

14 April 2021

In the first month of the declared lockdown in spring 2020 the executive, legislative and judicial branches of Ukraine took a number of urgent actions to ensure the safety of its people and their accessibility to justice during the lockdown, including prompt introduction of changes in the court management and to the domestic procedural codes, as well as holding court hearings by videoconference, etc. (for more actions taken see the comments of Ukraine as of 24 April 2020).

Against the background of the ongoing global pandemic the judiciary of Ukraine continues taking further counter COVID-19 measures, ensuring appropriate balance between the right to life and health and the right to protection, namely the right to a fair trial. On 1 April 2021 the High Council of Justice (HCJ) by its decision № 763/0/15-21 recommended to Ukrainian courts of all instances and jurisdictions to apply Unified recommendations on safe operation during lockdown for courts of all instances and jurisdictions located in Ukraine. The recommendations have been jointly developed by the HCJ and the European Union Advisory Mission for Civilian Security Sector Reform in Ukraine and contain the following:

**UNIFIED RECOMMENDATIONS FOR COURTS
ON SAFE OPERATION DURING LOCKDOWN**

Recommendations on access to justice during lockdown	
1	<p>Strictly observance by the courts of the acts of the Cabinet of Ministers of Ukraine concerning the prevention of the spread of the COVID-19 acute respiratory disease caused by the coronavirus SARS-CoV-2 on the territory of Ukraine.</p> <p>In order to prevent the spread of COVID-19 acute respiratory disease caused by the coronavirus SARS-CoV-2 in Ukraine, the courts shall constantly monitor the legislation and keep their court staff informed about relevant information, strictly follow the acts' requirements.</p>
2	<p>To ensure persons' right to access to justice during lockdown through holding court hearings in real time via the Internet.</p> <p>To conduct online broadcasts of such court hearings and/or to make the video recordings of the hearings immediately public.</p> <p>If the party to the proceedings applies to take part in it in the courtroom, the case shall be heard in his/her presence.</p> <p>In order to reduce the number of people present in a courtroom, to ensure, if possible, the holding of court hearings within the premises of one courthouse by broadcasting between different courtrooms through videoconference.</p> <p>To ensure that the general public is aware of the security measures taken in the courts.</p>
3	<p>Courts shall continuously hold proceedings in urgent cases determined by procedural codes and courts (judges).</p> <p>The notion of urgency, which is determined at the discretion of a judge, must take into account current epidemic situation in the area, where the court is located.</p>

	Adaptive quarantine zoning, carried out by the Ministry of Health of Ukraine, may be used as an indicator, but in assessing the situation in the courtroom and the condition of the participants in the proceedings due care must be taken.
4	To notify litigants of the possibility of postponing cases due to quarantine measures. However, the postponing of the case is possible as a last resort, only when it is impossible to hear it using electronic means of communication due to procedural and technical reasons.
5	To stop all activities not related to the procedural operation of the court and the judiciary (round tables, seminars, open days, etc.). For ensuring the accessibility to courts, it is recommended to replace all these measures by online measures.
6	To introduce the acquaintance with case files by the trial participants remotely by sending a scanned copy of case files to the e-mail address specified in the relevant application, applications for acquaintance to receive it by post and electronic means; in order to avoid crowds, additionally to recommend to the court staff to agree in advance on time of the court visits to review the case files.
7	To reduce the number of court hearings scheduled for the working day. At the same time, taking into account the associated risks, it is necessary to reduce the court (indoors) hearings, but not all ones. It is necessary to look for a possibility to replace it with an electronic or written format of case hearing.
8	If possible, to hear cases without the participation of the parties, in writing, except in cases, where the participation of the parties is mandatory.
9	To accelerate work on the Unified Judicial Information and Telecommunication System/Subsystem “Electronic Court.”
10	To ensure the availability of information (on general anti-epidemic and preventive measures, restrictions and terms of service, etc.) at the entrance to the institution.
Recommendations for organizing the operational process during lockdown	
11	To strengthen measures for protection of courts, judicial bodies and institutions; to prevent persons with a temperature of 37.2 °C and above, having signs of respiratory diseases, as well as without a protective mask worn on the nose and mouth, entering the premises of courts, judicial bodies and institutions.
12	To organize a flexible working schedule for judges and court staff during the quarantine period. To consider the rotation system (part of the staff works remotely, the other one stays working in the court).
13	To introduce the rotation of judges to resolve urgent procedural issues and cases in special types of proceedings.
14	To process correspondence in electronic form (by sending documents to the official e-mail address of the court both through a personal account in the “Electronic Court” system and by post, fax or any other remote means of communication). If technically possible, to provide court staff with the opportunity to perform their duties remotely.

15	To restrict reception of citizens in person by the court leadership; to organize a reception in compliance with measures preventing the spread of coronavirus COVID-19, namely: maintaining distance of at least two meters between all participants and the use of personal protection equipment, in particular respirators or masks, which cover the nose and mouth, including those one self-made, airing of rooms.
16	To explain that it is forbidden to leave places of self-isolation, observation.
17	<p>For the court's personnel service to take into account the requirements of the legislation on personal data protection, to take measures to establish pool of contact persons, and to conduct briefings with such persons in accordance with paragraph 1 of these Recommendations; to offer to contact persons, who are not subject to self-isolation, to work remotely (from home).</p> <p>To encourage judges and court staff to continue participating in trainings at the National School of Judges of Ukraine by participating in online events (webinars, trainings, round tables, professional discussions, video lectures, workshops) and remote learning courses (continuity of education during lifetime), as well as to undergo specialized training on psychological adaptation to work/life in quarantine.</p> <p>The rules of the court's operation during pandemic shall be placed at the court's entrance and in the court premises in a visible place.</p> <p>To consider setting up a front desk/contact point at the entrance to the courthouse to enable filing documents and information by the visitors. The personnel working at these points shall be equipped with protective means (face protectors and/or plastic screens).</p> <p>To instruct the court staff on prevention of the spread of coronavirus infection, compliance with the rules of respiratory hygiene and anti-epidemic measures.</p> <p>To develop an algorithm of actions in case of detection of coronavirus disease among judges.</p>
Recommendations for organizing anti-epidemic measures indoors and in the workplace	
18	<p>It is for the presiding judge to decide on admission of persons who are not participants in the proceedings.</p> <p>To restrict in compliance with the principle of publicity of court proceedings the access to the court hearings of persons who are not participants in the proceedings.</p> <p>To ensure that court hearings of significant public interest are broadcast to guarantee the right to a fair and public trial.</p> <p>To consider the possibility of participation of journalists in court hearings of significant public interest, provided that it is possible to ensure a safety distance in the courtroom; to develop clear rules for journalists present at court hearings.</p>
19	<p>To ensure visible marking of seats and floors for ensuring social distance in court premises.</p> <p>To arrange places for visitors at a distance of 2 m. from each other.</p> <p>Use personal protective equipment, in particular respirators or face and mouth masks, including self-made masks, for judges and litigants.</p>

20	To take measures to avoid crowds in the courts, bodies and institutions of the justice system.
21	To carry out temperature screening of all employees and visitors before starting work and allowance to enter the premises. Employees and visitors are allowed to enter the court premises and buildings only in a respirator or protective mask, including self-made mask.
22	At the entrance to the court there shall be a place for treatment of hands with alcohol-containing antiseptics. Places for hand treatment shall be marked with bright signs with information about the need to disinfect hands (banner, sticker, etc.).
23	It is allowed simultaneous staying of visitors based on the no more than one person on 10 square meters of the area of a hall
24	To provide the courthouse with liquid soap, paper towels, alcohol-containing antiseptics.
25	To encourage court staff to refrain from contacts with those having symptoms of respiratory diseases, and in the event of respiratory symptoms to refrain from visiting the workplace, to consult a family doctor and to follow his\her instructions. In case of work incapacity certificate, court employees must immediately notify the personal service, if they got a confirmation of having a COVID-19 coronavirus disease.
26	To wash hands at least once an hour.
27	To disinfect court premises in accordance with the approved schedules placed in public places. To ensure maximum use of natural airing (to air at least once every two hours); to treat surfaces that are often touched by hands (door handles, elevator buttons, handrails, etc.) with alcohol-contained disinfectants (with no less than 60% of alcohol) during the working day; to carry out wet cleaning of premises at least once a day.
28	In case of finding out the visitors with COVID-19 acute respiratory disease, the court staff must take immediate measures to get out these persons from the court premises or isolate them in a separate room, as well as to disinfect the premises where such persons were.
29	To ensure treatment of surfaces, seats, equipment, door handles, switches in courtrooms with alcohol-contained antiseptic after each court hearing.
30	To provide judges and court staff with personal protective equipment based on one protective mask per three hours of work.
31	During the security checks of citizens in the courtroom for the items and substances prohibited by the rules of visiting the courthouse, to carry out contactless inspection of bags. If the visitors have antiseptics, to ask them to apply it in order to make sure it is really the antiseptic.
32	To ensure availability of separate containers for collection, storage and disposal of personal protective equipment when leaving the courthouse and in courtrooms.
33	If possible, to ensure constant availability of alcohol-containing antiseptics in the offices; to provide court employees with respirators or protective masks, rubber gloves.