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# Comparative insight on courts and court proceedings during the pandemic

## 1. Introduction

The exceptional and often highly volatile circumstances during the Covid-19 pandemic have had tangible effects on courts and court proceedings across the globe. The first lockdown in the spring of 2020 seriously disrupted the operation of courts, both due to the unprecedented and unexpected situation and because courts were not prepared to face this type of emergency. Since then, the number of infections and the intensity of lockdown measures to contain the spread of the virus have oscillated, sometimes with gentle swings, sometimes very abruptly. The pandemic had become the new normal, and although most of the containment measures were lifted in Europe the spring of 2022, the pandemic will leave an imprint on civil justice systems across the globe.

This article analyses pandemic-induced changes to the civil justice system from a comparative perspective based on a study conducted by Bart Krans and the author at the end of 2020[1]. Most of the examples are drawn from that study. Moreover, the author will use examples from Norway, the jurisdiction in which she is based. The article also discusses how to maintain the highest possible standards of justice during a state of emergency, which requires courts to attempt to maintain as much functionality as possible during lockdowns to ensure effective enforcement of rights, while also adhering as far as possible to fair trial rights and the ideal of equal treatment. It does so in light of key lessons learned during the pandemic: the need to be adequately prepared for future emergencies and the need to encourage judges to be innovative in the midst of a crisis.

The strictness of the measures to contain the coronavirus has varied across countries and time, as has the spread of the virus. Likewise, the prerequisites for a successful leap in digitisation, such as availability of high-speed internet, also vary. The ways in which and extent to which the economy has suffered under the

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1 Krans B., Nylund A. (eds.): *Civil Courts Coping with Covid-19.* The Hague 2021.


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pandemic, and the economic and regulatory steps taken to soften the blow, also vary across and within countries. Thus, courts in some countries and regions have had surges in the number of incoming cases, while other have had stable or even declining flows of new cases[2]. Consequently, courts in different jurisdictions have had to operate under very different conditions, making it counterproductive to apply a uniform standard due to contextual variations. Thus, observations are of a general nature. Moreover, one needs to bear in mind that the first month of the pandemic was an extraordinary time because the world was not prepared to handle the pandemic, making this period a true state of emergency. The period of time after and since that initial month could instead be characterized as "normal pandemic times". Therefore, much of the observations and recommendations that are made in this paper, apply to the "normal pandemic" period, not the exceptional first weeks.

## 2. The right to access to court during the pandemic

### 2.1. Access to court as a constitutional and human right

The access to court is a paramount human right, enshrined in national constitutions and inter alia the European Convention on Human Rights and the 1966 International Covenant on Civil and Political Rights. In June 2020, the European Commission for the Efficiency of the Justice opined that:

The right to a fair trial [has] to be protected at all times and become especially important during the crisis. The continuous functioning of the judiciary and of the services provided by justice professionals needs to be ensured based on European standards. Trust in justice must continue even at a time of crisis[3].

The European Law Institute has made a similar recommendation[4]. During the pandemic, few, if any, countries declared a state of emergency. However, even states that do not declare a formal state of emergency have the right and duty to make appropriate and necessary adjustments to court proceedings, as the European Court of Human Rights (ECtHR) found in its seminal decision in the case

2 Vebraitė V. *Impact of Covid-19 on Lithuanian Civil Justice.* [in:] Krans B., Nylund A. (eds.), Civil Courts Coping with Covid-19. The Hague 2021, p. 123–127.

3 European Commission for the Efficiency of the Justice: CEPEJ Declaration – Lessons Learnt and Challenges Faced by the Judiciary During and After the Covid-19-Pandemic. CEPEJ (2020) 8rev, Ad hoc virtual CEPEJ plenary meeting Wednesday 10 June 2020.

4 European Law Institute: ELI Principles for the Covid-19 Crisis. European Law Institute 2020, article 5.


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Bah v. the Netherlands[5]. Although the case concerned the right of those who have been deprived of their liberty to have a court speedily review the lawfulness of the detention, the opinions regarding remote proceedings are also applicable under article 6 *mutatis mutandis*. In Communauté genevoise d'Action Syndical (CGAS) v Switzerland, the majority of four judges stressed the need to have an effective remedy against lockdown measures that infringe upon human rights[6]. Both rulings indicate that courts must maintain their basic functions and ensure foundational fair trial rights during the state of emergency, even if they are unable to operate in the same manner as in normal times. In March 2022, three cases concerning fair trial rights were pending at the ECtHR[7].

Court proceedings are paramount to ensure that citizens have an effective remedy against infringement of human rights. Effective handling of the pandemic has required governments across the globe to encroach on human rights, such as the freedom of movement, the freedom of assembly and the right to family life. While the restrictions as such are legitimate, they could be too strict, imposed for a too long period, and so forth, and thus citizens need access to an efficient remedy against them, in accordance with ECHR art. 13. Moreover, courts are vital for ensuring the rule of law in a society that is governed by laws and where disputes are resolved by the application of law, not according to which party is more powerful.

### 2.2. Access to an efficient remedy, the rule of law and courts

The pandemic raises two important questions regarding the relationship between the courts and the other state powers. The first is related to access to court and whether courts can be closed entirely, resulting in a complete denial of access to court which goes against the foundational element of the balance of state powers upon which the rule of law rests. The second is related to courts effectively counterbalancing the fact that – at least in the initial stages of the pandemic – emergency legislation did not undergo normal procedures in the parliament, was not always sufficiently justified, and did not appropriately balance the need to contain the virus with other human rights.

The power to order courts to seize all or most of their functions should be regulated in advance to ensure the independence and functioning of courts, the

5 Ibrahima Bah v. the Netherlands, decision of 22 June 2021, ECLI:CE:ECHR:2021:0622DEC 003575120.

6 Communauté genevoise d'Action Syndical (CGAS) v Switzerland, judgment of 15 March 2022, ECLI:CE:ECHR:2022:0315JUD002188120.

7 European Court of Human Rights: Factsheet Covid-19 health crisis, March 2022, available at https://www.echr.coe.int/Documents/FS_Covid_ENG.pdf [accessed at: 24. 4. 2022].


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third state power. The German Basic Law article 115g enshrines rules that protect the operation of their courts, or at least some courts, during an emergency. For instance, in Norway, the power to close the court is unregulated. Thus, during the early days of the pandemic, citizens and even judges faced locked doors at their local courthouses, without advance notice, because the decisions to close courts had been made haphazardly.

Even when courts were not formally closed, in the absence of emergency procedural provisions and business continuation plans, many of them were unable to operate in the period of March to May 2020 due to the lockdown measures. Japanese courts were an exception, with both emergency rules and business continuation plans in place, probably due to the country's prior experiences with earthquakes and related natural hazards as well as previous epidemics.[8] While business continuation plans and emergency provisions could not have been tailored for this crisis, they provided a temporary outline of how courts should operate and a template for rules tailored to the needs of this emergency. Thus, courts either did not need to close at all or closed for only a very limited time.

In addition to remaining as operational as possible, courts must also be willing to take up their role as the third state power and to balance the power of the executive and legislature by enforcing constitutional rights and principles. The ECtHR opined in the CGAS case that courts have a particular duty to review rules that have not been subject to ordinary parliamentary review.[9] The minority of three judges seemed to concur with this opinion, as they did not comment or criticise it despite their strong dissenting opinions on much of the rest of the ruling.

To a varied degree, courts have been willing to strike down disproportionately strict lockdown measures. While courts have played an active role in inter alia Brazil[10], in other countries, such as in Norway and other Scandinavian countries[11], courts have been almost absent from the discussion of the lawfulness of the encroachment of civil rights. Courts could remain passive for many reasons, including that courts regard the measures that the government has adopted as essential and as having relatively wide popular support and, thus, do not believe that it is appropriate or necessary to review them, or that a review would entail a

8 Kakiuchi S. *Impact of Covid-19 on Japanese Civil Justice* [in:] Krans B., Nylund A. Civil Courts Coping with Covid-19. The Hague 2021, p. 113–121.

9 Communauté genevoise d'Action Syndical (CGAS) v Switzerland, para. 88.

10 Didier Jr, F., Zenati Jr H., Peixoto R. *Brazilian Precedents in Covid-19* [in:] Krans B., Nylund A. (eds.), Civil Courts Coping with Covid-19. The Hague 2021. p. 30–31.

11 Nylund, Anna: '"Den sivile rettspleien i krisetider' in: Høgberg, Benedikte M. / Holmøyvik, Eirik / Eriksen, Christoffer Conrad (eds.), Kriseregulering: Lovgivning gjennom koronakrisen. Bergen, forthcoming.


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detailed analysis of public health data, which is beyond the formal and professional boundaries of courts and judges.

In countries where the measures to contain the pandemic have not been overly politicised, courts have had an incentive to tread cautiously to avoid fuelling politicization, especially after having witnessed the squabbles and societal unrest that their rulings could fuel. When the popular support plummeted with new waves and polarised debates on vaccine mandates and certificates, the room for courts to manoeuvre correspondingly narrowed.

Nevertheless, even though states have wide discretion in implementing effective measures to contain the spread of the virus, courts should review the containment measures to ensure that the measures enacted are necessary, effective, proportionate, and adequately balanced with other interests, by requiring the government to provide sufficient and transparent grounds for enacting them. Courts should be particularly mindful of underprivileged groups who might lack the resources to mobilize the law and who tend to be silenced by vocal groups of more privileged citizens.

Although courts should be lenient when scrutinizing measures that had to be adopted on short notice, they should also require the government to lift or adjust strict rules as soon as the situation improves or when the measures prove to have been overly strict. Brazilian courts could serve as a model for the exercise in balancing rulings that obliged the government to take adequate measures while also protecting citizens for exaggerated measures[12].

For future states of emergency, we should discuss how courts can play an active role yet avoid being overly politicized during an emergency, thus contributing to effective yet proportionate measures and upholding the rule of law and pivotal principles of a democratic society. How can courts promote equality and just distribution of the burdens that necessary measures entail, such as by ensuring that governments provide for appropriate exceptions from the containment measures?

## 2.3. Fair trial rights during the pandemic

The pandemic has challenged fair trial rights beyond access to court, notably the right to an oral hearing and to open administration of justice. These changes will be discussed in further detail below.

Restrictions and limitations to fair trial rights should be kept to a minimum even in times of emergency and should adhere to basic principles of democratic

12 Didier Jr, F., Zenati Jr H., Peixoto R. *Brazilian Precedents …* p. 30–33.


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societies. Equal, foreseeable application of transparent, uniform rules is imperative, and avoidance of arbitrary practices should be the paramount goal.

Variations in limitations to access to court and oral hearings should directly reflect variation in the severity of lockdown measures or other objective criteria, rather than, for instance, the prevailing attitude regarding the virus among judges. The situation in May 2020 in Norway illustrates this, as some courts pivoted to remote hearings and resumed their functions, while other courts still held very few hearings[13]. To avoid such differences, homogenous standards identifying cases that must be prioritized and criteria for determining the access to and format of court proceedings are needed.

Courts should also be mindful of the digital divide – that is unequal access to modern technology among people from different social strata and living in different geographic regions and the repercussions of the same on the equal access to courts[14]. Courts could organise remote hearing rooms, where citizens would have access to suitable equipment and environments when participating in remote or hybrid hearings held in courts elsewhere. Such "Zoom Rooms" have been implemented in Singapore[15].

Ideally, procedural rules or business continuation plans should contain rules for emergency procedures that would identify modifications to court proceedings, such as allowing courts to limit the scope of hearings or the access of the public to hearings, or rules that allow courts to transfer cases to simplified proceedings beyond the normal rules. Such norms for emergencies are, naturally, very general. Thus, it is imperative that emergency rules tailored to the situation are enacted as soon as possible and later adjusted as needed.

Standards for the "pandemic normal" should be designed to prevent parties from manipulating and exploiting the system to the detriment of the opposite party and the entire system, such as by demanding an in-person hearing even when no weighty ground suggests that a remote hearing would be inappropriate, while an in-person hearing would entail a long postponement of the proceedings. Simultaneously, flexible rules that allow the parties to adapt the proceedings to their needs, such as by selecting simplified proceedings, limiting the scope of the proceedings or trying to mediate their case, are advantageous, since it enables them to find the most appropriate and appealing procedure to handle their

13 Nylund A. *Covid-19 and Norwegian Civil Justice* [in:] Krans B., Nylund A. (eds.), Civil Courts Coping with Covid-19. The Hague 2021, p. 141.

14 Delgado Suarez Ch. *Peruvian Judicial System During the Covid-19 Pandemic* [in:] Krans B., Nylund A. (eds.), Civil Courts Coping with Covid-19. The Hague 2021, p. 148.

15 Pinsler J. *Singapore Civil Procedure and Covid-19* [in:] Krans B., Nylund A. (eds.), Civil Courts Coping with Covid-19. The Hague 2021, p. 169.


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dispute.[16] Parties should also be protected from the court pressuring them to agree to a long postponement or a process that is inappropriate for their dispute.

National court administrations should also facilitate and reward the development and transfer of best practices and should consider strategies that foster keeping courts open as much as possible, while minimising significant deviation from openness.

### 2.4. Access to court as a practical problem during the state of emergency

Access to court during the pandemic is not only a matter of regulation but also a matter of infrastructure and attitudes.

During the pandemic, courts and judges have turned out to be very resilient and willing to make use of the technology that is available.[17] In the absence of an electronic case management system, courts have accepted written submission and evidence sent as email attachments. Courts have held hearings on Teams, Zoom and similar platforms and have streamed their hearings on YouTube, Vimeo, and similar services. Access to high-speed internet has hampered the transition to remote hearings in many countries. It is easy to buy a camera, microphone, and loudspeakers to conduct a remote hearing, whereas gaining access to a stable high-speed internet connection is more difficult to do swiftly. Some of the differences among countries regarding the digital leap can thus be attributed to variation in infrastructure.

A successful digital leap is also contingent on attitudes towards technology and judges and lawyers making use of technology. According to a European Commission study, attitudes toward new technologies and science vary considerably across Europe.[18] People in Czechia, Estonia and Finland believe that technology should operate freely in a marketplace, whereas people in Bulgaria, Italy and Spain believe that the government should regulate technology tightly.[19] Arguably, these beliefs are reflected in the behaviour of judges, and specifically in their willingness to experiment with new technologies. Conducting a hearing online is likely to be far easier if the parties, their legal counsels, and witnesses view technology benignly, and they are likely to be more permissive of the

16 Rylski P. *Transformation of Polish Civil Procedure in Light of Covid-19* [in:] Krans B., Nylund A. (eds.), Civil Courts Coping with Covid-19. The Hague 2021, p. 164.

17 Krans B., Nylund, *A Conclusions on Civil Courts Coping with Covid-19* in: Krans B., Nylund A. (eds.), Civil Courts Coping with Covid-19. The Hague 2021, p. 209–211.

18 European Commission: European citizens' knowledge and attitudes towards science and technology. Special Eurobarometer 516. Report Fieldwork: April-May 2021.

19 European Commission: European citizens' knowledge and attitudes towards science and technology. Special Eurobarometer 516. Report Fieldwork: April-May 2021, p. 40.


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practical problems that occur when judges and legal counsel start learning the new technology. In countries with an optimistic attitude toward technology, citizens expect courts to digitise their work processes in the same way as the rest of society.

Practical issues that hinder citizens from accessing courts can only be resolved by addressing the problems and should not be a pretence to avoid digitisation of court proceedings. The "Zoom Rooms" in Singapore are one example. When courtrooms are too small to maintain social distancing, properly funded courts can rent additional space at locations that are unused due to lockdown measures. Creative solutions like these should be lauded, and courts should be encouraged – and required – to share best practices.

## 3. Changes to court proceedings during the pandemic

### 3.1. Oral and written proceedings

During lockdowns, countries that had previously undergone partial digitisation, such as China, Finland and Uruguay, had a tangible advantage, since less efforts were needed to adjust the proceedings[20]. Still, considerable changes had to be made.

Intuitively, one could expect a momentous shift towards more written proceedings during the pandemic, since written communication was considerably easier during lockdowns. However, comparisons among countries suggest that when the final hearing was the apex of court proceedings, courts needed to switch to remote hearings to continue being operational, while when the final hearing was less central, courts tended to replace hearings with written proceedings[21]. For instance, in countries such as Australia, Norway and the United States that cherish the idea of cross-examination of witnesses and the judge directly observing the witness, oral witness testimony cannot easily be replaced with an affidavit, and thus courts must schedule hearings[22]. Similarly, the final hearings

20 Ervo L. *Pandemic and Digitization: The Situation in Finnish Lower Courts* [in:] Krans B., Nylund A., Civil Courts Coping with Covid-19. The Hague 2021, p. 73–82. Fu Y. *Civil Justice in China in the Covid-19 Period* [in:] Krans B., Nylund A. Civil Courts Coping with Covid-19, p. 41–46. The Hague 2021 and Pereira Campos S. *The Impact of the Covid-19 Pandemic on Civil Procedure in Uruguay* [in:] Krans B., Nylund A. Civil Courts Coping with Covid-19. The Hague 2021, p. 189–194.

21 Krans B., Nylund, A Conclusions on Civil Courts Coping with Covid-19 [in:] Krans B., Nylund A. (eds.), Civil Courts Coping with Covid-19. The Hague 2021, p. 207–208.

22 Bamford D. *Responding to Covid-19: Australian Civil Courts in 2020* [in:] Krans B., Nylund A. (eds.), Civil Courts Coping with Covid-19. The Hague 2021, p. 7–14 and Marcus R. *Covid-19*


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cannot easily be replaced by written elements when the parties present, or reiterate, their (main) legal and factual arguments and the court raises questions of clarification regarding those arguments. Interrogation and dialogue require synchronic, oral communication, whereas delivering arguments orally directly in front of the judge(s) deciding the case reflects deeply held cultural ideas of having a "day in court" and the importance of being heard (and seen) by the judge(s).

When written proceedings are common[23], or court hearings are less central or conducted piecemeal style, with several short hearings, judges usually make their ruling based on the court records often long after the witness has testified in court[24], Therefore, in an emergency such as the pandemic, the oral witness statement can be replaced by a written one[25]. Alternatively, the court can arrange for a telephone or remote examination separately for each witness. If hearings are mainly for exchanging written statements and discussing the next hearings, then they can be bypassed.

It will be interesting to see whether this sudden polarisation represents a permanent shift, or whether it was only a temporary phenomenon. Because the parties are entitled to a court hearing according to art. 6 of the ECHR and art. 47 of the European Union Fundamental Rights Charter,[26] written proceedings cannot fully replace oral proceedings.

Conducting final hearings in a remote or hybrid format is very challenging for several reasons. One reason is the number of people participating in the hearing: the judge or panel of judges, the parties and their legal counsel, and the witnesses and experts. Adjusting the sound and image of each incoming person is burdensome and time-consuming. The scope and duration of the hearing render judges, parties and counsels more prone to "Zoom fatigue", which, according to researchers, truly exists in video-mediated interaction[27]. Hearings with fewer

*and American Civil Litigation* [in:] Krans B., Nylund A. (eds.), Civil Courts Coping with Covid-19. The Hague 2021, p. 195–203.

23 Ferrand F. *Covid-19 and French Civil Justice: What Future for Civil Hearings?* [in:] Krans B., Nylund A. (eds.), Civil Courts Coping with Covid-19. The Hague 2021, p. 83–91 and Taelman P. *Impact of Covid-19 on Civil Procedure in Belgium* [in:] Krans B., Nylund A. (eds.), Civil Courts Coping with Covid-19. The Hague 2021, p. 15–23.

24 E.g., Galič A. *The Preparatory Stage of Civil Proceedings in Slovenia, the Czech Republic and Slovakia: Halfway There Yet?*' [in:] Ervo L., Nylund A. (eds.): Current Trends in Preparatory Proceedings: A Comparative Study of Nordic and Former Communist Countries. Cham 2016, p. 11–140.

25 Galič A. *Coping with an Outdated and Rigid Civil Procedure in the Era of Covid-19* [in:] Krans B., Nylund A. (eds.), Civil Courts Coping with Covid-19. The Hague 2021, p. 173–178 and Uzelac A. *Croatian Civil Justice v. Covid-19: The Empire Strikes Back* [in:] Krans B., Nylund A. (eds.), Civil Courts Coping with Covid-19. The Hague 2021, p. 47–56.

26 Charter of Fundamental Rights of the European Union, 2000/C 364/01 of 18.12.2000.

27 Bailenson J. N. *Nonverbal Overload: A Theoretical Argument for the Causes of Zoom Fatigue* [in:] Technology, Mind, and Behavior 2021 no. 1, p. 1–6.


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participants and a more limited scope, such as case management and conciliation hearings, or hearings for remand, lend themselves more easily than full, final hearings to the remote format. Hence, some judges have attempted to resolve as many cases as possible in these types of hearings. Similarly, courts have transferred cases to simplified forms of proceedings.

Courts can also attempt to limit the scope of the final hearing through active case management by encouraging and helping the parties to limit the number and duration of witness testimonies by focusing on key disputed issues and by limiting the time the parties are given to reiterate and recap their legal and factual arguments. In fact, this type of concentration of the final hearing should be lauded as a path to increased efficiency. When done wisely, it increases the quality of justice, as redundant elements are removed, and lowers costs.

As discussed above, differences among courts and judges in the transition to new forms of hearings is a problem because it reduces access to court arbitrarily in some regions and some cases. To enhance access to courts, judges and legal counsel should be encouraged to develop and refine novel technologies and working methods; to ensure equal access to court, mechanisms for sharing innovations and best practices should be implemented.

As the pandemic appears to be receding, civil justice systems, judges, and legal counsel should develop strategies to retain innovations that improve the quality and efficiency of the justice system, and to separate them from novelties that disproportionately reduce the quality of justice.[28] The obvious advantage of hybrid and remote hearings is that they generate less travel costs, in terms of both direct costs of travel and waste of time, and are thus lest costly. Self-represented parties could benefit from having access to several short meetings with the case managing judge, special master, or court employees, who could reiterate central information and let the parties bring evidence and arguments in a piecemeal style[29].

28 Benabou V.-L, Jeuland E. *From the Principle of Immediacy to the Principle of Presence: A French Example and a Comparative Law Perspective* [in:] International Journal of Procedural Law 2022 no. 1, Gascón Inchausti F. *Challenges for Orality in the Times of Remote Hearings: Efficiency, Immediacy and Public Proceedings* [in:] International Journal of Procedural Law 2022 no. 1 and Hjort M.A. *Orality and Digital Hearings* [in:] International Journal of Procedural Law 2022 no. 1.

29 H Genn *Online Courts and the Future of Justice*. Birkenhead Lecture 2017. Gray's Inn, 16 October 2017, 9–10, https://www.ucl.ac.uk/laws/people/prof-dame-hazel-genn accessed on 28 February 2022.


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### 3.2. Witnesses and experts testifying remotely

The complications related to witness testimony during lockdowns can be overcome in several ways. Simple cases can be channelled into simplified proceedings in which no witness evidence is needed, or the parties could agree to adapt the ambit of the dispute in a manner that renders witness testimony redundant. If these approaches are not possible or appropriate, affidavits or other forms of written witness statements could resolve the problem.

Another strategy is to postpone hearings until in-person examination is possible. However, in countries that value witness examination in a single, concentrated hearing, remote examination is the only viable approach because the postponement of a single witness examination results in a need to delay the proceedings and to schedule the final hearing later, which in turn has significant cumulative effects on the functioning of courts.

In areas where remote examination was allowed and used before the pandemic, making the transition to examining all or most witnesses remotely is relatively easy, if not entirely smooth. In Norway, experts were often examined remotely before the pandemic because their testimony is only a supplement to their written reports[30]. They are often able to testify from their office (i.e., a peaceful environment). For regular witnesses, the formal atmosphere of the courthouse and the formalities in the court room are thought to instil an air of solemnity that will induce the witness to tell the whole truth[31]. However, testifying in a place that feels comfortable and secure could make the witness more relaxed and improve the cognitive functions of the witness[32]. On the other hand, witnesses might testify in unsuitable places, or someone in the room might instruct or even disturb them. To avoid this, courts should be able to order the witness to testify from a specific place, such as the lawyer's chambers or, as in Singapore, a special room designed for formal contact with courts and government organisations.

In the aftermath of the pandemic, the rules regarding remote witness examination should be reviewed in the light of research. Factors such as whether and how remote witness examination influences what witnesses can recall, the accuracy of their statements, and whether and how the use of technology influences how judges evaluate the truth and accuracy of the witness statement, should guide the drafting process[33].

30 Nylund A. *Civil Procedure in Norway.* Alphen aan den Rijn 2020, p. 176.
31 Mulcahy L. *Legal architecture: justice, due process and the place of law.* Abingdon Oxon 2011, p. 162–178.
32 Mulcahy L. *Legal architecture: justice, due process and the place of law.* Abingdon Oxon 2011, p. 162–178.
33 Krans B., Nylund A. (eds.): *Civil Courts …* and Hjort M.A. *Orality…*


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### 3.3. Changes to procedural rules

Courts have been able to operate within the ordinary, pre-pandemic regulatory framework to a surprisingly high degree in many countries. One explanation is that many countries, including Germany, had previously enacted technology neutral rules, regardless of the extent to which courts had been equipped with the technology to digitise written and oral parts of the proceedings[34]. Flexible rules that allowed courts to adapt proceedings to the prevailing circumstances or to apply exceptions more broadly than under normal circumstances also explain the limited need to enact new rules. Judicial discretion and willingness of parties, or more precisely their legal counsel, to creatively adapt the rules to the situation at hand, such as agreeing to a fully remote hearing or written proceedings or opting for a bench trial rather than jury trial or other process that would have involved lay judges, gave leeway for the courts to adapt to a new normal[35]. Moreover, some countries could revive rules that applied during pilot programs on digitisation[36]. Finally, normal deadlines could relatively easily be suspended or extended during the pandemic, either by way of courts having the discretion to do so in exceptional situations or by way of a decree.

Nevertheless, some new rules had to be enacted. Temporary rules suspended or reduced the use of lay judges, both as jury members and as members of mixed panels of professional and lay judges[37]. Some of these rules were enacted on a permanent basis, while others paved the way for more permanent changes, especially rules regarding case management systems, electronic signatures, and remote and hybrid hearings. This is the case in Norway, where the government has made the rules on electronic signatures permanent, and it intends to enact more permissive rules regarding remote hearings[38].

The need for adjustment may also be related to the economic relief packages and rules suspending statutes of limitation or limiting or postponing the enforcement of certain types of claims. In some countries, the number of insolvency proceedings dropped because of economic relief to businesses and employees

34 Hau W. *Covid-19, Civil Justice 2020 and German Courts 2021?* [in:] Krans B., Nylund A. (eds.), Civil Courts Coping with Covid-19. The Hague 2021, p. 93–101 and Rühl G. *Digitale Justiz, oder: Zivilverfahren für das 21. Jahrhundert* [in:] JuristenZeitung 2020 no. 17, p. 809–817.

35 Krans B., Nylund A. (eds.): *Civil Courts…*, p. 206–207.

36 Krans B. *The Aftermath of the Covid-19 Pandemic in the Netherlands- Seizing the Digital Gains* [in:] Krans B., Nylund A. (eds.), Civil Courts Coping with Covid-19. The Hague 2021, p. 129–137.

37 E. g., Bamford D. *Responding to…*

38 Prop. 97 L (2021–2022): Endringer i straffeprosessloven og tvisteloven mv. (fjernmøter og fjernavhør i domstolene mv.), Det kongelige justis- og beredskapsdepartementet.


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and the debt moratoria that were enacted in many countries[39]. The severity of the economic downturn depends on many factors, as do the intensity and duration of lockdowns, both of which have an impact on the number of court cases. Alternatives to courts and court proceedings could also influence the need to adapt procedural rules because increased use of arbitration, mediation, simplified proceedings and plea-bargaining reduce the workload of courts.

The pandemic has demonstrated the need for both procedural rules for the state of emergency and business continuation plans for courts. In the process of drafting the rules, regulators should bear in mind that the next emergency could entail completely different limitations on courts. The war in Ukraine is a palpable example of this. Instead of sheltering orders and a digital leap, the war forces courts and judges to evacuate and judges and to manage with limited access to electricity and communication technology.

The recasting of court proceedings during the pandemic should be used to ignite a wave of procedural reforms that make the most of the technology available. One example could be to (re-)design electronic case management systems in a way that would integrate written submissions to the original state of claim and defence, which would make it clear which claims, reliefs, grounds for claims and legal arguments have been amended, dropped or added. Hence, the statement of claim and defence would provide up-to-date information regarding the claims and main arguments. This innovation requires technological and regulatory reforms. Not all innovations require formal reforms. For instance, judges at the Bergen District Court in Norway realised that mediation sessions conducted remotely needed to be well-prepared and thus held thorough pre-mediation conferences. When the court returned to in-person mediations, this practice continued and has been implemented in the local guidelines because it improves the quality of the process and the outcomes. Hopefully, the pandemic will engender many reforms that increases the access to and quality of court proceedings and other dispute resolution processes.

## 4. Open administration of justice

Open justice has three facets: openness to the parties, openness of court hearings and openness to society. The first is an essential fair trial right, the second is manifested in the saying that justice not only must be done but also must be seen to be done, and the third ensures that courts and judges can be held accountable for their work.

39 Schoenherr *Covid-19 Overview on moratoria*, available at: https://www.schoenherr.eu/content/Covid-19-overview-on-moratoria/ [accessed at. 22.6.2022].


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### 4.1. Internal openness

In accordance with the principle of *audiatur et altera pars*, the right of parties to respond to and rebut any allegations and evidence put forth by the opposite party or the court, requires them to have full access to all documents and communication in the case. This principle has not been systematically and seriously challenged during the pandemic, because the format of documents and hearings does not influence access. Indeed, electronic case management systems can facilitate and expedite the sharing of information and documents. Voice messaging and conference calls can ensure that both parties receive exactly the same information at the same time.

### 4.2. Challenge of open hearings during the pandemic

Open court hearings serve two functions: they guarantee a fair trial to the parties, as anyone can attend and thus monitor court hearings, and they ensure that the public functions of courts (i. e., discussions on which norms apply in society, how legal norms should be interpreted, and which values and goals should prevail) are upheld[40].

The pandemic has palpably reduced the openness of court hearings in several ways. Due to social distancing requirements, many in-person hearings have been closed to the public. Arguably, most hearings attract a very limited or no audience during normal times, and consequently closed hearings have limited practical consequences. Nevertheless, closed hearings could undermine the ideal of open justice in the long run and because the public is barred from attending high-profile cases with potentially broad implications and deprives persons who are vulnerable to becoming victims of the miscarriage of justice of the protection that a public hearing renders. Consequently, hearings should be broadcasted if the public is denied access to them. Closing regular, "low-profile" hearings could decrease the quality of justice because reduced transparency could reduce public trust in courts and the accountability of judges.

The high-profile Y-building case in the Oslo District Court a few weeks into the first lockdown in 2020 serves as an example. The case concerned whether the Y-building, a controversial government building, should be demolished. Since this was early in the pandemic, the court did not have access to a dedicated platform for digital hearings and thus opted to stream the case on social media. The Norwegian Supreme Court, which is essentially a court of precedent, has regularly streamed its hearings. Once Norwegian courts gained access to a dedicated

40 Lahav A. *In Praise of Litigation.* Oxford 2017.


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platform, streaming became the new normal, even in the absence of a statutory rule allowing them to do so[41].

However, streaming cases is not entirely unproblematic. Broadcasting the hearing can influence the behaviour of parties, witnesses, and experts, especially if the hearing can easily be redistributed. Although the courtroom is a public space, the audience is limited at most hearings, and while the court could have made an audio or video recording of the hearing, usually only the court and the parties use the recording.[42] To curb the risks associated with "excessive" publicity, some Norwegian courts have a limited number of slots for each hearing, for instance roughly the equivalent of the size of an in-person audience, while some give access to live streamed hearings by request only or use a combination of these approaches. The drawback of these solutions is that they prevent people from attending court hearings anonymously, which is a limitation of the ideology of an open society. "Seats" should not be limited in high-profile cases that concern important questions of public interest, especially supreme court cases when no evidence is taken.

While broadcasting hearings potentially increases the transparency of court hearings, it is a source of new problems. First, courts need a system for ensuring that privileged information discussed during court hearings is not spread to the public. For instance, when business secrets or medical information needs to be discussed and evidence related to it presented, does the court have tools to temporarily discontinue the broadcasting of the case for all involved except those who have a right to be present? Similarly, if witnesses are by law excluded from attending the hearing prior to being examined, how can the court ensure that witnesses do not watch the hearings if it is broadcasted? How can the system for remote and hybrid hearings be construed to render administration of the hearing at court simple and smooth, thus preventing situations in which the attention of the judge is directed towards the operation of the IT system rather than what is being said in the courtroom?

These questions remain largely unanswered. Some of them call for reforms of regulation, and many of them call for new technology. Moreover, most of them are a matter of work processes and attitudes, a matter of courts and lawyers actively experimenting with and implementing new practices. Amending the law is relatively easy, while changing habits and perceptions is far more difficult.

41 Nylund A. *Covid-19…*
42 Ervo L. *Pandemic and Digitization…*


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### 4.3. Openness of courts records

The openness of written proceedings, while on the surface easier than granting open oral proceedings, is also challenging when the parties lack access to the court registrar's office. Few, if any, countries publish all court rulings of first courts online; hence, the public does not have access to court records and rulings if access to the court building is limited.

Electronic case management systems are often primarily designed to facilitate communication between the parties and the court and management of written materials, not for sharing information publicly. Consequently, they have been of limited help compared to a paper-based system. As a result, court proceedings have been more opaque during the pandemic, which reduces the possibility of holding judges accountable for their work and could lessen public confidence in courts. The pandemic should prompt the debate regarding how to increase the transparency of written proceedings in the digital age.

## 5. Court management and administration of justice

### 5.1. Health and safety of judges and parties

The health and safety of judges, court staff, lawyers and parties have been the paramount concerns for court administrators across the globe during the pandemic. Unlike some Asian countries that had previous experience with SARS and thus had prepared themselves for an influenza virus,[43] European countries and courts had only very general plans for emergencies and no specific plans for how to contain the spread of such a virus. In the absence of such plans, courts had to remain closed, await instructions and improvise.

Measures to prevent the spread of the virus should be based on the best knowledge available and should be uniform for all courts. Otherwise, there is a risk of a "security theatre"[44] – that is, measures that appear to be effective but are not and are hence costly, resulting in limited benefits and a false sense of security. Security theatre could also limit equal and effective access to courts if health and safety measures are arbitrary or overly strict. A best practice is for the national courts administration to adopt guidelines in collaboration with national health care authorities and require courts to comply with those rules and recommendations. This ensures that the guidelines are based on the best knowledge

43 Kakiuchi S. *Impact of Covid-19…*

44 The term was first coined by Schneier B. *Beyond Fear: Thinking Sensibly About Security in an Uncertain World.* Göttingen 2003.


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available and equal access to courts. The guidelines should be amended and adapted according to new knowledge and user experiences.

### 5.2. Transferring cases between courts and judges

Transparent and foreseeable rules for deciding which court and judge have jurisdiction of a case are a mainstay of the rule of law. Some deviations from these rules could be acceptable amidst a crisis and should even be encouraged under some circumstances. For instance, differences in the stringency of lockdown rules and composition of cases at each court could justify transferring cases between courts and judges. Some judges may need to have a temporary shift in their case load due to their health conditions or care obligations. As a result, judges who generally hear commercial cases could need to hear urgent criminal and family cases in which holding an in-person hearing is essential, whereas a criminal or family judge could be assigned cases that can be disposed of in written proceedings.

To comply with the rule of law, parties need protection against arbitrary transferral of cases. Hence, there should be clearly defined criteria according to which cases are redistributed, and no judge should be forced to reduce the caseload. Clear eligibility criteria for judges and courts who need an accommodation should be developed, as should procedures for determining whether judges and courts are eligible, and the new distribution scheme should be adopted.

Ideally, a scheme would already be in place as part of rules applicable during and emergency or a business continuation plan, which would then be adapted to the needs of the emergency at hand, the knowledge available on who is in a risk group, expected magnitude and duration of the emergency and so forth.

### 5.3. Performance indicators during the pandemic

Performance indicators need to be adjusted to reflect local differences in lockdown intensity and differences in workload arising from the composition of the caseload of courts and local variations in the number of cases related to the pandemic due to, for instance, the structure of the local economy. Performance indicators should be either temporarily discontinued or re-calibrated according to variation in the caseload and composition of cases.

Individual factors might also affect the performance of judges. Judges with care obligations or specific medical conditions should be able to qualify for an exemption from conducting in-person, remote, or both types of hearings. New


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judges might have had to enter their current position during a lockdown and thus received less on-the-job and formal training, which might reduce their efficiency and the quality of their work. These individual differences should have had, and still have, implications for how judges are evaluated, and reduced efficiency that can be attributed to pandemic-related reasons should not be allowed to reduce the career prospects of judges. Hence, performance indicators should be used less stringently, and specific groups should be allowed to deduct time from the evaluation periods.

Simultaneously, judges, staff, and courts that have been trailblazers during the pandemic – in experimenting with and implementing new approaches and methods, and actively proliferating these to their colleagues and fellows – should be rewarded.

## 6. Dealing with the backlog of cases

### 6.1. Backlogs

The backlog of cases varies significantly according to the extent to which court proceedings were postponed and the general measures to counterbalance the economic consequences, such as economic compensation for companies and their employees, the halting of statutes of limitations, and restrictions on eviction of business tenants during the pandemic[45].

There are several ways to deal with backlogs. In some countries, such as Denmark, Italy and Taiwan, arbitration and mediation have become more popular[46]. One reason for this is that they are more flexible than court proceedings. Also, as private processes, only the mediator or arbitrator(s), the parties and their counsel participate, which makes remote sessions easier to handle. Therefore, these proceedings were not as adversely influenced by the pandemic, which should have made them an attractive alternative. Still, with few exceptions, no overwhelming shift from litigation to arbitration and mediation seems to have occurred.[47] The reason might be that mediated outcomes are generally not en-

45 State of Victoria, Australia, Covid-19 Omnibus (Emergency Measures) Act 2020 restricting eviction in commercial leases, not just home leases.

46 Petersen C. S. *Digitization of Danish Civil Justice*[in:] Krans B., Nylund A. (eds.), Civil Courts Coping with Covid-19. The Hague 2021, p. 57–61, Shen K.-L. *Civil Justice After the Covid-19 Pandemic in Taiwan* [in:] Krans B., Nylund A. (eds.), Civil Courts Coping with Covid-19. The Hague 2021, p. 179–187 and Silvestri E. *Covid-19 and Civil Justice: News from the Italian Front* [in:] Krans B., Nylund A. (eds.), Civil Courts Coping with Covid-19. The Hague 2021, p. 103–111.

47 Krans B., Nylund A. (eds.): *Civil Courts* …


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forceable, and thus mediation might not be attractive. Arbitration is too costly for many litigants.

Simplified proceedings, either as mandatory for some cases (e.g., by raising the limit for small claims proceedings and minor offence proceedings) or as a voluntary measure for parties who wish to "jump the queue", could also decrease the backlog. The same applies to replacing hearings fully or partly with written proceedings and limiting the scope and duration of oral hearings, or the combination of the two. Moreover, parties could be offered early neutral evaluation, non-binding arbitration or similar processes, giving them a firm basis for settling the case or assessing the risks and costs associated with continued litigation.

Considering that court proceedings are costly and time-consuming, procedural innovations are needed at this time. Perhaps somewhat disappointingly, the pandemic seems to have spurred limited innovation in this regard. Court proceedings still evolve largely in the same way as before the pandemic, except that courts are to a larger degree paperless, and some hearings are conducted remotely or in a hybrid format[48]. Small claims cases will probably be increasingly directed on fully online proceedings[49].

### 6.2. Insolvency proceedings

The pandemic has increased the need for dealing with insolvency. It has propelled a policy shift from a creditor-focussed approach to a "value-based" approach that has a broader perspective – the value of a business in the business ecosystem and for its employees.[50] Promoting rescue operations over liquidation of companies can save well-managed businesses that would have been viable had it not been for the economic down-turn during the pandemic.[51] However, these schemes could also contribute to keeping ill-managed business going for an unreasonably long time at the cost of the creditors. The result would be creating a wave of insolvency later once all restrictions and all support schemes have been lifted.

48 Krans B., Nylund A. (eds.): *Civil Courts …*

49 Fu Y. Civil *Justice in China in the Covid-19 Period* [in:] Krans B., Nylund A. Civil Courts Coping with Covid-19, The Hague 2021, p. 41–46 and Piché C. *The 'New Normal' of Civil Procedure in Canada* [in:] Krans B., Nylund A. Civil Courts Coping with Covid-19, The Hague 2021, p. 35–40.

50 Routledge J. *Rethinking insolvency law amid the Covid-19 pandemic.* Pacific Accounting Review 2021 no. 33, p. 231–237.

51 This has been done in Denmark, see Ghio E., Boon G.J, Ehmke D., Gant J., Langkjaer L. *Harmonising insolvency law in the EU: New thoughts on old ideas in the wake of the Covid-19 pandemic* in: International Insolvency Review 2021 no. 30, p. 437–442.


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Insolvency proceedings have been modified to create fast-track or simplified procedures for both liquidation and restructuring processes. In some countries, such as the Netherlands, the threshold for filing insolvency proceedings has been increased to reduce the number of incoming cases. In other countries, such as Germany, debtors and creditors have been encouraged to agree on voluntary restructuring of debts –that is, finding agreement through negotiations and only involving the court to approve the agreement.[52]

## 7. Concluding remarks

The pandemic has unveiled both a remarkable ability of courts and judges to adapt to exceptional circumstances and weaknesses in justice systems. Courts have a pivotal role during a state of emergency and that it is thus imperative that they operate even under difficult conditions. Preparedness through flexible rules, emergency rules and business continuance plans is vital, as is adapting temporary rules tailored to the crisis at hand that ensure equal access to courts and minimum fair trial rights.

The pandemic should spur digitisation of court proceedings, and in a critical review of existing rules and practices based on the technological and procedural innovations that have been made. Perhaps some of the foundational principles do not serve courts well in the contemporary world and are in dire need of reassessment.

## References

Bailenson J. *Nonverbal Overload: A Theoretical Argument for the Causes of Zoom Fatigue* in: Technology, Mind, and Behavior 2021 no 1.

Bamford D. *Responding to Covid-19: Australian Civil Courts in 2020* [in:] Krans B., Nylund A. Civil Courts Coping with Covid-19, The Hague 2021.

Benabou V-L., Jeuland, Emmanuel: *From the Principle of Immediacy to the Principle of Presence: A French Example and a Comparative Law Perspective* International Journal of Procedural Law 2022 no. 1.

Delgado Suarez, Christian: *Peruvian Judicial System During the Covid-19 Pandemic* [in:] Krans B., Nylund A. Civil Courts Coping with Covid-19, The Hague 2021.

Didier Jr F./ Zenati Jr H. / Peixoto R.: *Brazilian Precedents in Covid-19* [in:] Krans B., Nylund A. Civil Courts Coping with Covid-19, The Hague 2021.

52 Ghio E., Boon G.J, Ehmke D., Gant J., Langkjaer L. *Harmonising insolvency…* et al., p. 437–442.


ISBN Print: 9783847115823 – ISBN E-Lib: 9783737015820

Ervo L. *Pandemic and Digitization: The Situation in Finnish Lower Courts* [in:] Krans B., Nylund A. Civil Courts Coping with Covid-19, The Hague 2021.

Ferrand F. *Covid-19 and French Civil Justice: What Future for Civil Hearings?* [in:] Krans B., Nylund A. Civil Courts Coping with Covid-19, The Hague 2021.

Fu Y. *Civil Justice in China in the Covid-19 Period* [in:] Krans B., Nylund A. Civil Courts Coping with Covid-19, The Hague 2021.

Galič A. *Coping with an Outdated and Rigid Civil Procedure in the Era of Covid-19* [in:] Krans B., Nylund A. Civil Courts Coping with Covid-19, The Hague 2021.

Galič A. *The Preparatory Stage of Civil Proceedings in Slovenia, the Czech Republic and Slovakia: Halfway There Yet?*' in: Ervo L., Nylund A. (eds.): Current Trends in Preparatory Proceedings: A Comparative Study of Nordic and Former Communist Countries. Cham 2016.

Gascón Inchausti F. *Challenges for Orality in the Times of Remote Hearings: Efficiency, Immediacy and Public Proceedings* in: International Journal of Procedural Law 2022 no. 1.

Genn H. *Online Courts and the Future of Justice.* Birkenhead Lecture 2017. Gray's Inn, 16 October 2017, available at: https://www.ucl.ac.uk/laws/people/prof-dame-hazel-genn [22. 6. 2022].

Ghio E., Boon G.-J., Ehmke D., Jennifer G., Langkjaer L *Harmonising insolvency law in the EU: New thoughts on old ideas in the wake of the Covid-19 pandemic* International Insolvency Review 2021/= no. 30.

Hau W. *Covid-19, Civil Justice 2020 and German Courts 2021?* [in:] Krans B., Nylund A. Civil Courts Coping with Covid-19, The Hague 2021.

Hjort M *Orality and Digital Hearings* International Journal of Procedural Law 2022 no. 1.

Kakiuchi S. *Impact of Covid-19 on Japanese Civil Justice* [in:] Krans B., Nylund A. Civil Courts Coping with Covid-19, The Hague 2021.

Krans B. *The Aftermath of the Covid-19 Pandemic in the Netherlands- Seizing the Digital Gains* [in:] Krans B., Nylund A. Civil Courts Coping with Covid-19, The Hague 2021.

Krans B., Nylund A. (eds.): *Civil Courts Coping with Covid-19.* The Hague 2021.

Krans B., Nylund A. *Conclusions on Civil Courts Coping with Covid-19* [in:] Krans B., Nylund A. Civil Courts Coping with Covid-19, The Hague 2021.

Lahav A. *In Praise of Litigation.* Oxford 2017.

Marcus R. *Covid-19 and American Civil Litigation* [in:] Krans B., Nylund A. Civil Courts Coping with Covid-19, The Hague 2021.

Mulcahy L. *Legal architecture: justice, due process and the place of law.* Abingdon Oxon 2011.

Nylund A. *Den sivile rettspleien* [in:] Høgberg, B. M., Holmøyvik, E., Eriksen Ch. C. (eds.), Kriseregulering: Lovgivning under koronakrisen. Bergen 2023.

Nylund, Anna *Covid-19 and Norwegian Civil Justice* [in:] Krans B., Nylund A. Civil Courts Coping with Covid-19, The Hague 2021.

Nylund A. *Civil Procedure in Norway.* Alphen aan den Rijn 2020.

Pereira Campos S. *The Impact of the Covid-19 Pandemic on Civil Procedure in Uruguay* [in:] Krans B., Nylund A. Civil Courts Coping with Covid-19, The Hague 2021.

Petersen C. *Digitization of Danish Civil Justice* [in:] Krans B., Nylund A. Civil Courts Coping with Covid-19, The Hague 2021.


ISBN Print: 9783847115823 – ISBN E-Lib: 9783737015820

Piché C. *The 'New Normal' of Civil Procedure in Canada* [in:] Krans B., Nylund A. Civil Courts Coping with Covid-19, The Hague 2021.
Pinsler J. *Singapore Civil Procedure and Covid-19* [in:] Krans B., Nylund A. Civil Courts Coping with Covid-19, The Hague 2021.
Routledge J. *Rethinking insolvency law amid the Covid-19 pandemic.* Pacific Accounting Review 2021 no. 33.
Rühl, G. *Digitale Justiz, oder: Zivilverfahren für das 21. Jahrhundert* JuristenZeitung 2020 no. 17.
Rylski P. *Transformation of Polish Civil Procedure in Light of Covid-19* [in:] Krans B., Nylund A. Civil Courts Coping with Covid-19, The Hague 2021.
Schneier B. *Beyond Fear: Thinking Sensibly About Security in an Uncertain World.* Göttingen 2003.
Schoenherr: *Covid-19 Overview on moratoria* available at: https://www.schoenherr.eu/content/Covid-19-overview-on-moratoria/ [22.6.2022].
Shen K.-L. *Justice After the Covid-19 Pandemic in Taiwan* [in:] Krans B., Nylund A. Civil Courts Coping with Covid-19, The Hague 2021.
Silvestri E. *Covid-19 and Civil Justice: News from the Italian Front* [in:] Krans B., Nylund A. Civil Courts Coping with Covid-19, The Hague 2021.
Sorabji J. *Developing the New Normal for English Civil Procedure Post Covid-19* [in:] Krans B., Nylund A. Civil Courts Coping with Covid-19, The Hague 2021.
Taelman P. *Impact of Covid-19 on Civil Procedure in Belgium* [in:] Krans B., Nylund A. Civil Courts Coping with Covid-19, The Hague 2021.
Uzelac, A. *Croatian Civil Justice v. Covid-19: The Empire Strikes Back* [in:] Krans B., Nylund A. Civil Courts Coping with Covid-19, The Hague 2021.
Vebraitė V. *Impact of Covid-19 on Lithuanian Civil Justice* [in:] Krans B., Nylund A. Civil Courts Coping with Covid-19, The Hague 2021.


ISBN Print: 9783847115823 – ISBN E-Lib: 9783737015820