

Criteria to Access Justice in Remote Criminal Trial Implementation

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Abstract : This work aims to present postdoc research on remote criminal proceedings in court in order to streamline the proceedings and, at the same time, ensure the effective participation of the parties in criminal proceedings and the court's obligation to administer substantive and procedural justice. This study tests the hypothesis that remote criminal proceedings do not in themselves violate the fundamental principles of criminal procedure; however, their implementation must ensure the right of the parties to effective legal remedies and a fair trial and, only then, must address the issues of procedural economy, speed and flexibility/functionality of the application of technologies. In order to ensure that changes in the regulation of criminal proceedings are in line with fair trial standards, this research will provide answers to the questions of what conditions -first of all, legal and only then organisational- are required for remote criminal proceedings to ensure respect for the parties and enable their effective participation in public proceedings, to create conditions for quality legal defence and its accessibility, to give a correct impression to the party that they are heard and that the court is impartial and fair. It also seeks to present the results of empirical research in the courts of Lithuania that was made by using the interview method. The research will serve as a basis for developing a theoretical model for remote criminal proceedings in the EU to ensure a balance between the intention to have innovative, cost-effective, and flexible criminal proceedings and the positive obligation of the State to ensure the rights of participants in proceedings to just and fair criminal proceedings. Moreover, developments in criminal proceedings also keep changing the image of the court itself; therefore, in the paper will create preconditions for future research on the impact of remote criminal proceedings on the trust in courts. The study aims at laying down the fundamentals for theoretical models of a remote hearing in criminal proceedings and at making recommendations for the safeguarding of human rights, in particular the rights of the accused, in such proceedings. The following criteria are relevant for the remote form of criminal proceedings: the purpose of judicial instance, the legal position of participants in proceedings, their vulnerability, and the nature of required legal protection. The content of the study consists of: 1. Identification of the factual and legal prerequisites for a decision to organise the entire criminal proceedings by remote means or to carry out one or several procedural actions by remote means 2. After analysing the legal regulation and practice concerning the application of the elements of remote criminal proceedings, distinguish the main legal safeguards for protection of the rights of the accused to ensure: (a) the right of effective participation in a court hearing; (b) the right of confidential consultation with the defence counsel; (c) the right of participation in the examination of evidence, in particular material evidence, as well as the right to question witnesses; and (d) the right to a public trial.

Keywords : remote criminal proceedings, fair trial, right to defence, technology progress

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