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The opportunities for the development of the telecommunications “device system” for the future

pursuant to this Act may also be provided with a means of telecommunication (hereinafter together: the use of a means of telecommunication).”² The legislator doesn’t say more about this. In my opinion, since several devices are required for the telecommunication device to function perfectly, it is not a single device, but rather a system of devices including at least of pair of cameras, monitors, microphones and a device capable of transmitting via the Internet. This idea is also supported by Anita Nagy’s position that it is an „audiovis-

Introduction

We are all aware that the advances in computer technology are now an essential tool in most professions. However, society is able to reach a new level of development by expanding their scope of application, utilizing computers, the Internet, or other machines in more and more places. In the judiciary the development of technology can also be seen in the telecommunication device named in the Act XC. of 2017 Code of Criminal Procedure (hereinafter: CCP). In connection with this device, this study addresses why the name is incorrect, and what would be more appropriate to use instead. Following that I would like to introduce how these tools work and what development directions can be imagined in the future in connection with this system. My hypothesis will be that a telecommunication device system can be a perfect substitute of personal interrogation – as we have seen during a viral situation – but this system is not yet perfect.

1. Telecommunication device system advances

The first step in examining the topic is to define what a telecommunications device means as a concept. Under in the current Criminal Procedural Law „A person obliged or entitled to be present at a procedural act

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ual system”.³ Because of all this, I will use the term telecommunication device system hereafter.

The first stage in the development of the toolkit was witness protection. In connection with witness protection, the idea arose in Hungary for the first time in the late 1990s and early 2000s that the creation of a legal framework is not enough, therefore the necessary logistical background, infrastructure and – above all – human resources are required to create witness protection tools.⁴

In 2015, the “Electronic solution for the development of work organization and communication of public administration in different geographical locations” was launched, ie the VIKI project, which is operated by Nemzeti Infokommunikációs Szolgáltató Zrt. (Hereinafter: NISZ).⁵ With the help of the VIKI project⁶, by 2018, 215 locations were set up for remote hearing rooms, most of which have courts with endpoints. Thanks to the further development of the past few years in the country, the number of NISZ video conferencing service endpoint rise to 817, of which 458 is built to be an endpoint. The table below shows in detail how the deployment of remote listening endpoints has evolved in recent years.⁷

In order to get to know the practical experience of the application of the telecommunication device system in the courts, I contacted the Court of De-

² CCP 120.§

³ Anita Nagy: A telekommunikációs eszközök használata különös tekintettel a büntetés-végrehajtásra, Kúriai Döntések, 2019/10., 1350-1354. p.

⁴ http://acta.bibl.u-szeged.hu/56965/1/juridpol_forum_007_002_005-024.pdf Erzsébet Anett Gácsi: Büntetőtárgyalás tartása zártcélú távközlő hálózat útján (letöltve: 2020.10. 16)

⁵ <https://birosag.hu/hirek/kategoria/ugyfeleknek/targyaltotermi-kep-es-hangrogzites-folytatodik-az-uj-eszkozok-telepitese> Tárgyalótermi kép- és hangrögzítés: folytatódik az új eszközök telepítése (letöltve: 2020. 10. 16)

⁶ VIKI Projekt <https://videokonferencia.nisz.hu/> (letöltve: 2020. 01. 13)

⁷ Based on the answers to the questionnaire sent to NISZ.

brecen, however, due to the pandemic situation, I could not personally conduct research. Instead, I was able to submit my questions as a questionnaire and illustrate the results of their answers to some of the following. The following diagram shows the proportion of individual participants in the telecommunications proceedings conducted at the General Court of Debrecen in September 2020. It is interesting to observe from these data that the court primarily uses the procedure of telecommunication devices for defendants and suspects, which is a significant development. considering, as I wrote above, this system was originally created to protect witnesses. But it also proves the development from the beginning, which can be expected in the 21st century from an electronic device system.

According to the questionnaire filled in for me by the General Court of Debrecen, 191 remote hearings took place in 2019, while in 2020 there were 761 remote hearings by 26 October 2020, which shows a huge increase compared to last year. It can be concluded from this that the courts consider this system of tools, which also facilitate the conduct of the proceedings, to be an appropriate method and are happy to use it. Furthermore, they are also preferred after the quarantine situation, as an outstanding increase was produced from May, when court workers were able to return to work. When asked by the head of the Penal Chamber about the opinion of criminal judges about the telecommunication device system, he stated that “it is completely positive and in my opinion there is no disadvantage of this device system”.⁸

Among the anonymized decisions found on bíróság.hu, the system found 174 decisions for the term telecommunication device. Of these, 75 (and a further 8 in military) were decisions in criminal cases. Interestingly, there was no decision on an offense law or a sentence. On closer inspection, however, it can be stated that only a negligible part of these 83 decisions in which a telecommunications equipment system or a private telecommunications network in the old CCP name was used.⁹ The results were issued because the crime was committed in several places using a telecommunications device. As for the procedure to be followed with this toolkit, the result was 12. However, from the point of view that these negotiations all took place under the CCP, it shows a positive picture of the fact that the courts are indeed happy to use this system of tools.¹⁰

⁸ Dr. Antal Nagy is a judge of the Debrecen Tribunal Court and head of the Criminal college.

⁹ Act XIX. of 1998 Code of Criminal Procedure.

¹⁰ Anonimizált határozatok – UIR (birosag.hu) (letöltés dátuma: 2020. 11. 03.).

2. Psychological analysis

“In addition to the legality of evidence and the laws of logic, aspects of judicial conviction and psychology are highly emphasized in evidence and judicial fact-finding.”¹¹

The purpose of this part of the dissertation is to support the argument, which I also mentioned in the introduction, that it would be necessary to psychologically examine the persons involved in the proceedings who testify in front of the camera, as their behavior in front of the camera may change. In the following, I would like to present my experiences drawn from interviews conducted during my research. My interviewees included several physicians and psychologists. Among these was a chief physician of the hospital's adult psychiatry, an addictologist and a psychological rehabilitation specialist (the doctor), a psychiatrist who was also a television reporter (the doctor) and a master's student in psychology (the student). In the interviews, I asked questions similar to those interviewed in some places, and I wanted to get an answer to whether the prosecution and the defense could also refer to the fact that the person testifying could not be discounted for psychological reasons because one was affected differently by the camera. than other people. In my opinion, this would also be a relevant investigation for the court, as if a person involved in the proceedings were sent for such a psychological examination before the interrogation, they could save the subsequent examination. The duration of the proceedings would be further reduced and it would be more cost-effective with the investigation I propose, as a complex resolution on the person making the testimony would be in the hands of the judge even before the interrogation.

Below, I organize the information gained during the interviews around some topics.

2.1. The effect of the camera on human behavior

The camera as well as the sound recorders affect people because they record what they say and they don't know who and how many people can watch it later. People try to appear their best, most ideal self, when they want to make a good impression, similar to a court trial. Thus, in this situation, one can speak of an image of the “idealized self,” which is not always honest, not always in line with reality. And in this case, in a procedure with the system of

¹¹ https://debreceniitlotabla.birosag.hu/sites/default/files/field_attachment/gondolatok_a_bizonyitasrol_ht_0.pdf Tamás Háger: Gondolatok a bizonyításról, 2.p. (letöltve: 2020. 03. 16).

telecommunication devices, this idealized self-denotes of the self in front of the camera, because it wants to reach, show, and even influence how they are seen. However, it should be added that just like in front of a camera in a show, it means a lot to the presenter trying to control the conversation. In our case, there are several “presenters,” as this person may be the judge, the prosecutor, or the defense counsel at the trial, and the person conducting the interrogation at the interrogation.

My other interviewees also supported the position expressed above, adding that it is absolutely possible to change a person’s behaviour in front of a camera or even just a microphone, which is recorded and can be recalled later. The presence in front of the camera completely confuses many people and they cannot think properly. „The compliance constraint can work very strongly to put it nicely, to make your hair look good and to have all the external factors in place.”¹² Other interviewees also supported the fact that there is more self-control in front of the camera, and there is also a kind of compliance compulsion so that what they say and show there is right and they paint a good picture of themselves. This is why often people hesitate to answer a particular question. If there were no cameras, the person would not feel that what the person was saying could be checked and used later because it would be on a recording.¹³ During my interview with the police, I learned that during the interrogation, the person talking to the camera sees himself a little on the monitor, so it’s probably not as confusing as if they had to look at a fixed point and not see themselves, even in a smaller picture.¹⁴ It’s also a setback to talking in front of the camera, because that kind of concentration can distract from the content and get confusing into the text you want to say.

Depending on the personality, the presence of the camera affects who. There are extroverted people who are not interested in what others have to say, they are only interested in what they have to say and take control. However, we have to reckon with the so-called facilitating anxiety, which is an inspiring push, like when an athlete goes up on the field and it encourages him.

2.2. Automation of behavior in front of the camera

I was also wondering whether there was enough practice or practice to prepare for an interrogation with a telecommunications device system or just an audition. The basis of my line of thought was that we can prepare for a lecture with enough practice,

and the ability and skill to perform can be learned. This is supported by what my interviewees said.

They were all of the view, as can be seen from what has been described so far, that the behavior in front of the camera can be practiced as well as taught. We know exactly how much training those who do a lot in front of the camera get in this. This is also the reason why the authorities use spokespersons.

2.3. The narcissistic personality in front of the camera

Narcissistic personalities all want attention and would do anything for it. That’s why I was wondering if these people can be filtered out and who has such a personality, how they behave in front of a camera.

My interviewees said that personality depends on how they react to the camera or the microphone, so it can all happen that someone comes to life in front of the cameras or even closes up. There are those who are encouraged to appear in public and thus want to make as much impact as possible, so even if you say great, just pay attention to it. However, there are also those who are introverted and do not want to appear in public.

The narcissistic personality trait can be seen as parallel with an introverted personality. However, it should also be noted that this is a separate area – a kind of personality – which is why it can be examined not only from the point of view of the camera and the manifestation before it.¹⁵ The characteristic of this personality trait is that one is in the middle of everything and that is why one needs attention. Very often, one treats other people merely as a tool. This is the reason why this type of personality often occurs around the camera, because in some cases it is not the point that needs to be said, but that one himself is in the crossfire of the cameras and can talk and be watched. In such cases, it often happens that there is no kind of humility that is relevant to the topic, the situation. Such a person is practically interested in nothing but to portray him in the best possible image. It is conceivable that if one knows that the interview will be published, one will try to magnify himself and try to reinforce his way of thinking on the given topic as much as possible in his narrative. For such a person, a lie is completely natural and very often one does not even notice that one is lying, because the most important thing for him is to maintain his narcissistic self-image. However, this personality type can be detected by a simple test (STAI-S state anxiety test, STAI-T trait anxiety test).

Of course, narcissism also has a milder manifes-

¹² Based on an interview with a doctor.

¹³ Based on an interview with my fellow student.

¹⁴ Based on an interview with an officer in the crime department.

¹⁵ Super self-centered image. Narcissus looked into the water of the lake and fell in love with himself.

tation that can be described as “everything that is attached to me must be perfect”¹⁶. However, if we think about it better, it’s in all of us and it can even be healthy because it drives us forward to be better.

2.4. Justification of the existence of a preliminary psychological test

My view is that it would be worthwhile to complete a psychological test with a person involved in a procedure using a telecommunications device system. In my opinion, this would be necessary because in this way the previously mentioned personality traits and problems would be noticeable and on this basis it would be easier to decide to what extent the truth content of the confession can be substantiated.

My interviewees also endorsed my idea, and doctor also said that in his opinion, it would be worthwhile not only because of this, but anyway. Because a psychological study is a thing that moves on a lot of spectra. “It’s worth going to the butcher shop among the plethora of butchers you can buy, but we may need the butcher’s help to choose between the goods. This is exactly what a psychological examination in criminal proceedings is like, because there are also a lot of questions in the proceedings that a psychologist can help the court answer.”¹⁷ This is because people, whether in the investigation or trial phase, are capable of acting performance, and amateur acting performance can be explored by psychology. I would consider the psychological examination to be valuable and relevant in any case, but the questions and the interviewer are also very important.

My psychiatrist interviewee, who has been working as a reporter for decades, would also see the point of such a test because she found on her own skin that the camera was able to distort the manifestations and sayings of the person in front of her. In any case, you would consider a personality disorder test or anxiety test to be necessary in order to obtain the most valid statements / results when making a confession.

The psychological tests I mentioned can even be found in a university textbook. Individuals’ levels of anxiety jump when they are videotaped or recorded. If an anxiety test were completed before and after the confession, there would certainly be a change. They could also be filled with a personality disorder test because the behaviour of narcissistic or camera-sensitive people would change completely and this could be demonstrated by psychological experts in simple ways.

This brings us to the part of my dissertation where I would like to say what solutions I would like to use in my research on how this toolkit could evolve.

3. Problems encountered and suggestions for solutions

In an emergency caused by the coronavirus, there was a real need to use the telecommunications device system in the courts. Had they been able to do so earlier, it could have been applied from the first day of the extraordinary break in the spring, with the necessary precautions, and the burden that might have arisen during that time would have been less. According to one of the heads of departments of OBH, the future of the telecommunication equipment system will be significant not only in terms of the conduct of proceedings, but also in terms of the further training of court staff.¹⁸

According to the principle of impartiality, „the court shall base its decision on the facts and evidence examined directly at the hearing”. This evidence includes the testimony of a person in the proceedings. The telecommunication device system helps in this, as it allows the person making the confession to be present at the hearing in real time, even from a distance of hundreds or thousands of kilometers. It can therefore be said that the procedure with the system of telecommunication devices complies with the principle of directness.

Problems also include data transfer problems that can sometimes occur despite advanced technology. NISZ Zrt. Does its best for the perfect connection, just like those working in the police, the court or the prison on the receiving side. If such an error occurs, NISZ Zrt. Will correct it immediately at the request of the police. If the police make a mistake, it should be reported to the ORFK authority immediately, also to correct the mistake.

The police believe that the fact that they cannot pay perfect attention to the body language of the person being interrogated can also be a problem during interrogation with a system of telecommunication devices. Interrogation with a system of telecommunication devices is completely different, as it creates a special atmosphere and differs from that if the person is interrogated in person. People to be interrogated may feel in front of the camera as if they are at a safe distance from the interviewer, so they can be calmer, more liberated, or even more likely to lie. This is also why personal questioning is better in the opinion of those working in the police, as questioning a suspect is an art because you need to be prepared for it both professionally and spiritually. It is a two-way game, as a contact is made between the interrogator and the person to be interrogated. This is why respondents stressed that

¹⁶ Based on an interview with a doctor

¹⁷ Based on an interview with a doctor

¹⁸ Péter Zoltán János <https://youtu.be/VHmWOSsloqA> (letöltve: 2020. 11. 03.)

personal presence is essential in some cases. Signs of a psychic nature can be damaged during remote interrogation during interrogation because a completely different image comes through. This is why there are often times that they prefer to travel and interrogate the person locally, but during a pandemic they try to keep this to a minimum. In my opinion, by developing a system of telecommunications tools, the benefits of personal interrogation could be transferred to the online space.

One of the conditions for accepting the testimony of the accused confessor during the preparation of the trial is that there is no reasonable doubt as to the accused's ability to set off and the voluntary nature of his confession.¹⁹ With regard to "reasonable doubt", the question arises as to whether it can be established with absolute certainty by means of a telecommunication device system or only in the personal presence of the accused. Since CCP does not specify at what stage of the proceedings the court may use this system of equipment, so my question to the Debrecen General Court also included the question of whether a telecommunications equipment system would be used during the indictment phase of the preparatory hearing and whether it could be used to filter out reasonable doubt or insist on a personal presence. I received the answer that this toolkit is also suitable for establishing reasonable doubt and the toolkit is also used during the preparatory meeting.

I believe that the next step in the application of the telecommunication device system, even in the event of another emergency, will be to be able to carry out more procedures in the form of remote interrogation / remote interrogation than before, thus preventing their prolongation. The number of such proceedings could also increase for persons in need of special treatment, as it would be much safer than if transportation were required, for example, if such a person had to testify in court as a witness. The same can be said for a child talking to a trained psychologist in a playroom about what happened, this would be recorded with a video and audio recording and the relevant parts of that recording would be played back in court.

My suggestion for development is that it would be easier to testify by creating an application that can be connected to a telecommunications device system, as the person to be questioned could testify on a telecommunications device (smartphone, tablet, laptop, computer) or in their own home. In the case of the accused, the defense counsel, in the case of the victim, the legal representative, or in the case of the witness, the lawyer acting on behalf of the witness may also be summoned to the interview. During the interrogation, a continuous video and audio recording can be made, which can later be used to make

a record or the recording can be attached to the documents. It is much easier to question juvenile witnesses using a telecommunications device system, as most young people already have such a device.

A further development option would be for the authority to put the suspect in a suitable chair for questioning, which, like a polygraph, performs a continuous heart rate measurement on it, in addition to monitoring his physical reactions and his body temperature. Numerous studies have already shown that physiological reactions change, if not tell the truth. For the same, a smart watch could be used to download an app to track the changes just listed. If a person does not have a smartwatch, the authority conducting the interrogation or hearing could provide him or her with a smartwatch for the duration of the proceedings.

Since there is now a "stripped-down" flow of information when using a telecommunication device system, another direction of development could be the use of a facecam (facial camera) that tracks facial expressions, the eye, and its changes. In this way, we can keep track of all the information that would be seen on the confessor's face during a personal interrogation using a telecommunications device system. All this is not so distant future, as there is also a camera with 3D face recognition for laptops, tablets and smartphones, which can also be used by the judiciary.

In addition, I would suggest completing a psychological test to determine how a person participating in the proceedings would be affected by a statement or interrogation in front of the camera.

4. Summary

In my dissertation, my hypothesis was confirmed, as the telecommunication device system can replace the personal interrogation with all the development suggestions I presented in my presentation. It is particularly important to carry out a psychological test of participants before applying the procedure with the telecommunication device system, as this would help the court to determine the creditworthiness of the confession. At the same time, it cannot be neglected that almost everyone now has a smartphone and related smart devices that can be used for interrogation with the telecommunications device system.

I think that advances in technology are already appearing in the judiciary – and will continue to evolve – and not only in DNA tests that are known to everyone, but also in interrogations. In my opinion, there are innumerable opportunities for development in the field of the system of telecommunication devices, either for the examination of witnesses or only for the conduct of court proceedings, and it has not yet reached its perfect form and utilization. I believe that the greater role played by the emergency will have a positive impact on the telecommunications equipment system and can be further developed.