

# **THE PROGRESSIVE EXPANSION OF VIDEOCONFERENCING IN CRIMINAL PROCEEDINGS AND DEVELOPMENTS IN AI: OPPORTUNITIES AND RISKS**

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# **INDICATORS USED BY CEPEJ AND THE EUROPEAN COMMISSION'S JUSTICE SCOREBOARDS**

- Access to online information and to court judgments
- Digital-ready procedural rules
- Use of digital technologies by courts and prosecution services
- Secure electronic tools for communication or online access to case files

# CASE LAW ON VIDEOCONFERENCING

- ECtHR, *Marcello Viola v. Italia* (No. 1),  
ECLI:CE:ECHR:2006:1005JUD004510604
- ECtHR, *Zagaria v. Italia*, ECLI:CE:ECHR:2007:1127JUD005829500
- ECtHR, *Asciutto v. Italia*, ECLI:CE:ECHR:2007:1127JUD003579502
- ECtHR, *Taavitsainen v. Finland* ECLI:CE:ECHR:2009:1208JUD002559707
- ECtHR, *Murtazaliyeva v. Russia*, ECLI:CE:ECHR:2018:1218JUD003665805

# VIDEOCONFERENCING IN ITALY: DEBATE

Why not:

- violation of defensive rights
- low-quality evidence
- poor quality decisions

Why yes:

- equivalence between physical presence and virtual presence





# LEGISLATIVE DECREE NO. 150/2022 (CARTABIA REFORM)

## Pros

- Parties could agree to the remote conduct of the hearings, including those aimed at examining witnesses (see Article 496 § 2-*bis* It. Crim. Proc. Code)

## Cons

- Judges and public prosecutors must be in the physical courtroom always and in any case

# **LEGISLATIVE DECREE NO. 150/2022 (CARTABIA REFORM)**

## **Pros**

- Provision for the audiovisual recording of every remotely participated act or hearing

## **Cons**

- No video recording, no sanction

# **FURTHER IMPLEMENTATION OF THE CARTABIA REFORM: THE ROLE OF DGSIA**

In order to implement the duties of videorecording as specifically provided by the reform, DGSIA (General Direction for Automated Information Systems of the Italian Ministry of Justice) has undertaken a roadmap that includes

- in the short term: setup of all criminal courtrooms with temporary solutions;
- in the medium-long term: implementation of Multi-Video Conferencing Systems, with Local Recordings, Fixed Cameras, and connections via Teams;
- in the end: introduction of PTZ motorized cameras and of an automatic recording and session management operating system.

# **EUROPEAN UNION LEGAL FRAMEWORK: EAW AND EIO**

- Framework Decision 2002/584/JHA (EAW): Articles 18 §1.a and 19
- Directive 2014/41/EU (EIO): Articles 24 and 25



# **LACK OF GUARANTEES IN THE CONTEXT OF EUROPEAN UNION**

C-760/22: can online presence be qualified as “presence” within the scope of the right to be present as interpreted in the Directive 2016/343/EU?

# **A NEW PROPOSAL IN THE CONTEXT OF EU CROSS-BORDER JUSTICE**

**Article 8 COM/2021/759 final: “hearing through... other distance communication technology in criminal proceedings”**

**Provocations:**

- Colombia (February 2023): first hearing in the metaverse;
- Virginia (November 2022): first form of holographic (3D) remote witness.



**Thanks for the attention!**  
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