properly without any technical issues.</p>	<input type="checkbox"/>

E. Security and reliability





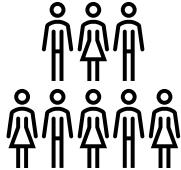
Mitigate security risks, have contingency plans in place, and ensure compliance with data protection laws to maintain the integrity, confidentiality and reliability of the remote hearing

1	Mitigate Risks 	<p>Schedule regular updates for software and hardware.</p> <p>Apply patches as soon as they are released.</p> <p>Continuously monitor for unauthorised access attempts.</p>	<input type="checkbox"/>
2	Have Contingency Plans 	<p>Identify potential technical issues beforehand.</p> <p>Maintain backup connectivity options.</p> <p>Use uninterruptible power supplies (UPS).</p> <p>Develop a response plan for data breaches.</p> <p>Have a protocol for prolonged technical failures.</p>	<input type="checkbox"/>
3	Ensure Data Protection 	<p>Verify that cloud services adhere to relevant regulations.</p> <p>Encrypt all sensitive data during transmission and storage.</p> <p>Restrict access to digitally shared and stored evidence.</p>	<input type="checkbox"/>

F. Technical assistance



Provide consistent technical support, troubleshoot connectivity issues, and ensure all participants are equipped for a smooth remote hearing experience.

1	For Judges and Court Staff 	Provide access to IT support for judges to ensure a smooth and seamless remote hearing experience. Ensure that court staff have access to IT support during the remote hearing to address any technical issues that may arise.	<input type="checkbox"/>
2	For Parties 	Offer technical assistance to the parties involved in the remote hearing to avoid delays and technical difficulties.	<input type="checkbox"/>
3	For Other Participants 	Extend technical assistance to all other participants in the remote hearing, such as witnesses and media representatives, to maintain the integrity of the proceedings.	<input type="checkbox"/>