

ASEJ

Scientific Journal

Bielsko-Biala School of Finance and Law

Volume 26 | Number 4 | December 2022

ISSN2543-9103
eISSN2543-411X
www.asej.eu

4.0

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Bielsko-Biala

Bielsko-Biala School of Finance and Law
Wyższa Szkoła Finansów i Prawa w Bielsku-Białej

Scientific Journal
Zeszyty Naukowe

Academic Quarterly Publication
Vol 26, No 4 (2022)

Bielsko-Biala 2022

Scientific Journal of Bielsko-Biala School of Finance and Law

The Journal is published by Bielsko-Biala School of Finance and Law; ISSN 2543-9103, eISSN 2543-411X.

The Journal is a quarterly publication with the scoring of 70 assigned by the Polish Ministry of Education and Science, prompting quality scientific work with local and global impacts, conducting a peer-review evaluation process and providing immediate open access to its content. The publication features original research papers as well as review articles in all areas of science, with particular emphasis on social sciences (including Finance, Economics, Business, Law, Internal Security) and technical sciences (especially IT).

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Bielsko-Biala School of Finance and Law University Press
ul. Tańskiego 5, 43-382 Bielsko-Biała;
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ISSN 2543 – 9103 eISSN 2543-411X

December – 2022

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Editorial Words

Dear esteemed readers,

It is my great pleasure to welcome you to the latest edition of ASEJ, the academic journal that brings you the latest research in the fields of law, economics, logistics, finance, psychology, criminology, computer science, and security. This issue features a diverse range of articles from leading experts in these fields, showcasing their latest research and insights into current trends and challenges.

As we continue to face unprecedented challenges and rapidly evolving technological advancements, it is more important than ever to stay up-to-date with the latest research and trends in these fields. This issue of ASEJ offers valuable insights and perspectives that are essential for anyone seeking to stay at the forefront of their respective disciplines.

We would like to take this opportunity to express our sincere gratitude to the authors for their hard work and contributions to the advancement of knowledge. We would also like to acknowledge the invaluable support of the Bielsko-Biala School of Finance and Law for their continued commitment to publishing this journal, which serves as a platform for the exchange of the latest knowledge and insights.

Virtual reality (VR) technology has been advancing at a rapid pace, and with its growth come a range of challenges in various fields, including economics, law, security, and computer science. In the realm of economics, one challenge is determining how to integrate VR technology into existing business models. VR has the potential to revolutionize the way companies conduct business, but it also requires significant investment and infrastructure to do so. Additionally, there are concerns about how VR will impact the job market, as it could potentially eliminate the need for certain types of jobs while creating new ones in the VR industry.

In this issue, we also explore the growing significance of virtual reality in law, economics, finance, and security. As VR technology continues to evolve, it presents both opportunities and challenges in these fields. For example, in economics, VR has the potential to revolutionize the way businesses operate, but it also requires significant investment and infrastructure. In law, the use of VR raises important questions around data protection, privacy, and intellectual property rights. In finance, VR can be used to enhance customer experiences and provide new insights into investment opportunities. In security, VR presents new risks and challenges, such as ensuring the safety of users and protecting sensitive data from cyber threats.

We hope that this issue of ASEJ will prove insightful and informative for our readers, and we look forward to your feedback and contributions in future editions.

Sincerely,

Dr Muhammad Jammal
Editor of the ASEJ, Issue 4, Volume 26, 2022

Implementation of the right to court and conducting remote hearings in civil proceedings.

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Abstract— The COVID-19 pandemic has introduced colossal changes in the functioning of courts. As it were, certain inevitable changes were accelerated, and the courts were forced to undergo digitization and open to remote operation, which was a more common phenomenon in other industries. The pandemic meant that not only the courts had to use distance communication programs to a greater extent, it happened in almost every industry. The purpose of introducing remote hearings during the pandemic was to enable the functioning of the courts without exposing the public to infection.

Keywords— civil proceedings, court, remote hearings

I. INTRODUCTION

The introduction of remote sittings in civil proceedings in the era of the COVID-19 pandemic was a necessity that allowed to protect the courts from paralysis related to the epidemic threat (Świder 2022). Pursuant to Art. 15zzs 1 section 1 of the Act on special solutions related to the prevention, counteracting and combating COVID-19, other infectious diseases and crisis situations caused by them (Journal of Laws of 2020, item 374, Journal of Laws of 2021, item 2095) during the state of epidemic threat or the state of epidemic declared due to COVID-19 and within one year from the cancellation of the last of them, in cases examined pursuant to the provisions of the Act of November 17, 1964 - Code of Civil Procedure, hereinafter referred to as the "Code of Conduct In the case of civil proceedings, a hearing or a public hearing is conducted with the use of technical devices enabling them to be conducted remotely with simultaneous direct transmission of image and sound (remote hearing), with the proviso that the persons participating in it, including members of the adjudicating bench, do not have to stay in the court building. This provision was introduced into the Act pursuant to Art. 46 point 21 of the Act of May 14, 2020 amending certain acts in the field of protective measures in connection with the spread of the SARS-

COV-2 virus (Journal of Laws of 2020, item 875, as amended). It entered into force on May 16, 2020.

The following conclusions can be drawn from the analysis of the provision. First of all, the terms "state of epidemic threat" and "state of epidemic" should be distinguished. These terms are defined in Art. 2 of the Act on preventing and combating infections and infectious diseases in humans (consolidated text, Journal of Laws of 2019, item 1239, as amended). The legal definition of the term "state of epidemic" implies that it is a legal situation introduced in a given area in connection with the occurrence of an epidemic in order to take anti-epidemic and preventive measures specified in the Act to minimize the effects of the epidemic (Article 2-point 22 Disease Prevention). In turn, the "state of epidemic threat" means a legal situation introduced in a given area in connection with the risk of an epidemic in order to take preventive measures specified in the Act (Article 2 point 23). However, it is impossible to omit another significant conceptual definition, namely "epidemic", contained in Art. 2 points 3 DISEASE PREVENTION. This term means the occurrence of infections or infectious diseases in a given area in a clearly greater number than in the previous period, or the occurrence of infections or infectious diseases that have not occurred so far (Bosek 2021). Nevertheless, it should be borne in mind that the legislator clearly used the terms "state of epidemic threat" and "state of epidemic", so it refers to legal situations, not factual ones, regarding situations where remote hearings will be allowed.

The second conclusion is that conducting remote hearings at this time is obligatory, and only in the event of exceptions indicated in the following paragraphs can you withdraw from the online hearing at this particular time. Therefore, conducting remote hearings remains the rule.

An exception to the principle of conducting a remote hearing is provided for in section 2 of Art. 15zzs1, which states that conducting a remote meeting may be waived only if it is necessary to examine the case at a hearing or in open court, and



conducting them in the court building will not cause an excessive threat to the health of the persons participating in them.

The conditions for withdrawing from conducting an online hearing must therefore be met jointly.

There is also the issue of hybrid hearings, i.e., those that are partly held in the courtroom and partly remotely. In fact, they raise the most doubts, because the solution allowing remote participation in the meeting only by one of the parties is not supported by the regulation of Art. 15zżs 1 *Coronawirus*, and additionally it destroys the purpose of introducing passed trials, which, according to the legislator, is to ensure the functioning of the justice system with the least possible threat to health (Jasińska 2021). However, practice has developed the possibility of using hearings of such a mixed nature, in particular for practical reasons, in particular such as the initial appointment of a remote hearing and then requesting by one of the parties to enable online participation.

It should be borne in mind that the legislator introduced the temporary nature of these solutions and they are valid during the state of epidemic threat or state of epidemic and within a year from the cancellation of the last of them. Therefore, at present it has not been decided to permanently introduce the system of hearings submitted to the Polish civil procedure.

Therefore, the question arises whether the introduction of a passed hearing constitutes a limitation of the openness of the proceedings and whether it does not constitute a limitation of the right to a court.

II. RIGHT TO COURT AND REMOTE HEARINGS

The right to a fair trial is guaranteed by Art. 45 of the Constitution. Pursuant to the content of sec. 1 everyone has the right to a fair and public hearing, without undue delay, by a competent, impartial and independent court. However, sec. 2 of the aforementioned article provides that the exclusion of the openness of the hearing may take place for reasons of morality, state security and public order, as well as for the protection of the private life of the parties or other important private interests. The judgment is announced publicly. In addition, the right to a court is guaranteed by Art. 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms, done at Rome on November 4, 1950, subsequently amended by Protocols Nos. 3, 5 and 8, and supplemented by Protocol No. 2, which states that everyone is entitled to a fair and public hearing in within a reasonable time by an independent and impartial tribunal established by law in the determination of his civil rights and obligations or of any criminal charge against him. Court proceedings are public, but the press and the public may be excluded from all or part of the court hearing for reasons of morality, public order or national security in a democratic society, when the interests of minors so require, or when it serves to protect the private life of the parties, or in special circumstances, to the extent deemed strictly necessary by the court, where publicity would be detrimental to the interests of justice.

There are two types of publicity in court proceedings:

external and internal. As far as external transparency of the proceedings is concerned, it concerns third parties in relation to the proceedings, i.e. those who are not parties to the proceedings. On the other hand, the internal transparency of the proceedings applies to the parties and participants in the proceedings.

One should fully agree with the statement that the open nature of the proceedings is one of the guarantees of a fair trial - it is a derivative of the idea of public exercise of state power, enabling citizens to exercise control over the judiciary, and thus over state institutions in general. Transparency is to protect the parties against the inquisitorial trial, against the administration of justice administered in secret and without public supervision (Litowski, 2021; Łazarska 2020). Public proceedings are also the foundation for building citizens' trust in the court. The function of transparency of the proceedings is to protect the individual against the arbitrariness of the court, which is thus subjected to social control (Nowicki 2013).

Undoubtedly, for technical and organizational reasons, conducting a remote hearing constitutes a limitation of the openness of the hearing, as only the persons participating in it, i.e., the parties, witnesses and experts, receive a link to participate in the hearing. This therefore limits the ability of citizens to participate in the administration of justice. This is because bystanders will not know at all that the hearing is taking place, as the link to the hearing is not published on the court's website.

External transparency, i.e. the one towards third parties in relation to the proceedings, who are not parties to the proceedings, will be particularly limited during online hearings, but also during the pandemic through internal orders of court presidents regarding the possibility of the audience entering the hearing, due to ensuring security. Also, the organizational and premises possibilities of the courts and the need to ensure a minimum distance of two meters mean that the openness of the external hearing has been very limited and the public will not be able to participate in the hearings.

In addition to limiting the external transparency of the proceedings, the acts related to the pandemic also organically suppressed the internal transparency of the proceedings, i.e. towards the parties and participants of the proceedings. According to the content of Art. 15 zżs1 section 3 *CoronawirusU*, the chairman may order a closed session when it is not possible to hold a remote session and holding a hearing or a public session is not necessary. Nevertheless, it should be borne in mind that examination of a case in closed session has already been allowed in Art. 148 1 of the Code of Civil Procedure, which has been in force since June 9, 2016. In this case, however, the party has the option of requesting a hearing.

Initially, with covid solutions and the original content of art. 15zżs *CoronawirusU*, a party could object to holding a closed-door meeting within 7 days from the date of delivery of the notification about the referral of the case to a closed-door meeting. From July 3, 2021 (Act amending the Act - Code of Civil Procedure and some other acts of May 28, 2021 (Journal of Laws of 2021, item 1090)), the website no longer has such a possibility. The legislator removed in this respect the possibility

of opposing the party. In such a case, the openness of the proceedings is limited not only externally, but also internally for the parties or participants. Such a solution constitutes a far-reaching interference with the citizen's right to a court. The party is no longer able to decide to have its case examined at a hearing.

Interestingly, the regulation of art. 151 § 2 of the Code of Civil Proceedings, added by the amendment to the Code of Civil Procedure of 10.7.2015, introduced the possibility of holding public hearings remotely, during which participants are in another court, performing procedural activities there, which are then broadcast from the courtroom of the court conducting the proceedings, and conversely. However, this provision was dead and since the introduction of the regulation, not a single hearing in this mode was held (Rogala 2022).

Remote hearings, therefore, really appeared only during the pandemic. In practice, remote hearings are called remote hearings or videoconferences, hybrid hearings are also possible, which allow the participation of some people in the courtroom, and others through technical devices enabling remote communication. Remote meetings are conducted with the use of technical devices enabling them to be conducted remotely with simultaneous direct transmission of image and sound.

In practice, the transparency of the proceedings is a guarantee for citizens. It is to protect them with arbitrary decisions and arbitrariness of the judges. The transparency of the proceedings also forces the judge to comply with the law, avoid arbitrariness and arbitrariness, but also has a guarantee for the courts and judges themselves. It protects them against suspicions and allegations and allows them to demonstrate independence and impartiality, and the judgment issued in this way gains more seriousness. This feature is implemented through open consideration of cases and public announcement of judgments. The transparency of the proceedings is closely related to the principle of orality, which gives the court the opportunity to meet the participants of the proceedings in person (which significantly affects the assessment of their credibility) and contributes to the acceleration and increase of the efficiency of the proceedings and the reduction of costs.

The transparency of the proceedings is therefore needed both as a guarantee for citizens and as a guarantee of the proper functioning of the judiciary.

In addition, one should not lose sight of the fact that the Constitution of the Republic of Poland in Art. 182 provides for the principle of participation of the social factor in the administration of justice. The problem is that the basic law does not provide for the minimum scope of this participation anywhere (Kwaśniak 2022). Will the minimum implementation of this constitutional norm be the participation of the audience or is it about participation in adjudication, i.e. adjudication in a panel with the participation of lay judges? Nevertheless, limiting the external purity of the proceedings by limiting the possibility of audience participation in the hearing may also constitute a violation of this constitutional norm.

III. REMOTE HEARINGS. PROS AND CONS.

As far as the arguments for remote hearings are concerned, they primarily allow people permanently residing abroad, living far from the seat of the court, to participate. Due to the introduction of passed hearings, the number of cases of the so-called for legal assistance. It should be noted that remote hearings are more immediacy than legal aid and the adjudicating court has direct contact with the evidence.

Remote hearings also allow you to save time in connection with the parties and attorneys traveling to the court, which in turn translates into lower costs in terms of travel costs, as well as court maintenance costs, such as heating or cleaning products. This, in turn, translates into environmental protection, because fewer people participate in transport.

Less frequent adjournments of hearings can also be observed, as it is easier for parties or witnesses to participate in the hearing, as they can do it from home or work, they do not waste time traveling to the court.

It can also be pointed out that remote hearings are also a natural consequence of significant computerization in the modern world and are moving with the times. It is difficult to imagine functioning without the Internet nowadays.

When it comes to arguments against it, we can mention such problems as: weakened authority of the court and weakened sense of justice of the parties, violation of the principle of immediacy, violation of openness of the proceedings, more difficult assessment of evidence, technical problems with remote connections, the ability to prompt witnesses - reading from a card or screen - no the possibility of signing, e.g., at the settlement.

The court should evoke a sense of authority and respect in citizens, which results from the constitutional principle of trust in the state (Świder 2022). It is definitely more difficult to maintain the dignity of the court during hearings passed, people participating remotely are not focused on the hearing, but participate in the hearing between their activities, they are often not properly dressed, they do not stand up when it is required in the courtroom, e.g., when announcing a verdict, when taking the promise. The authority of the court is not tangible. Their perception is also limited, because they do not see everything that happens during the trial. The parties also have a weakened sense of justice when trials are passed, because they do not feel that the court really considers their case and devotes time to them. The court also has much more difficulty in assessing evidence, often due to imperfect connections, the facial expressions of witnesses and parties cannot be clearly seen, which weakens the possibility of a correct reaction to a lie, as well as in assessing the sincerity of the statements of individual participants. It is also more difficult to maintain focus when performing activities remotely, and this applies to the court and participants. As a result, the principle of directness is not fully realized and it is easier to come into contact with a personal source of evidence in the courtroom than through a computer window. Of course, this also violates the constitutional principle of openness of proceedings, which was already mentioned above.

Technical disturbances, such as poor Internet access, lost

signals, as well as an easier possibility of influencing the independence of testimony, such as the ability to read from a piece of paper or screen, easier possibility of telling a story, or the participation of a witness in the attorney's office, the ability to listen to what other witnesses say, are also a big problem. It is not known for sure who is present on the other side of the computer.

IV. CONCLUSION

The introduction of remote hearings, the possibility of sending letters in electronic form, e-mail communication is a kind of milestone in the functioning of courts that have not been sufficiently computerized so far. This article focuses on the problem of online hearings in civil proceedings. Certainly, it should be said that online hearings make it much easier to conduct proceedings for the parties, according to the assumptions of the draft act, they are also to streamline proceedings and ensure safety in the field of health protection. In particular, aspects facilitating the conduct of proceedings can be observed in non-litigious proceedings, such as declarations of inheritance acquisition, divisions, inheritance or dissolution of joint ownership, where participants also residing abroad can be gathered. In the author's opinion, however, they should be an exception and the courts should, as a rule, return to traditional hearings.

V. REFERENCES

- L. Bosek, Act on preventing and combating infections and infectious diseases in humans. Commentary, 2021, Art. 2
- K. Jasińska, E-hearing in civil proceedings and the right to court and the possibility of defending one's rights, "Studia Prawnicze. Dissertations and Materials" No. 2/2021, pp. 35–36
- A. Kwaśniak, Practical implications of the principle of citizens' participation in the administration of justice, resulting from Art. 182 of the Constitution of the Republic of Poland, in the context of the latest regulations, ILO 2022, No. 8
- J. Litowski, Restricting the transparency of civil proceedings due to the state of epidemic caused by the COVID-19 virus, ILO 2021, No. 2, A. Łazarska, Reliable civil process, 2012, Lex/el 2020, chap. III.11.4. "Right to Public Proceedings
- MA Nowicki, Around the European Convention. Commentary on the European Convention on Human Rights, Warsaw 2013, pp. 599–600).
- K. Rogala, Civil procedure during a pandemic. E-delivery, remote hearing, classified hearings, submission of pleadings, J. Gołaczyński (ed.), Civil proceedings during a pandemic. E-delivery, remote hearing, classified hearings, submission of pleadings, Warsaw 2022
- M. Świder, Remote meetings pursuant to art. 15zsz (1) Coronavirus in the context of the right to a fair trial, ILO 2022, No. 19

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