HORIZONTAL FACILITY FOR THE WESTERN BALKANS AND TURKEY 2019-2022

FOR YOUR RIGHTS: TOWARDS EUROPEAN STANDARDS

Regional online round table

"Videoconference in court proceedings: human rights standards"

Presentation by Mr Christian Licoppe, Department of Social Science, Telecom Paris and I3 (UMR CNRS 9217)

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- **1. Procedural Guarantees: Interpretation**

- **The French experience regarding remand hearings and asylum hearings with interpreters and video links**
  - Interpreters and video links together makes the practical achievement of proper hearings a significantly more difficult task
  - Lesson 1. As much as possible, the interpreter should be physically close to the remote defendant or witness
  - Lesson 2. The interpreter should be visible on screen together with the parties she is interpreting for
  - Lesson 3. Courts using video links should think in advance about where the interpreter should be seated (and more generally about the courtroom « audio-visual ecology »

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- **2. Communication with lawyer (1/3)**

- **The French experience. The place of the lawyer**
  - An unresolved and slightly controversial issue
  - Remand hearings : in court with judges or in prison, with clients ?

- **The need to allow for private communication between counsel and client**
  - A significant issue when the counsel is in court
  - A concern for court designers
  - A procedural issue during the hearing: when and on what ground interrupt the proceedings (and sometimes having the court to move) to allow for such private interaction ?
    - The danger that it will happen very rarely, even if texts allow for it

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- 2. Communication with lawyer (2/3)

- Muting participants : a constraint on the publicity of the hearings
  - Never done or discussed in the hearings i saw
  - Especially difficult with defense counsels
  - Might contradict a core principle of French law : the resources of the defense and the prosecution should be equal

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- **2. Communication with lawyer (3/3)**
- **Technical problems : they always happen at some point**
- Guidelines needed regarding the choice to postpone, to pursue the hearings by other means (if legal and practical) or to wait for resumption
- A new responsibility/competence for courts when resumption happens : know when the interruption occurred and how to give back the floor

.

- **Procedural guidelines regarding all this**
- In France what happens during the hearing (courtroom interaction) is usually not a matter of law
- But a matter of ethics and propriety
- New forms of collaboration between judges, counsels and the public regarding how to proceed

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- **3. Pre-trial detention and remand hearings**
- **Propriety concerns and the French experience**
- Remote site is usually a prison
- Audience scheduling and the articulation of courtroom bureaucracies and prison bureaucracies
- How to control for what happens on the remote site (particularly when no counsel present) ?
  - Who is there, who is responsible for who is there ?
  - How to discipline incivilities in the remote site ?
- The risk of lesser participation from the remote site

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