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Virtual Trials

accused, the audience, and the witnesses who are heard by the court in the usual way are sitting in the courtroom. In the other room, only the witness and his legal representative may be present, as well as another judge or court clerk, who shall establish the identity of the witness and ensure that he can testify without interruption.

Today, even one technician is present at both locations, who manage the technical equipment and troubleshoot any faults.

In practice, the judge does not have to do anything differently, everything as if the participant in the proceedings were in the same room.²

In addition to the parties, litigants and other persons (eg witnesses, experts) may be present at the hearing, provided that their e-mail address is announced in advance at the request of the court and that they have an Internet connection and such means, which is capable of transmitting image and sound simultaneously.

The great advantage of distance negotiation over court proceedings is the security of enforcement as well as its cost-effectiveness

- In addition to its cost-effectiveness and workload-reducing effect, its most notable feature is that the prison keeps the detainee in a penitentiary institution, relieving the staff of the production task with the highest security risk.

- Distance trial contributes to maintaining the security and order of detention

- The method of trial proves to be particularly secure in cases where there is a protected witness

- Distance trials are cheap and make it easier for the court to hear convicts serving a final custodial sentence or pre-trial detention as witnesses.³

- Distance trials is used in the West primarily in multi-accused mafia lawsuits, when dangerous defendants should be transported to court from distant prisons in the country.

It is important that the system does not jeopardize fundamental rights, and it is important that issues affecting the most vulnerable, such as the elderly or the disabled, and those directly related to the epidemic are given priority.

- If they are not implemented, it is questionable

Introduction

The epidemic has fundamentally upset the lifestyles of all of us and has significantly affected all areas of law enforcement. This period was accompanied by a huge number of cancellations due to the virus, which unfortunately is now expected to remain a part of our lives for a long time to come.

We had to give up our basic everyday activities and reshape our daily lives, which unfortunately did not only affect our family, friends, relationships and the way we used to live.

Because while we are in the midst of a pandemic life situation, the perpetrators of the crimes have still not suspended their activities, and the judiciary cannot stop, we just need to change our habits a little bit.

Overall, it can be said that the epidemic situation has significantly upset the lives of our world. In the context of the present events, it is interesting to talk about the positive effects of the virus, but it is important to mention that the evidence behind us shows that the health emergency and the resulting restrictions on freedom of movement have also helped lives and work of practicing lawyers, attorneys, and clients.

While internet-based video chat is a commonplace in everyday communication, meeting rooms were not yet very common in Hungary.

While in Hungary witnesses were heard 17 times in 2012 and 62 times in 2013 during internal and cross-border distance hearings, in 2013 there were 10,476 hearings in Austria and in 2014 in the Netherlands 50,000 hearings.

In this sense, this is not a new thing, we have merely preferred the personal form of the procedure compare to the other countries.

During the virtual proceedings, the entire court council, the prosecutor, the defense counsel, the

¹ Law student, Debrecen University Faculty of Law, A tanulmány megírása az Igazságügyi Minisztérium jogászképzés színvonalának emelését célzó programjai keretében valósult meg. In the framework of the Ministry of Justice's programs to improve the quality of legal training.

² BOGOTYÁN Róbert, Telekommunikációs eszközök alkalmazása a büntetés-végrehajtásban az igazságszolgáltatás és a jogérvényesítés hatékonyságának növelése céljából, Börtönügyi Szemle, 2018/ 4.sz., http://epa.oszk.hu/02700/02705/00116/pdf/EPA02705_bortonugyi_szemle_2018_4_015-025.pdf 2021-02-14

³ SCHMEHL János, A Büntetés-végrehajtási Szervezet megújulásának áttekintése a hatályos Bv. törvény szellemében, Börtönügyi Szemle, 2019/1.,

to what extent certain guarantee rules of criminal proceedings can be implemented.

- According to some, the right to a defense, equal opportunities – as it may be offended that the consultation time between the defense counsel and the accused is short.

With regard to internet justice, it is very important that you do not jeopardize fundamental rights when it comes to guaranteeing the purity of the procedure and the guarantee rules. The application of the institution does not infringe the principles of oral and directness, given that there is a simultaneous visual and audio connection between the place of the hearing and the place of the hearing.⁴

Negotiation guarantees can be fully enforced through the system.

As an interesting fact, I would like to mention that different countries have solved the pandemic situation during the coronavirus epidemic with different solutions, in connection with virtual court hearings.

In the U.S., federal courts have been temporarily allowed to use video and teleconferencing in criminal proceedings in view of the epidemiological situation. In Texas, however, attempts are being made to make court hearings public during this period by allowing judges to stream hear hearings through the Zoom app or on Youtube. Mention may also be made of England in terms of solutions, on the basis of a practical guide for judges, where judges may hold private hearings or hearings only if it is not possible for at least one member of the media (as a public) to take part. Primarily, the recordings are audio recordings, in exceptional cases, as far as possible or just necessary, a video recording of the hearing may be made. In retrospect, anyone can request access to these recordings.⁵

In order to enforce the principle in connection with the emergency situation, the Hungarian legislation introduced the possibility that in case of exclusion of the public, the accused or the defense counsel should be allowed to record what happened at the hearing by turning on the electronic device (except in the case of closed hearing).

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- Distance trial contributes to maintaining the security and order of detention.

⁴ SZABÓ Krisztián (2011): *A tanú zártcélú távközvetítő hálózat útján történő kihallgatása, mint a tanúvédelem külön nem nevesített eszköze* http://epa.oszk.hu/02700/02705/00117/pdf/EPA02705_bortonugyi_szemle_2019_1_095-106.pdf 2021-02-14 http://www.debreceni jogimuhely.hu/archivum/4_2009/a_tanu_zartcelu_tavkozlo_halozat_utjan_torteno_kihallgatasa_mint_a_tanuvedelem_kulon_nem_nevesített_eszkoze/ 2021-02-14

⁵ FÜLÖP Anna (2020): Az online bíróság többé nem a távoli jövő, hanem a jelen <https://jogaszvilag.hu/a-jovo-jogasza/az-online-birosag-tobbe-nem-a-tavoli-jovo-hanem-a-jelen/> 2021-02-14

- The method of trial proves to be particularly secure in cases where there is a protected witness.

- Distance trials are cheap and make it easier for the court to hear convicts serving a final custodial sentence or pre-trial detention as witnesses.

In practice, the judge does not have to do anything differently, everything as if the proceedings were put together in a room.

In addition to the many good qualities and characteristics, the question arises to the extent to which the generally recognized principles of publicity and immediacy apply to the application of general procedural principles.

How is the defendant able to feel the weight of the procedure?

Respectively, personal interactions and gestures are pushed into the background.

- In my opinion, the legal institution has not violated the general procedural principles (their enforcement in court) at the moment, but the principle of equality of arms is not undermined in such interrogations.

- But the solution will in the near future surely give birth to problems.

The problem of distance trial According to the report of the Human Rights Committee, the “human factor” is missing from such distance hearings. „Trust and personal relationships are harder to build... people and their behavior are easier to misunderstand when heard at a distance.”

Summary

The positive experiences of the video communication technologies presented in the framework of the lecture suggest that their application is likely to gain more and more ground in the near future. The distance negotiations have already set foot in Hungary and their application has mostly been accompanied by positive feedback. The video communication solution meets the requirements of efficiency and cost savings, but they also have certain downsides. This is because they result in interactions in which traditional face-to-face relationships and their personal nature are taken over by a virtual, more impersonal medium. The situation reshaped by the video connection also transforms and shapes its actors: it presupposes different skills and abilities and attitudes on the part of judges, medical staff, enforcement, legal representatives and detainees.

At the same time, “videoconferencing is a useful tool and its potential is significant not only at national level, but also, in particular, in cross-border situations involving different Member States and even third countries.

In cross-border cases, it is crucial that the judicial authorities of the Member States communicate smoothly with each other.

Video conferencing provides an opportunity to facilitate communication and can encourage it.

The benefits of a legal institution are also recognized in European Union law and on the one hand it encourages its application.

We are in the midst of changes that are social - as

soon as we have not seen much of it in criminal law - its aftermath will be decisive for later years and decades.

It is not foreseeable that this could bring a new era, but the changes are already happening can also be said to be rooted.
