



HORIZONTAL FACILITY FOR THE WESTERN BALKANS AND TURKEY 2019-2022

*FOR YOUR RIGHTS:
TOWARDS
EUROPEAN STANDARDS*

Videoconference in Court Proceedings: Human Rights Standards Online round table, 18 June 2020

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- Russian Experience:
- *Lockdown 2020:* Courts never fully stopped activities; cases divided into 3 groups:
 - *urgent cases* (remand hearings, other urgent matters in criminal proceedings, some misdemeanour cases, protection of minors)- offline hearings with standard precautions; when possible- use of videoconference (no technical basis for online hearings in general courts)
 - *Non-urgent cases:* proceedings stayed or postponed
 - *Judge's discretion:* to deal with cases not listed as «urgent»
- *Filing documents and claims* only electronically;
- *Commercial courts:* started hearings online in April 2020 for a N of cases
- Difference between general courts (civil, criminal, administrative proceedings) and commercial courts



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- Russian Experience:
- *Pre-Covid use of videoconference:* for remote participation in offline hearings (parties, witnesses, experts)
- *No totally virtual proceedings before lockdown*
- *Post-Covid reality:* virtual reality kept and developing
- *16 June 2020:* 10300 cases heard online (commercial courts)
- More than *17000 cases scheduled for online hearings* (commercial courts)
- *«Hybrid» proceedings:* offline hearing in court with parties/lawyers online



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- Procedural Guarantees: Identification of parties / lawyers
- *Crucial Point:* Information Security and Identification
- *Commercial courts:* use of special platform, only authorised users (identification through official website of public services «Gosuslugi»)
- *General courts:* no special platform used; occasionally used WhatsApp for urgent online hearings ; low security



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- Evidence Examination: Main Issues
- *Witness examination*: Identification (through videoconference point in another court - Identification possible; if fully online- no solution yet)
- *Documents examination*: uploaded to the system before the hearing; ideally - joint access of court and parties/lawyers; now - only possibility of sharing screen
- How to examine original documents (if needed) or exhibits? - *no solution yet*
- NB: normally evidence should be disclosed before the hearing on the merits; no strict sanctions- non compliance of the parties



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- Procedural Guarantees: Communication with lawyer during online hearing
- *Criminal Proceedings* (remand hearings etc.): generally personal attendance of the accused needed; videoconference possible from remand center / another court
- *Civil / Commercial Proceedings*: lawyer may act alone but be connected to client
- Motion for a break if urgent matter



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- Technical Issues:
- *Use of special online platform* = lower risks;
- *Check-list* before hearing;
- Ideally - *moot session before hearing* (not used in Russian courts, but recommended, in particular, by ICC for online arbitration)
- If the problem persists - postpone



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- Russian Experience:
- *Legal Regulation:* Supreme Court's Ruling issued soon after the lockdown was introduced (29 March 2020)
- June 2020: *Law Draft on Online Proceedings* introduced by Government
- Not only technical matters but procedural guarantees (how to see other parties' evidence, interaction with the court, evidence examination, postponement of hearings, etc.)