

Digital Justice in the Era of Covid-19: a Pan-European Perspective

Switzerland

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Background to Swiss court system

- Organization of courts is largely in the hands of the cantons (decentralized)
- Federal Codes of Civil Procedure and Criminal Procedure
- Option of e-filing, but court system still paper-based

Courts first to react: Suspension of hearings

- Information to the public: No more hearings until end of March
- Only urgent cases
- Deadlines for submission of written briefs unaffected

Legislative reaction

- Extraordinary "court holidays" in March and April (not for criminal proceedings)
- Deadlines for written briefs suspended
- "The judiciary must remain fully functional in its core functions, **especially** in times of uncertainty. However, in order to enable courts, authorities, lawyers and parties to better adapt to the difficulties caused by the coronavirus ..."

Courts held hearings via video conferences

- Courts informed parties in the concerned cases
- Basis: liberal interpretation of the Code of Civil Procedure
- Zurich Commercial Court: "The videoconference is organised by the Commercial Court and all parties are connected from their respective locations via their mobile phones."

Legislative reaction

- Hearings via video conference are permitted if the parties agree or if there are important reasons, especially urgency
- However, implied that generally not permissible under Code of Civil Procedure
- No specific guidance on tools to be used

Reaction of the lawyers

- Law firms differently equipped to handle situation
- E-filing increased
- Clients online-meeting (Zoom, Skype etc.)

Will COVID increase digitization in the legal industry?

- Legal sector has become more open to digitization
- General tendency of enabling flexible working (legal industry lacking behind)
- Overhead costs of law firms
 - Less support staff
 - Less paper
 - Less travelling

Will COVID increase digitization of justice?

- The way lawyers interact with courts has remained largely unchanged for 100 years
- Old habits die hard
- COVID has forced the judiciary and lawyers to break some habits and embrace digitization

Will COVID increase digitization of justice?

- Increase of e-filing
- Push for digitization of court systems (Justitia 4.0)
- Will video-conferences remain? Probably, legislative changes required.
- Cybersecurity has taken a backseat during COVID, but will become a key concern for any future digitization of justice.