

SimpliVi Analysis & Design Consolidation

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1. Introduction

SimpliVi (**Simplifying Cross-Border Judicial Videoconferencing in Europe** – www.simplivi.eu) is an EU-funded project with the aim of improving cross-border judicial videoconferencing. To achieve this goal the project partners from Austria, Greece, Poland, Germany, Spain and Portugal analyse the current situation of cross-border judicial videoconferencing, develop recommendations and provide best practise examples from a technical, organisational and legal perspective. Furthermore, the project partners develop an e-CODEX (www.e-codex.eu) implementation to support the workflow of the setup of a cross-border judicial videoconference.

The main driver for the project was the **COVID-19 pandemic** as it has clearly surfaced the need for further digitalisation, also with the help of videoconferences. At the same time, it has led to extended knowledge and experiences with videoconferences from legal, organisational and technical perspective. An additional driver is the **European Regulation for the digitalisation of judicial cooperation**¹, which extends the application of cross-border judicial videoconferencing.

The COVID-19 pandemic has significantly increased public awareness regarding the use of new technology tools in the public sector and administration. The necessity to limit interpersonal contacts forced the exploration of solutions aimed at ensuring the reliable functioning of public authorities while eliminating the threat associated with the spread of the virus.

In many countries, as a result of the pandemic, video conferencing solutions were used for the first time in the public sector. The pandemic also impacted the dimension of justice, which despite significant restrictions and limitations, had to continue functioning, as the right to a fair trial is a fundamental human right. The way court proceedings, both civil and criminal, are conducted has changed. Many countries have introduced solutions allowing for proceedings to be conducted in a non-public manner (without the presence of parties), in writing, or by using video conferencing.

The initial period of the pandemic was characterized by temporary solutions, based on practice or informal collections of good practices, rarely reflected in existing legal regulations established by state legislative bodies. Over time, as courts, judges, and legal professionals (lawyers, patent attorneys, mediators, prosecutors) gained experience, court practices became standardized within each country. From the perspective of years, since the first cases of SARS-Cov-2 virus infection were recorded in Europe, many member states have decided to permanently introduce solutions allowing court hearings to be conducted using video conferencing into their legal framework (by introducing appropriate provisions into universally binding acts). Thus, the use of video conferencing in many court proceedings as an alternative to traditional court hearings held in court buildings has been sanctioned (or the process of sanctioning is ongoing).

The level of awareness among citizens of individual member states and the extent of experience in this area vary. The rules for remote participation in court hearings also differ across the entire European Union, starting from countries where liberal provisions allow participation in hearings via video conferencing from any location (residence, workplace), to countries where

¹ <http://data.europa.eu/eli/reg/2023/2844/oj>

participation through video conferencing is permissible solely from another court building or in the presence of a court official. Significant differences are also evident regarding civil and criminal proceedings, as well as the admissibility of conducting witness testimony through this method.

Importantly, despite the analysis indicating that in most countries the possibility of conducting videoconference hearings was introduced during the COVID-19 pandemic (and in some cases much earlier), it is still a rarely used solution for cross-border proceedings. The ongoing globalization and migration of European society guaranteed by the existence of the freedom of movement of persons, goods, and services within the European Union make it essentially important to ensure the efficient operation of the European justice system in cross-border aspects. Video conferencing should become a real alternative to other methods of conducting cross-border proceedings, especially written testimony and the conduct of witness testimony by designated judges or consuls (or other diplomatic services). The fundamental aspect of court proceedings is to ensure judges and parties have direct access to evidence material and participation in all procedural activities to enable them to formulate their own positions and assessments. Currently used video conferencing technology effectively fulfills these principles.

Simplifying the process of organizing and conducting remote cross-border videoconference hearings could contribute to increased use of video conferencing tools and the streamlining of cross-border proceedings. The implementation of the project identifies barriers that can be eliminated to enhance the effectiveness of judicial authorities in cross-border aspects.

In order to gather best practises and develop recommendations, the SimpliVi project partners chose a **multi-fold approach**. Each project partner would bring its **own national knowledge and experience** into the project. Besides, the most intense experience was gained during **study visits** to selected European Member States (Sweden, Greece, Germany, Poland, Portugal, Spain, Austria). To cover an even broader regional area, **online interviews** were conducted with further Member States (Croatia, Italy, Netherlands, Hungary, Slovenia). Further, some **Third Countries** (Brazil, Norway, Canada) were interviewed to get also their point of view and experience with cross-border judicial videoconferencing. Finally, some countries (Bulgaria, Lithuania, France) provided written answers to an **extensive questionnaire** and thus extended the SimpliVi knowledge with their input.

SimpliVi thanks those countries for providing input.

The purpose of this document is to consolidate the extensive input and distil the most important message, so it can serve as a basis for Deliverable D2.1 “Recommendations for simplifying cross-border judicial videoconferencing”.

- Chapter 2 describes the methodological approach of the project.
- Chapter 3 collects the results and key findings of the analysis activities.
- Chapter 4 highlights the impacts of the results and key findings for cross-border VC.
- Chapter 5 proposes a work approach for the future Deliverable D2.1. The Recommendations as such are presented in a separate document.

2. Information Collection

The methodological approach followed in order to establish the procedure for videoconference court hearings in the member states of the European Union and to define the process related to cross-border court hearings conducted via VC, has been a combination of **desktop research** alongside information collection during **study visits** to and **online interviews** or **written answers** to an extensive questionnaire with selected European Member States, as well as a small number of EFTA and Third Countries. These interactions allowed for an in depth understanding of what the common elements in national implementations are, national variabilities, key success factors, barriers and outstanding challenges, contextualised to each national judicial system. The end goal is to identify outstanding issues that could potentially prove to be showstoppers, explore ways to address them and eventually propose – in the form of recommendations and calls to action, methods and solutions for arriving at a simplified cross boarder VC process.

2.1. Desktop research

A literature review was conducted in the area of videoconferencing court hearings. The primary research method adopted in the literature analysis was qualitative, involving the gathering and extraction of relevant literature materials and reviewing them to confirm or refute formulated hypotheses. This method was particularly useful to draw information for MS where interviews or study visits had not been possible.

Types of sources investigated include:

- Scientific articles and papers;
- Non-profit organization reports (court watch organizations report);
- Laws and regulations in member states;
- European Union legislation;
- Collections of best practices;
- Materials prepared within other projects;
- Surveys and statistics.

The full list of literature is contained in Annex II: Sources of information

A qualitative literature analysis partially provided answers to interview questions (e.g., regarding the use of video conferencing systems). A further analysis of the information allowed for organizing the findings into groups of information that would form the factual basis for the formulation of the overall vision of cross border video conferencing court hearings and eventually the Recommendations:

- > **Drivers** (improve efficiency, reduce costs for state and for citizens, safety (in relation to prisoners), transparency)
- > **Key success factors** (supporting policy, uptake by the judiciary, acceptance by legal practitioners and citizens)
- > **Barriers** (technical challenges, IT support, need for physical presence, lacking legislation)
- > **Impacts** (on the court system, on the judiciary, on the legal profession)
- > **Cross border** video conferencing

2.2. Online Survey Interviews

As part of the project, a series of online interview meetings were conducted with representatives of the judiciary (judges, court officials, representatives of legislative or executive bodies, IT staff) from various member states. During the meetings, participants answered questions included in a standardized questionnaire covering three aspects of conducting court hearings via video conferencing (legislative, technical, and organizational aspects). When developing the questionnaire, the aim was to obtain the most complete picture of how remote hearings are conducted in a given member state. The survey interviews were conducted in the following member states:

- Brazil – 18.10.2023
- Croatia – 7.11.2023
- Italy – 24.11.2023
- Netherlands – 29.11.2023
- Hungary – 14.12.2023
- Bulgaria – 12.2.2024 (written answers)
- Norway – 30.04.2024
- Lithuania – 14.6.2024 (written answers)
- Canada – 7.8.2024
- France – 11.10.2024 (written answers)
- Slovenia – 25.10.2024

2.3. Observation and Direct Interviews (Study Visits)

The last of the research method adopted for the report and project implementation was the conduct of direct research through study visits in selected countries. During the visits, the functioning of the justice system, courtroom equipment, and the operation of video conferencing systems were observed. From each visit, a report was prepared based on the questionnaire mentioned in point 2, as well as photographic documentation. Subsequently, the indicated materials underwent a comparative analysis.

Study visits were conducted in the following countries:

- Sweden – 30.-31.08.2023
- Greece – 15.-16.11.2023
- Germany – 20.-21.03.2024
- Poland – 10.-11.04.2024
- Portugal – 23.5.2024
- Spain – 10.-11.09.2024
- Austria – 25.-26.06.2025

3. Results and key findings

- > **Drivers** (improve efficiency, reduce costs for state and for citizens, safety (in relation to prisoners), transparency)

- > **Key success factors** (supporting policy, uptake by the judiciary, acceptance by legal practitioners and citizens)
- > **Barriers** (technical challenges, IT support, need for physical presence, lacking legislation)
- > **Impacts** (on the court system, on the judiciary, on the legal profession)
- > **Cross border** video conferencing

3.1. Analysis of Information

As a first step we looked for the most common elements across countries under the following cross-cutting themes:

3.1.1. Drivers

While COVID has been a major gamechanger in national VC adoption and uptake, efficiency and convenience have been identified as a major driver:

- **Reduction of Travel and Time Savings:** VC has proven invaluable in countries with geographical challenges, such as in Spain, where videoconferencing has significantly reduced the need for travel, decreasing the carbon footprint associated with transportation and therefore improving environmental sustainability. Furthermore, the high value of VC in Sweden, Hungary, Poland and Canada is driven by the need to cover long distances and save time, especially in large countries with dispersed populations. Travel savings is also crucial for VC with prisoners (e.g. Slovenia). Moving them to courts is very costly and a potential security risk. As another example, Austria is located in the heart of Europe and has 8 neighbouring countries. Legal cross-border activities are therefore quite common and result in an increased need for cross-border videoconferences.
- **Procedural efficiency:** VC adoption has also improved procedural efficiency by reducing the time required for hearings, especially in contexts with large court case backlogs.
- **Ease of Participation:** Brazil, Poland and Hungary mentioned the convenience of participating in VC from various locations, including homes, which reduces logistical challenges and enhances participation. VC fosters inclusivity and enable victims, witnesses, and other participants with limited mobility to access justice seamlessly. In fact, VC emerges as a technological response to the need to protect victims, particularly in cases of gender violence and serious threats. Furthermore, it facilitates participation by legal professionals, court experts and translators.
- **Relevance for International Cases:** Portugal, Germany, Hungary and Austria emphasized the importance of VC for cross-border cases, highlighting its role in connecting courts, prisons, and detention centers across countries. Also, the European Union and other regions are leveraging VC to align with international treaties and conventions. Spain has effectively employed VC in extradition cases, connecting courts and detention centres,

with international authorities. International legal cooperation has undergone a significant change with the use of videoconferencing as a support tool in obtaining cross-border evidence.

Additionally, the existence of specific instruments such as the Ibero-American Network IberRED strengthens international collaboration by developing practical guides and promoting videoconferencing as an agile and secure means, leading to a more effective global Justice

- **Positive User Feedback:** The overall positive feedback from various countries regarding the effectiveness and efficiency of VC systems acts as a driver for continued use and improvement. For instance, Spain's judiciary reported reduced procedural delays during the pandemic, underlining the VC technology's efficiency and reliability. Austria has reported a low hesitance to use VC as a result of experienced local IT support keeping technical issues away from judges.
- **Adapting to global crises:** The VC adoption during the pandemic has demonstrated its ability to protect public health and ensure the continuity of judicial processes, preparing the judiciary for future crises.

3.1.2. Key success factors

The following are the most commonly recognized success factors across countries investigated.

> Flexible Legal Framework

Sweden, Norway, Portugal, Canada, The Netherlands and Slovenia showcase flexible legal frameworks that allow judges to decide on the use of VC based on specific case needs, promoting adaptability. Other countries, e.g. Austria, have some restrictions in place. Still, many legal and organisational details are left to the discretion of the judge and leave enough room for a flexible application of a videoconference and thus motivate practitioners to use VC. In addition, adopting pragmatic approaches to legal and organizational issues, solving problems and unexpected challenges as they arise, encourages the use of VC while respecting ethics and procedural guarantees, ensuring principles such as immediacy, contradiction and publicity in virtual judicial processes.

> Investing in Technical Infrastructure

Stable, secure and user-friendly systems encourage widespread use, high user acceptance and reduce technical difficulties. The use of common platforms like MS Teams in Brazil and the Netherlands promotes compatibility and ease of use across different regions and systems.

Sweden, Brazil, Poland and Austria highlight the maturity of their technical infrastructure and applications for videoconferencing, which supports judicial proceedings effectively. Sweden, Brazil and Austria have invested significantly in videoconferencing infrastructure and applications, indicating a strong commitment to digitalization in judicial systems. Other countries

such as Portugal are migrating from old VC solutions with significant limitations to new upgraded national infrastructure to improve usability and performance.

Countries like Sweden, Hungary and Austria have long-term experience with VC, contributing to the development of elaborate and effective systems. In Spain, the judicial system has transitioned to updated digital solutions and several IT applications are integrated with the VC systems; for instance, nowadays a robust recording system is in place allowing the recording to automatically be integrated into an Electronic Judicial File with full legal validity. Austria benefits from its long-term experience as it went through several iterations to continuously improve the VC setup of court rooms.

In any case, national standards for virtual courtrooms and remote testimony facilities help to streamline the technical infrastructure and increase efficiency in the use and operation of the technical videoconferencing infrastructure.

> **Training and Organizational Support**

Most countries emphasized the importance of training for judges and support staff to build confidence and competence in using VC systems. This includes the provision of user guides or similar written documentation. Dedicated teams for managing videoconferencing systems, ensuring smooth operations and support for users have been identified as major adoption enablers, as well as the possibility to perform connectivity, camera and microphone tests before each viewing to minimize technical issues. Austria emphasised the benefit of local IT support with experience in (cross-border) VC. Thus, the technical issues are kept away from judges and they feel more comfortable with using VC for hearings.

> **Providing information about videoconferencing framework**

Some reluctance to use videoconferencing originates from lacking knowledge about the legal or organisational framework. An information source such as an electronic portal with concise, understandable and easy-to-use information about such national frameworks (e.g. legal regulations, contact points, security requirements, etc.) can help to mitigate hesitation in using videoconferencing. E.g. Portugal provides such a portal and it helped to keep the number of videoconferencing support request low due to easy accessible and comprehensive information about videoconferencing, including cross-border videoconferences.

> **Interoperability, Security and Reliability**

Ensuring security and reliability of communications is crucial for judicial proceedings. Some countries operate VC on their own servers. When using an own business system, it is important that a high level of interoperability with other common platforms facilitates seamless communication.

The use of proprietary or outdated systems has been a barrier for the effective adoption and implementation of videoconferencing solutions in judicial systems. In contrast, Spain's adoption of interoperable and secure platforms, in line with EU recommendations, has demonstrated how to overcome technical fragmentation effectively. Some other countries (e.g. Sweden, Hungary) have invested effort in making their VC system interoperable with the most commonly used VC

systems. Austria mentioned issues with old VC systems in other countries, which do not allow encrypted communication.

> **Enhanced Access and Inclusivity**

Support for interpretation and translation is critical, especially in cross-border videoconferences. Sweden, Poland, Italy and Spain support simultaneous translation and most countries support consecutive translation during VCs, ensuring that non-native speakers and those requiring interpretation can participate fully.

The possibility of testifying from remote locations benefits victims, witnesses and parties with reduced mobility or access problems.

In addition, VC allows greater flexibility for legal professionals, security forces and experts by eliminating unnecessary travel, which favours reconciliation of work and personal life.

Few countries such as Italy and the UK and Scotland allow public participation in VCs by providing links to MS Teams meetings, promoting transparency and inclusivity.

However, confidentiality guarantees must be in place throughout the process. It is crucial that telematic systems prevent unauthorized recordings or improper use of data and images of the parties. Technical solutions such as access control, virtual waiting rooms and restricted link can control participation in a hearing.

> **Sufficient budget for digitalisation**

Digitalisation in general and VC in particular require some additional, initial effort. Without sufficient budget for infrastructure and personnel costs a suitable VC environment cannot be established. SimpliVi analysis has shown that a large-sized budget can bring a very professional VC solution. But also a medium-sized budget can – if well invested – provide a sufficient and very suitable VC environment. A small budget or no budget at all will not suffice to establish cross-border or even only national VC facilities.

Additionally, the daily maintenance and operation of videoconferences requires some effort and probably additional technical staff.

3.1.3. Barriers

A number of common barriers were reported by MS. Identifying and addressing these barriers is crucial for the effective adoption and implementation of videoconferencing solutions in judicial systems, enhancing accessibility and efficiency in legal proceedings.

> **Legal and Regulatory**

Various countries like Brazil, Netherlands and Poland mention that specific legal frameworks and regulations either do not exist or need to be developed further to support videoconferencing, particularly for cross-border cases.

The Netherlands points out that consent of both parties and judge's discretion are major legal impediments for using VC.

Different and partly opposing national procedural rules regarding VC are not only a legal impediment itself but also a mental one as practitioners are reluctant to dive into the topic of another country's national law for a single VC.

Most countries provided a temporary legal framework during COVID, and now it is evolving into more permanent and structured legal reforms.

> **Network Bandwidth and Stability**

Technical obstacles such as network bandwidth and stability issues, particularly in rural areas or cross-border scenarios, affect the quality and reliability of videoconferencing. Poor internet connection quality is a common issue that affects cross-border videoconferencing and hinders uptake and adoption by the judiciary.

Also, the lack of access to devices or networks by some citizens could create a digital gap and a perception of inequity regarding access to Justice.

> **Organisational Fragmentation**

As seen in the example from Brazil, different courts have their own solutions and systems without a central budget, which can lead to inconsistencies. Combined with lack of technical staff in general this may lead to inefficiencies that hinder adoption.

Also, in those countries with decentralized powers, such as Spain or Germany, the organizational and technical difficulties to ensure the interoperability of solutions used in different regions may deter an effective adoption and implementation of videoconferencing solutions in judicial systems. Spain's judiciary recognized this obstacle soon and implemented centralized measures to standardize VC solutions.

Another problem could be the variability in the resources available between different judicial bodies in the same MS.

> **Language and Communication**

The quality of sound for interpretation is often not sufficient, as noted in Poland, and thus a barrier for effective communication during VC. Deployment of high-quality audio systems for interpretation reflects a proactive solution to this issue. Also, for an efficient cross-border VC some extensive coordination prior to the VC needs to take place. However, an excessive workload in courts often prevents extensive testing before hearings.

3.1.4. Impacts

The integration of VC into judicial systems has had profound effects:

- Efficiency gains: some countries, such as Spain, reported reduced case backlogs and quicker resolutions through VC use during the pandemic.
- Higher closure rate: cases can be closed (earlier) if e.g. witnesses abroad can be interviewed via videoconferencing.

- Optimization of resource distribution and modernization of infrastructures in judicial bodies.
- Optimization of specific procedures, such as arrangement of sentences, detailing the duration of the sentence imposed, and enforcement of judgments, where VC significantly speeds up the procedures.
- Procedural publicity: the possibility of virtually attending open hearings expands the scope of the principle of publicity, eliminating the physical limitations of courtrooms.
- Cost savings: a significant reduction in prisoner transport and associated security measures, for example, highlighted a cost-effectiveness approach.
- Improved security: reducing transfers from prisons reduces risks such as escapes and facilitates a more controlled judicial environment.
- Professional adaptation: although there is still some cultural resistance, legal professionals increasingly embrace digital tools, highlighting an evolution toward a tech-savvy judicial workforce.
- Increased inclusivity: the possibility of testifying from remote locations benefits victims, witnesses and parties with reduced mobility or access problems. Furthermore, videoconferencing extends the possibility to include translators and court experts at remote locations, if a person with this specific expertise is not available at the court's location.
- Victim protection: VC emerges as a technological response to the need to protect victims, particularly in cases of gender violence and serious threats.

Also, the development of technological solutions drives other advances in judicial management.

3.1.5. Additional aspects specific to cross-border video conferencing

The issues for cross-border VC are mostly the same as for national VC. There are, however, additional issues to be highlighted as specific to cross-border VC:

- **Coordination and Scheduling:** Lacking knowledge of who to contact in a foreign court is a barrier for setting up a cross-border VC (although EJM contact points have proven to be very helpful). Establishing dates and times for cross-border VCs, considering time zones and short notice periods is challenging. Adopting centralized scheduling systems to streamline cross-border VC may be a good practice when collaborating with EU counterparts, as it is done by Spanish courts.
- **Technical Interoperability:** Countries face challenges with proprietary solutions of other countries which do not follow standards, affecting interoperability. Knowledge about available VC facilities would be helpful.
Form N of Regulation 2020/1783 provides the space for organisational coordination information but should also include technical information about VC facilities.

- **Preceding testing:** testing of videoconferencing some time before the actual hearing improves the quality and stability of the actual videoconference significantly. Preceding testing is especially relevant in a cross-border environment, where different technical systems converge and where less experience with such a setup exists.
- **Legal interoperability:** The legal basis for videoconferencing can be quite different and thus challenging (e.g. Who can be heard? Which authority needs to be present? In which stage of the legal proceeding is it allowed to hold a (cross-border) videoconference?). There is a need to follow international treaties and to be aligned with EU directives to harmonize legal processes for cross-border VCs, enhancing procedural clarity. For example, Regulation (EU) 2020/1783 on electronic evidence facilitates judicial cooperation in the use of videoconferencing and is appreciated by practitioners as it helps to reduce complexity of cross-border videoconferencing.
- **Electronic identification systems:** The use of digital certificates and electronic ID, or tools such as cl@vejusticia in Spain, will facilitate the secure participation of international parties.
- **Language:** Some countries mention issues related to language barriers in cross-border cases, affecting interpretation quality and understanding. The integration of digital simultaneous interpretation tools and the availability of resources in multiple languages are essential to avoid judicial errors.
- **Additional Support:** such as preparation and testing through test calls before cross-border VCs may be necessary to ensure smooth operations, demonstrating proactive measures to support international cooperation.
- **Communication partner:** it is a crucial key success factor to have a contact point at the requested communication partner to establish a good communication and to solve any issue before, during and after the videoconference. Furthermore, a centralised contact point – in opposition to individual contact points at each authority – has better chances to increase the experience with cross-border videoconferencing issues.
- **Experience synergy:** the most promising way to reduce reluctance in using cross-border videoconferencing is to build up experience with videoconferencing practitioners. By using videoconferencing intensely – even in a national setting – practitioners get used to this way of hearing witnesses and other persons relevant for a judicial proceeding. The intense use of national videoconferencing is therefore a booster for using videoconferencing also in a cross-border manner. Of course, it takes time to build up such experience, but at least national and cross-border videoconferencing can benefit from each other. A good enabler for gather experience is to concentrate experience in a central person (per country or even per court) by assigning the person with a competence for VC support.
- **Direct taking of evidence:** there are different scenarios for a cross-border videoconferencing setup. The direct taking of evidence (e.g. a national court organises a VC hearing with a witness with its own VC tools and with the witness using this tool)

usually requires the preceding authorisation by an authority in the other country. But once this authorisation is given, the holding of the direct VC is much easier to handle as it does not require the involvement of another foreign authority but takes place in direct communication with the person to be heard and with the tools, which the hearing authority is used to.

- **Legal basis with third countries:** interviews have shown that third countries face basically the same challenges as European Member States. Organisational and technical challenges are not more or less diverse than within the European Union. The main difference is though on the legal basis for cross-border videoconferencing. Within recent years the European Union has adopted several legal acts, which allow for cross-border videoconferencing and require reduced bureaucratic effort compared to the situation before. Videoconferencing with third countries can be based only on a few international treaties. Although they provide a good general legal basis for judicial videoconferences the bureaucratic effort is somewhat higher compared to the European legal acts.

4. Implications for cross-border videoconferencing

All study visits, interviews and questionnaires have brought up a significant number of single improvement possibilities. On a larger scale, it seems that there are two main implications especially for cross-border videoconferencing: cross-border workflow and interoperability.

4.1. Cross-border workflow

Most findings of chapter 3.1.5 are related to the phase before the cross-border videoconference takes place. There is an uncertainty about several aspects that need to be taken into account when requesting or coordinating a cross-border videoconference. These uncertainties can be mitigated either by providing up-front information about the videoconferencing constraints or by requesting and coordinating a cross-border videoconference in a standardised way.

The latter aspect was already anticipated before the beginning of the project. This is why the projects partners have included a separate workstream as part of the project for the definition of a standardised workflow for setting up a cross-border videoconferencing, including standardised forms to do so.

This cross-border workflow will be analysed and defined in the separate Deliverable D2.2. “Business collaboration for setting up cross-border judicial videoconferencing”.

4.2. Interoperability

True to the motto of the European Union “United in diversity”² the project partners have seen many different approaches to videoconferencing in all kinds of aspects: legal, technical and organisational.

However, it is essential that national requirements do not impose an impediment to European cross-border communication. It was clear, that national policy makers are not able (at least to a great extent) to replace national legislation or national technical solutions by (for the time being non-existent) European standards for videoconferencing. The European answer to this topic is harmonization and/or interoperability.

A good example for harmonization is Regulation (EU) 2020/1783 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters. There, harmonized European legislation provides a solid legal basis for cross-border videoconferencing in matters of this Regulation.

For technical aspects the diversity in technical solutions needs some effort for European communication partners to be united in cross-border videoconferencing. Here, a solution to make the diverse technical solutions interoperable is necessary. There are standards and technical interoperability solutions available. But it needs further discussion and agreement which approach is the most suitable for European communication partners in the matter of videoconferencing.

5. Recommendations & Best Practises

As pointed out above, this document intends to consolidate the vast amount of input, which the SimpliVi project gratefully has received. The next step is now to consolidate the input even further and extract recommendations and best practises from this input. The result will be the Deliverable D2.1 SimpliVi Recommendations.

The aim of the SimpliVi project is to provide hands-on recommendations for practitioners to apply them in their daily work with videoconferences. However, the project has picked up many good ideas and approaches for the legal and/or policy level of European judiciaries. These ideas – if applied nationally – can simplify and thus enhance cross-border videoconferencing even further. Therefore, they should be mentioned in the SimpliVi Recommendations, as well.

The Deliverable D2.1 SimpliVi Recommendations will therefore be structured along target groups such as:

- practitioners
- administrators
- policy makers

² https://european-union.europa.eu/principles-countries-history/symbols/eu-motto_en



They will further be categorized in:

- legal
- technical
- organisational
- other/combined

Recommendations and best practises will be distinct from each other. Recommendations will be clearly – as the term says – recommended to the specific target group to be applied in practise. Best practises are intended as an example how other Member States dealt with a special issue or situation. The way how they dealt with it might be specific to the national constraints though. Thus, a best practise cannot be applied identically to another national environment. It has to be adapted and only the overall idea of a specific best practise can be transformed into a national practise. However, the SimpliVi project deems a best practise worth to be examined and considered seriously for national adaption.

6. Annex

Annex I: Key findings per country

This chapter lists the conclusions of each study visit, interview or questionnaire done by a country.

Sweden (Study Visit 08/2023)

In Sweden, two judicial organizations provided input:

Swedish Public Prosecution Authority

Although the study visit was very time-limited a couple of valuable insights could be gained. The legal basis for videoconferencing is in place and leaves enough space for flexibility. The Public Prosecution Office uses videoconferencing intensely, but mainly for national VCs. Cross-border VCs are usually done at a later stage when the court has taken over the case. In court hearings VC are always organized by courts.

From the technical aspect it was worth noting, that the PPO uses Skype for Business as they have done for many years now. It integrates with other VC systems, because PPO invests quite some effort to establish gateways to other VC systems and thus making Skype for Business compatible with those. Especially the interoperability with the CISCO System used by courts is maintained on a very high level and a lot of effort.

National Court Authority

The overall impression of videoconferencing at Swedish courts was impressive. As a result of long distances in Sweden, videoconferencing has a high value. Also, the overall digitalisation in Sweden contributes to the fact, that videoconferencing is widely accepted.

This is reflected in the effort and budget, which is invested in videoconferencing. The technical infrastructure and the applications for videoconferencing are very mature and support judicial proceedings very well. There is a dedicated team for this topic at the National Court Authority and the long-term experience with videoconferencing contribute to a very elaborate system.

Numerous best practises could be identified:

- Operated on SNCS's own servers
- All equipment in the courtroom can be checked online nationwide. Automatic monitoring.
- 24h service set up for VC.
- Any person can participate in a VC with a browser.
- Simultaneous and consecutive translation can be switched on.
- Provide virtual test rooms so persons can test the connection in advance.

- Test the setup of a VC before the hearing. At best, include all parties.
- Training of VC support staff in an actual training court room.
- The interpreter is located preferably at the location where the person needing the interpretation is located.
- Collect and publish internal FAQs. Review regularly! Keep them updated!

Brazil (Interview 10/2023)

1. Current State of Judicial VC:

- Videoconference (VC) is possible and used in all types of procedures, since it's an easy way to the hearings and parts.
- The system is provided by central authority and is used in civil and criminal procedure, but in criminal law it's not permitted when the person made the first presentation to the judge or when it's arrested.
- All the courts can use VC, including the Supreme Court; VC is regulated in criminal and civil procedure acts.
- Mediation: videoconferencing can be used, but there are no specific rules or limitations.
- Since 2006, the VC is used but it was during the pandemic that the practice of using such means was established.

2. Legal Responsibility:

- The National Council of Justice is responsible to create legal acts but each court provides specific rules for organizing and conducting VC in court hearings.
- Each court can also have their own regulations, but are in a lower hierarchy than the legal acts created by the National Council of Justice.

3. Organizational and technical Responsibility:

- Each court has its own solutions, practice and systems. All the aspects can be regulated internally by each court and each court has the responsibility to provide the necessary equipment for courtrooms and judges.
- Even smaller courts are capable of providing VC solutions
- Some larger courts have their own dedicated IT teams and their own budget to choose VC software (there is no central budget)
- Link to the video conference is sent via email or in a message (SMS, WhatsApp).
- Cisco Webex is offered, but not mandatory. Other services are in use as well (e.g. Teams)

4. Other Information:

- Parties can request videoconference but the other part may object, especially in those procedures that it's not mandatory
- The VC can be used between courts, prisons and detention centers
- In general, all court hearings, both criminal and civil, are recorded, not only the videoconferencing. These recordings are part of electronic files.

- Translators participate in VC court hearings as regular users.
- During VC court hearings, documents are presented by sharing the screen, or they are sent to the court in advance through the digital filing system.

5. Cross-Border VC:

- There are relevant regulations (e.g. international agreements) that regulate this matter, but the courts assume that it's too complicated to proceed with
- In some regions of the country, there are only phone network connections, which is not enough to maintain a stable VC call
- In general, the most common problem for cross-border VC is the low quality of internet connection

Croatia (Interview 11/2023)

No legal obstacles can be identified for videoconferencing.

No organisational obstacles can be identified. Every court organises a videoconference itself. Maybe lack of technical staff at local level could be a noteworthy obstacle.

Most obstacles are of technical nature (e.g. network bandwidth and stability).

Greece (Study Visit 11/2023)

Greece is at the starting point from a technical and legal view. There is not much experience with videoconferencing in general. Even less experience is available with cross-border VC.

VC are done only from an "official" room to another "official" room. It is therefore a closed system. It may be opened later on. Technical interoperability with other systems is available.

Cross-border VCs take place only to Greek embassies. Embassies use different system but these can be connected with the judicial system.

Recommendations:

- The current LCD screens are too small. It is hard to read and see if a person is far away. A monitor should therefore be big enough and/or close to the judge.
- If a country is starting with VC it is better to start with civil law cases.
- Digitalised court files also support digitalising communication, i.e. videoconferencing.
- For criminal cases (also civil) it is a beneficial case to establish VC in jails. VC saves a lot of organisational effort, human resources and time. And it is a security risk to transfer prisoners through the country.
- Have internal digitalisation experts for setting up a VC infrastructure. A contractor will sell its established system without knowing the needs for judicial requirements.
- It is parallel work for the judge to manage the hearing and the file itself plus managing the videoconference. This is too much to focus on. Some support role (IT support, assisting court clerk, ...) helps the judge to focus on the actual hearing, parties and evidence.

Italy (Interview 11/2023)

Videoconferencing is used in Italy mainly in criminal proceedings. Videoconference is applied only in the cases stated in the laws.

The VC system is provided and supported by the Central IT provider “Directorate General for Automated Information Systems”.

The participation of the public is offered quite extensively. A person of the public can request to receive an invitation to an MS Teams meeting and will then be provided with an MS Teams link.

Most common issues with cross-border videoconferencing:

- Establishing date and hour without considering time zones.
- Availability of courtrooms equipped with standard VC equipment.
- Connection, audio and video problems.

Netherlands (Interview 12/2023)

1. Current State of Judicial VC:

- VC is possible and used in all types of procedures.
- Highest courts: Supreme Court does not use VC, but the Council of State (administrative cases) does.
- **Criminal Law:** Videoconferencing Decree allows for VC since 2006 (amended in 2022). Used in cases with serious security risks during transportation of accused. Judge can decide to use VC and suspects can be interrogated against their will from prison.
- **Administrative and Civil Law:** Temporary Act during Covid allowed VC, now expired. Working on a permanent law. In the meantime, VC can be used if both parties agree.

2. Legal Responsibility:

- Ministry of Justice and Security/Parliament responsible for legal regulations.
- Decree regulates technical and organizational aspects, not national law. Consent of both parties and judge's discretion are major legal impediments.

3. Organizational Responsibility:

- Council of the Judiciary provides VC organization for District Courts and Courts of Appeal.
- Supreme Court and Council of State have independent organizations.
- Organizational issues reported, such as disturbances during VC from home.

4. Technical Responsibility:

- Council of the Judiciary holds technical responsibility, manages processes, and provides training.
- MS Teams used for VC, with technical support available for larger hearings.

- Technical and organizational instructions provided at individual court levels.
- 5. Other Information:**
- VC hearings are not open to the public, but links can be sent to individuals upon request.
 - Not recorded electronically, participant identities not formally checked.
 - Translators commonly used, document camera for presenting documents.
 - Closed-door court hearings preferably conducted physically.
- 6. Cross-Border VC:**
- No specific legislation for cross-border VC.
 - Main use-cases include asylum seekers and family cases involving parents and children in different countries.

Hungary (Interview 12/2023)

Hungary uses both VC with dedicated endpoints, but also with people at home. The same system is used, as it can provide connections both for endpoints and for sending out links.

On a national level the courts prefer to use the dedicated endpoints because of the regulated environment and better quality. They also prefer it on an international level. They do not use direct VC because of sovereignty issues (cannot interrogate somebody in other country).

For cross-border VCs HU usually sets up a test call some days in advance of the VC.

Recording of videoconferences is mandatory and the judge gets to decide whether he/she wants to use the recording as the minutes or create written minutes. Usually written minutes are preferred due to the searchability. This might change though with better metadata with VC recordings.

In general, the VC system works very fine and very easy-to-use. From an organisational perspective the language barrier is a common issue. From a legal perspective the different regulations of other Member States are not easy to follow.

Finally, it could be observed that Hungary follows a quite pragmatic approach in organisational and legal issues and solves issue on the go. The technical system is easy to use and very stable.

Bulgaria (Questionnaire 02/2024)

- **Current State:** Judicial videoconferencing is an essential and increasingly widespread tool in both criminal and civil proceedings in Bulgaria, especially after the COVID-19 pandemic. It is used in appeal proceedings, judicial review of detention, interrogation of those outside the country (if it doesn't hinder truth discovery), examining witnesses and experts, eye examinations, identification, conditional early release, and international cooperation in criminal matters. The scope has extended with new technologies. A definition of videoconference was introduced in 2019. Criminal cases see more regulation and frequent use than civil cases.

- **Legal Framework:** Specific provisions are in the **Code of Criminal Procedure, Code of Civil Procedure, Administrative Procedure Code, and the EIO Act**. These regulate conditions and procedures for domestic and international use.
 - **Criminal Cases:** Allowed in first instance, appeals, and Supreme Court (when acting as appellate instance). Exceptionally allowed for accused/defendant interrogation when outside the country. Not allowed for initial remand in custody hearings. Consent is needed for accused participation in appeal against detention, post-conviction review of detention, and conditional early release. Used for witnesses, experts, interpreters, face/object recognition, and to avoid contact with the accused for minor/protected witnesses. Participation of persons at risk may be by videoconference. Cross-border use is regulated under Article 474 of the Code of Criminal Procedure and the EIO Act.
 - **Civil Cases:** No restriction on types of hearings or stages, except in closed to public hearings require party consent for videoconference. Used for parties, interpreters, explanations, and taking evidence from witnesses and experts. Cross-border is regulated by EU regulations like Regulation (EU) 2020/1783 and Council Regulation (EC) No 1206/2001.
 - **Administrative Cases:** Videoconferences are also used.
- **Organizational Responsibility:** Decentralized, with **each court responsible for its infrastructure and operations**. The Supreme Judicial Council provides equipment and funding. IT administrators handle technical support and pre-hearing tests.
- **Technical Aspects:** Courts commonly use the **AVer HVC 330 system**, compatible with Cisco, Polycom, etc. Equipment is provided centrally by the Supreme Judicial Council, but courts can choose systems. Courtrooms have video terminals and workstations, but **no common standard** exists. Systems are **not integrated with other court systems like case management. No central booking system for videoconference facilities**. User identification is through IP addresses requested by authorized judicial officers. Moderation is usually by the judge or system administrator. No waiting room function. Technical support is available during videoconferences from court IT administrators. Testing is possible beforehand. No automatic notifications for delays. Live streaming is not supported. Screen sharing is available in some courts. Chat function is available in some courts. Common protocols are **H.323 and SIP**. Equipment is H.323/SIP compatible but not WebRTC.
- **Cross-Border Videoconferencing:** Regulated by national laws and international agreements (EIO, EAW). Requires consent of the accused. Conducted by the judicial authority of the requesting state or under its direction, following its law, with Bulgarian authority ensuring identity and compliance with Bulgarian law. **Common problems include poor internet connection and compatibility issues**. Language barrier is also an obstacle.
- **Organizational Structure:** Responsibility lies with the equipped court, with IT experts handling technical aspects. Supreme Judicial Council manages processes and tools. Number of videoconferences is **not tracked**. e-CODEX is **not used**. No reported organizational problems. Some courts provide technical/organizational instructions to users. Courts have no information on dedicated state budget funds. Training is provided by the National Institute of Justice. Some courts provide informational materials to citizens.

- **Conduct of Videoconferences:** Panel is in the courtroom; accused/witness/expert is in another courtroom with a judge confirming identity. Identity verification follows Article 272 of the Code of Criminal Procedure or by the head of the penal institution. No statutory requirement to list videoconference hearings electronically, practices vary. The judge-rapporteur or Trial Chamber decides based on legal conditions. Parties can request, and courts generally allow objection. Mixed/hybrid participation is allowed in specific cases. Public participation is usually by being present in the courtroom. A national handbook of rules exists. Videoconferences between courts and prisons/detention centers occur subject to technical feasibility. Sessions are electronically recorded. Participants don't get direct links; connections are made between facilities. Identity verification is crucial, done by the presiding judge or authorized officials, potentially via ID shown on camera during emergencies. Interpreters can participate via videoconference if technically supported. Documents are shown on camera, emailed, mailed, or presented later; physical inspection should be allowed. **No specific protocols for secure document sharing.** Settlements are handled via paper exchange. Closed-door hearings by videoconference require party consent.
- **Public and Academic Debate:** Laws have been debated, notably regarding Article 64, paragraph 2 of the Code of Criminal Procedure, which was declared unconstitutional, emphasizing that the use of videoconferences must respect fundamental human rights.
- **Obstacles:** Biggest legal obstacle is the **lack of detailed regulation in civil and administrative justice**. Insufficient technical capacity is a major problem. Operational, coordination, and technical obstacles exist for cross-border cases.
- **Solutions to Problems:** Ensuring quality internet, **pre-testing connections**, and providing interpreters are key. Reconnecting with system administrator help is used for technical issues. New applications, including open-source, could be used if technical support and equipment allow.
- **COVID-19 Impact:** Accelerated the adoption of videoconferencing, including in civil, commercial, and administrative cases. Temporary rules allowed remote open hearings using various virtual connection applications.
- **Highest Courts:** No different provisions for supreme courts, but use might be rarer in criminal cases due to no judicial inquiry. Possible in specific appeal scenarios in criminal cases and when the Supreme Court of Cassation acts as an appellate instance in civil cases, or when parties cannot attend physically for objective reasons. The Supreme Court of Cassation uses the Sofia Court of Appeal's videoconference room.

Germany (Study Visit 03/2024)

In general, videoconferencing is done similar to previous study visits. Several findings can still be noted though:

- One of the VC tools – Jitsi – is set up this way, that each physical court room has its own VC link, which is available all the time. If a judge has now booked a court room for a certain timeslot, he/she uses the already existing link during that slot.
- Jitsi provides a lobby area, which is used for the waiting participants until a hearing is opened.



- Judges were somewhat reserved to use VC at the beginning but now with more experience and especially trainings they are more confident/comfortable to use this.
- The Unified Patent Court (UPC) requires that all hearings are audio-recorded. This is done via separate system. The recording is then saved at the servers of UPC and can be heard by lawyers.
- The audio-recording is used as the official minutes, but here in Düsseldorf they also create written minutes for internal purposes as it is more practical (do not need to go through the whole video). Normally there is an assistant who at least writes brief minutes – which just state what happens at what time of the recordings (e.g. Person A speaks at ...).
- Almost all VC hearings of the UPC are hybrid (local chamber, but online participants), due to its cross-border nature.
- OLG Düsseldorf: There is no streaming available to the public and the public is not allowed to join the VC. Larger hearings are streamed to a second room in the court, but not to the outside.
- In a setting with legal professionals (patent, anti-trust law, ...) it is relatively easy to use VC for hearings. For more personal matters (family / inheritance law) rather problematic → better in court room.
- Require often witnesses from abroad, but rarely used VC, because there are a lot of formalities. Big issue is that it is usually not possible to hear witnesses at their workplace or home, unless the other country allows it. Using regular MLA to summon witnesses to court in other country is not very useful, as witness has no obligation to appear, so setting up VC too cumbersome. Prefer in this case, for the other country (judge) to do the hearing, and then send the minutes.
- For incoming cross-border VC requests there is often a too short period for the suggested time / date for the meeting → within 2 weeks. This cannot be done on such short notice. → Better, if the other court first asks whether a VC can be done, only afterwards settle on the time/date. This is how it is practiced now.

Poland (Study Visit 04/2024)

In general, the Polish approach to videoconferencing seems to be very advanced and at the same time very balanced in terms of return on investment. Also, the Polish practitioners seem to follow a very pragmatic approach when it comes to various impediments. Main findings are:

- There is a solid legal basis for civil law. For criminal law such a legal basis is well needed and currently under discussion (e.g. currently only allows court to court hearing). Currently, there is a legal basis in criminal law only for remote participation of prosecutor and for videoconference with inmates.
- A court clerk is present at each hearing for the orchestration of the videoconference but especially for managing the electronic recordings.
- Electronic audio recordings serve as the official minutes.
- The technical VC equipment for a standard court room seems well considered. PL is experimenting with different solutions to optimise the setup.

- PL interviews witnesses outside the country via VC - even if there is no explicit legal basis for it - if the witness voluntarily participates and the parties do not object.
- Issues with VC are usually NOT used as a delay tactic.
- In civil law cases the remote participants can basically participate from anywhere, but it must be a “respectful” location.
- VC setup was and still is optimised by different project to find even better solutions (e.g. number and position of cameras, microphones, etc.)
- Minor improvements:
 - Organisational: VC participants do not need to stand up while testimony or the announcement of the judgement
 - Technical: A clock on the screen indicates that a recording is going on.
- Problem of language barrier in cross border cases - quality of sound for interpretation often not sufficient.
- Time zones can create confusion, more likely within Europe where differences are unexpected, than with China/USA is obvious.
- Audio quality is essential for the understanding in general, especially for translations and also for automatic transcript of recordings.
- Links to VCs are sent by e-mail (mandatory for applications). The link contains date + time + case number to easier identify the correct link.
- Main technical solution is JITSI which is integrated with the e-Recording tool, the case management system and the link generator. Other tools are available but not as nicely integrated. E.g. Equinox for large VCs and also for VCs with other systems as it supports H.323.
- The Announcement of the Polish Minister of Justice of March 5, 2024, outlines the technical software standards and hardware requirements for remote participation in civil cases. There are three systems that should be used under the provisions of this announcement – JITSI, Equinox and MSTEams.
- Lobby room/waiting room function is available. Used for witnesses to wait there. Also used by judges (senates) to discuss internally.
- Judge has 2 screens, one for the VC panel and one for the e-file system
- Test rooms are available 24/7.
- Local support and support hotline available.

Norway (Interview 04/2024)

Norway seems to have a quite flexible legal basis for videoconferencing. The judge decides whether a VC takes place or not. The judge needs to hear the parties’ opinion but can decide then independently. There is also no possibility to appeal against this decision.

For cross-border VC there is the formal way based on international treaties. However, Norway tries to apply a pragmatic approach which works most of the time.

The technical facilities seem to match with regular VC equipment for a court room. WebEx and Cisco technology is used. Recordings of hearings are not (yet) done.

Training and support are mainly provided by local, decentralized staff. There are, however, support centres available at the Court Administration and the IT supplier.

Cross-border judicial videoconferencing is a relevant use case, although statistics are not available. Two challenges were mentioned regarding cross-border videoconferencing:

1. Summoning of a non-cooperating witness abroad.
2. Proprietary solutions of other countries which do not follow standards.

Portugal (Study Visit 05/2024)

PT shows generally a very flexible approach to use VC. Especially, if there are troubles. Also, if the legal situation is unclear and all parties agree a pragmatic approach is followed.

The old VC solution implemented many years ago is outdated and has significant limitations, such as low video & audio quality and a lack of various features, such as for sharing of documents. These are overcome since the pandemic with commercial solutions in particular Webex. As the old equipment is not compatible with these, judges might even use their laptop camera. If necessary, VC are even conducted with the mobile phone with solutions such as WhatsApp.

A project is ongoing to introduce modern equipment in courtrooms which can be used with modern VC software and facilitates integration with the CSM, especially for the mandatory recording, used as minutes, which will also include video in the future.

Cross-border VC are highly relevant for PT, they are likely the country requesting the most VC in Europe and also conduct many VC in other countries, in particular Brazil and Africa. The flexible approach is also used here, especially with African countries often no other means but conducting VC via mobile devices, e.g. with WhatsApp.

Lithuania (Questionnaire 06/2024)

LT used VC already before the pandemic. It has now legal provisions for all matters of the judiciary.

Main legal risks:

- disclosure of data of participants
- different procedural and technical standards
- high costs of court proceedings

The Judicial Council is responsible for the organisational aspects of VC. The Judicial Council by a protocol resolution of on 27 August 2021 approved Recommendations for the organisation of remote court hearings (<https://www.teismai.lt/lt/nuotolinis-teismo-posedis/2947>).

Technical supply is provided by the National Courts Administration. LT uses Zoom for VC. Zoom with the court licenses was approved by the National Cyber Security Center. Statistics are

available. E.g. 2023 there were approx. 43000 Zoom meetings and 900 "classic" videoconferences.

There are no dedicated trainings for users, but local support persons are available.

Public participation in a court hearing is available. Interested persons must submit a request to participate. Court's website provides information how to submit such a request.

Participation of the public seems to be a topic of general importance in Lithuania.

The judge (or chairman of a panel) decides about the use of VC (probably upon request). He needs to take into account several criteria, stated by the law. When setting up a VC hearing upon his own initiative it is recommended to set a deadline for the participants to submit a written opinion.

Identity check might be requested by the court. This is done by showing an ID into the camera or to send some data specified by the court via the e-account - if available - to the court.

If it is necessary to present a document during a hearing, the document might be submitted by the EPP (electronic platform). The hearing would be shortly interrupted and continued after the document has arrived.

Usually there are no specific issues with cross-border hearings, since Zoom is usually used for this purpose. The only problem might be if Zoom is not accepted by another country. In such cases the court would switch to MS Teams.

Recommendation to provide instructions for the use of VC when sending the invitation. Also provide a contact phone number and/or e-mail address of the court employee.

Canada (Interview 08/2024)

VC in Canada has a high importance due to its geography. Especially for remote and sparsely populated regions the access to hearings via VC is important. Thus, CAN was active in judicial VC already long before the pandemic.

The legal and organisational competence for VC is widely spread across the Canadian provinces and the federal state. Thus, there is no uniform approach across Canada.

VC regulations for civil law are in the competence of the provinces whereas the competence for criminal law lies with the federal state. In general, there is a very flexible legal basis for VC. A full virtual trial would be possible but is done only under emergency conditions. Also, a judge is usually located at the courthouse (court room or at the office) but could also stay at home. Before the pandemic there was a presumption against VC if it is not regulated in the law. Now it is the opposite. This is a result of the pandemic. For some cases there is even the presumption that they are usually done via videoconferencing.

There are guidelines for various topics regarding judicial videoconferencing.

Cross-border VC is a very rare use case in Canada. But Canada does not have statistics on VC.

Generally, participants (prisoners, parties, lawyers) are in favour of VC. There are many requests, but judges/bench is usually more cautious and decline sometimes the request to hold a VC.

Witnesses/participants receive a set of rules on where/how they can testify, e.g. respecting the court decorum.

Main impediments:

- Cumbersome to tender evidence: e.g. show objects to a witness that is heard remotely
- Staff resources at jails
- Access to VC facility – often parties are quite poor
- Availability of broadband internet is limited in remote locations
- Trying to maintain court decorum
- No special issues regarding cross-border VC

Spain (Study Visit 09/2024)

Videoconference is used in Spain in Criminal, Social and Civil Courts, in every hearing or statement. However, specific rules for videoconferencing apply depending on the jurisdiction.

Videoconferencing for judicial proceedings has been taking place in Spain since the beginning of this century. Since the pandemic period judicial videoconferencing has become a standard practice, but mainly since the entry into force of Law 3/2020 and Royal Decree-law 6/2023, which establish a preference for the judicial videoconferences, with a few exceptions in Criminal or Civil procedures.

There is no specific legislation regulating judicial videoconferencing in Spain. Taking apart the European Union's Regulations made by the European Union regarding this matter, which is directly in force in Spain, the use of videoconferencing in cross-border proceedings does not have a specific regulation yet.

Judicial videoconferencing is a complex area of competence in a country with decentralized powers in most subjects. Spain created in 2013 the Technical National Committee on Judicial Electronic Administration (CTEAJE) in order ensure the interoperability of the systems and applications of the Administration of Justice and the cooperation between the different administrations in the field of Digital Justice. This committee also provides recommendations, protocols and tutorials regarding the use of VC.

In Spain, the Ministry of Presidency, Justice and Relations with the Parliament is primarily responsible for creating legal regulation regarding judicial videoconferencing, whereas the Parliament is responsible of its approbation. In those Autonomous Regions with Justice powers, such as Cataluña, Andalucía or País Vasco, the respective regional governments are responsible for regulating and managing the technological resources necessary for conducting VC. This includes the implementation of digital platforms and the management of technological systems in coordination with the Ministry.

At the operational level, the judges and magistrates governing the judicial process are responsible for authorizing and organizing the use of videoconferencing within the framework of the proceedings.

Since judicial proceedings are public in Spain, in general terms (for specific types of trial, e.g. sexual crimes, recording and broadcasting is forbidden), citizens are allowed to be present at trials in which videoconferences are made.

All hearings (also those without VC) are recorded. These recordings are used as the official minutes of the procedure, allow the generation of copies for the parties, facilitate the electronic signing of the hearing and among many other functions, allow for marking specific sequences to simplify subsequent viewing.

Several IT applications are integrated with the VC systems: first, the case is created in the case management system (e.g. MINERVA), then hearing is scheduled in the courts' booking system and the corresponding appointments are made using NOJ AGENDA application; hearing and statements are recorded from the VC equipment in the room by the court recording system (EFIDELIUS), and, after the hearing, all data and recordings can be consulted in HORUS, the electronic files viewer that allows users (judicial bodies, legal professionals and citizens) to know the status of the procedure in real time, as well as to consult the documents and hearings that form part of the file consulted. Also, there is an application for automatic transcription of hearings and statements.

Since 2021 Spain is using a significant amount of funds from the Recovery & Resilience Funds of the EU on the digitalization of justice, including judicial videoconferencing.

In general terms, beyond some general technical issues such as video or audio failures, low bandwidth and users' permissions, one of the main problems for conducting cross-border videoconferences is coordination with other bodies abroad and that sometimes time differences between countries are not considered.

Main observations:

- VC is a complex area of competence in the decentralised Kingdom of Spain. Therefore, ES has created a national committee for VC topics in order to align legal and other matters. This committee also provides recommendations, protocols and tutorials. It seems to have been proven as a very helpful organisation.
- VC is regulated by regular legislation but details of VC are regulated in Royal Decree (regulation from government) because it is easier to amend.
- Hearings are being broadcasted to a press room. The press can use the material for their reports.
- All hearings are recorded. There is no official written protocol. An automatic transcript of the recording is currently evaluated.
- "Money is a key to proceed with digitalization." Since 2021 ES used a significant amount of funds from the Recovery & Resilience Funds of the EU (post-pandemic) on the digitalization of justice, including VC.

- There are detailed statistics for the use of VC available. These can be and are used to analyse the usage of VCs and thus the competent authority can focus more precisely on solving issues.
- Judge has last word on holding a hearing via VC. Objections are not possible.
- The Judge & a judicial assistant (who handles the recording system) always need to be present in the court room, only others can join from outside.
- Judges prefer consecutive translation (opposed to simultaneous translation), to hear the original tone of the heard person in its mother tongue.

Cross-border issues:

- Language issues
- Putting courts in contact. EJM contact points are very helpful here.
- Within EU: Often wrong form is used. E.g. ToE Regulation requires Form L for direct VC, but often use Form A instead.
- Lacking information about VC facilities of other MS/authorities.
- Time zones. Especially with Portugal.
- Big impediments in different Regulation regarding the use of VC, e.g. in other country require the consent of the accused for VC, in ES not required.
- Who asks the questions? Is it the other MS asking the questions (and do they need to apply their rules on what questions are allowed) or can the ES judge ask the questions directly.

Overall observations:

- ES seems to have a very good and balanced approach to VC. All hard- and software means to conduct a VC properly are available.
- ES has a high level of integration of several IT applications with the VC system. There is Minerva (CMS), NOJ (creating the hearings), Efideliu (recording system) and Horus (application for the access to judicial files).

France (Questionnaire 10/2024)

Videoconferencing is allowed in civil and criminal proceedings under specific legal frameworks. Article 111-12-1 of the Code of Judicial Organization (May 2022) permits hearings via VC upon the court president's decision, with all parties' consent. Judges, clerks, or prosecutors must be physically present in the courtroom.

VC is primarily used for hearings, not evidence collection. Public Health Code provisions may allow VC in exceptional cases. Identity verification and the confidentiality of transmission are required by law. Hearings cannot be recorded, except for historical archives.

Technical and Organizational Aspects:



- VC systems centrally managed by the Ministry of Justice's Digital Department. Equipment includes document cameras and standardized VC protocols (e.g., WebRTC, H.323). No cloud-based solutions.
- Court clerks manage VC sessions and provide technical assistance. Testing before hearings is available.
- SKYPE, TIXEO, and similar secure tools are used. Cross-border VC is limited due to lack of interoperable infrastructure and secure networks.

Challenges and Safeguards:

- Technical challenges include hardware issues, unstable connections, and cross-border compatibility. Solutions involve training and collaboration with international teams.
- There are no specific provisions for vulnerable persons, but the judge ensures dignity and proper conditions during VC.

Use of Interpreters and Document Sharing:

- Interpreters may participate via VC if approved by the court. Translation occurs simultaneously in hearings.
- Document cameras allow digital and physical document sharing. No chat function is available during VC.

Cross-Border VC and Future Improvements:

- No specific legislation or secure network for cross-border VC. Time zone differences and compatibility issues present challenges.

Future focus on improving interoperability, preferring bridge systems to connect existing infrastructures.

Slovenia (Interview 10/2024)

Slovenia has from a legal perspective a very open approach to videoconferencing. In criminal law VC can be used extensively. Same goes for civil law. Main difference is that in civil law party's consent to VC is mandatory whereas in criminal law the judge alone decides about VC.

Videoconferencing is done since approx. 2010. The open approach was there from the beginning. The main use case is VC between courts and prisons. In 2023 that was about half of the VC which were done. SI simply does not have enough prison staff to transfer all required prisoners to a courtroom in person.

Another main driver is the simplicity of the Slovenian solution and the good availability of technical support as both provide a low-threshold offer to use VC.

The use of VC is promoted in Slovenia with show cases for judges at national events and also with the offer to visit other VCs to encounter the simple use themselves.

There are hardly any written instructions or trainings for judges or citizens. It is also not seen as necessary as the system is very easy to use and there is a low-threshold support available.

Judges are in general very happy about VC because it speeds up proceedings.

The technical setup of VC equipment (choice of equipment, positioning of devices, etc.) is based on Slovenia's long-term experience with the topic.

Due to the rather small size of Slovenia, there is also a low number of VC support staff. This, however, leads to a concentration of knowledge with this staff.

Slovenia is very satisfied with its Polycom solution. It works very well and supports many protocols (together with specialised gateways) to solve interoperability issues.

Quote Blaž Leben: *"Without videoconferencing we could close the courts."*

Austria (Study Visit 06/2025)

Austria has a well-established history and experience with videoconferencing, including cross-border videoconferences. As a result of this experience, AT went through several iterations with the proper setup of a court room for videoconferencing. Therefore, the system is a very mature one.

The legal basis is well-defined and thought-out. It does not offer a general clause for VC but specific rules in each legal domain.

The setup of a videoconference is well integrated into existing workflows of the respective proceedings. It is not a separate workflow. However, this is only possible due to the high level of digitalization in the Austrian judiciary. Having a VC system does not do the job alone. A proper integration is necessary.

There are not many issues about organizational aspects of videoconferencing because VC is already integrated in daily workflows. The focus lies more on optimizing and making videoconference situations closer to real-life hearings and thus facilitate the principle of a fair trial.

Local IT support plays a crucial role for the acceptance of VC, especially for cross-border VCs. Centralizing this competence at local IT support allows them to gather experience and facilitate a smooth setup of a cross-border VC.

Many recommendations could be identified during the study visit:

- Have local IT support available also for VC support, especially for cross-border VC.
 - Announce a cross-border VC to local IT support in advance!

- Have local IT support assisting in the setup of a VC to gather the experience and to keep away the technical details from judges.
 - Have local IT support available shortly before (for testing the connection) and during the first few minutes of the VC. Thus, judges will feel comfortable with the cross-border VC situation.
- A user friendly design of the VC systems is a crucial success factor for the user acceptance.
- As the person to be heard must not be influenced the judge should ask the witness to show the room, especially when joining from a private location.
- Regarding the legal diversity in Europe it was considered to be very helpful to have information easily accessible regarding
 - European legal basis (e.g. DigiReg) and
 - National laws for VC
- Before requesting a cross-border VC read the information available at the e-Justice Portal about VC framework in the requested country. E.g. for Taking of Evidence Regulation (EU) 2020/1783: https://e-justice.europa.eu/topics/court-procedures/videoconferencing/taking-evidence-videoconference_en
- Use standardised forms for setting up a VC. The ToE and EIO forms do not provide a sufficient level of detail.
- The contacting of a requested court would be easier if contact and/or technical documentation would be available at a central place.

Additionally, the following findings should be pointed out:

- Do not underestimate the proper setup of a court room for videoconferencing. Knowledge about optimising audio and video comes with experience. It will take some iterations to find the optimum setup.
- The placing of the camera is crucial. AT identified that showing the face of the judge is most important. Standard setup is a camera for the judge and a 180° camera for the court room.
- It is also crucial on which person to put the focus on in a VC. In AT there is no automatic focus. For pragmatic reasons it is easier to record the entire room instead of orchestrating the video focus.
- Judges are quite keen on using VC. Usually there is a good and local IT support. Thus, judges do not need to deal with technical issues and thus the threshold to use VC is low.
- At the beginning of a VC, judges ask explicitly to share audio and video without any editing (e.g. Avatar).
- As the person to be heard must not be influenced the judge sometimes asks the witness to show the room, especially when joining from a private location.
- In situation where a machine translation is sufficient (e.g. preparation of a videoconference) it is recommended to use the Commission's eTranslation (<https://webgate.ec.europa.eu/etranslation/>) tool instead of a tool of a private company. After all, there is some data of the proceeding which is transferred.



- In case of a VC requested by another court, the requested (Austrian) court would contact the requesting court shortly before the VC to confirm the hearing is still on. Sometimes courts forget to cancel a VC.
- Quotes:
 - *“As soon as the connection is established the judges know the procedure.”*
 - *“BRZ (Austrian Federal Computing Center) does every day the utmost to ensure the operation of the system.”*

England and Wales (Desk Research)

The initial impact of the Covid-19 pandemic on the administration of the courts in England and Wales was reported by John Sorabji³.

Especially interesting has been the reported early empirical evidence on the effect the pandemic has had on the digitization of justice including the medium to longer term potential impact the pandemic's consequences and the effect it has had on digitization of the courts, on court procedures, the nature of the judiciary, and the legal profession.

It unveiled several important findings the most important ones summarized below:

- The pandemic allowed for “the biggest pilot project the courts had ever seen” in the history of digitization of Justice: 1077 responses of which 46 responses were submitted on behalf of professional groups; 166 individuals took part in an online consultation meeting, 486 remote audio, and video hearings with 27% taking place with no participant in a physical court room. Only 17 responses came from lay users of the system e.g., the litigants themselves.
- The reform programme's assumption that a digitized system, that has digitised procedures such as e-filing and e-management and remote hearings, can run effectively with a significantly reduced court administration were not confirmed. Instead, remote hearings, particularly video ones, would appear to be both longer and more expensive than traditional physical hearings, most likely due to the inherent nature of videoconferencing and the insufficient preparedness level such as in user support and unavailability of technical assistance.
- Despite the 75% positive or very positive experience rate, the majority of respondents reported that audio and video hearings were worse than physical hearings, they were viewed to be less effective overall than traditional hearings due to there being less effective party participation.
- Satisfaction rates were highest where proceedings were less contentious, or with shorter, interim hearings. They were also higher for video rather than audio hearings, which given that in the former the parties were better able to gauge the judge's view of

³ Initial Reflections on the Potential Effects of the Covid-19 Pandemic on Courts and Judiciary of England and Wales, <https://iacajournal.org/articles/10.36745/ijca.394>

their submissions and could, to a greater extent, see how far the judge was following the proceedings, is understandable.

- The highest levels of dissatisfaction were recorded in respect of video and audio hearings that took place in the County Court, where the level of digitisation prior to the pandemic was at the lowest level.
- the pandemic has had no real effect on other features of the reform programme i.e., it has had no real effect on the development and use of e-filing, e-case management.
- The media reported that video and audio hearings generally provided them with enhanced access to court proceedings, while public access was potentially improved.

The major impact the Covid-19 pandemic has had in videoconferencing is that the position became one where ‘hearings would be conducted with one, more than one or all participants attending remotely’. Traditional physical hearings became the exception and did so at a pace that would otherwise have been inconceivable, as the previous four years of the reform programme so clearly illustrated. It demonstrated the need to move away from a culture of reform process based on anecdote and supposition to one based on hard evidence.

Additional impacts on the judicial system include:

- The pandemic may result in structural changes being made in the County and High Court and the judiciary as a result of the same digital processes, whether e-filing and e-case management, the same approach to remote hearings, and the same administrative systems and personnel applied by both courts.
- It is likely to see English and Welsh civil procedure move from being one that was broadly generic in approach centred around a physical hearing process to one that sees it become more of a family concept, with predominately audio or video hearings in low value and short County Court hearings and predominately video hearings in specialist High Court hearings, while for cases in terms of higher value, there is likely to be a blend of the judiciary and the legal professions of remote and physical hearings, depending on the circumstances of the case and of the hearing.
- Structural changes are likely to impact both the judiciary and the legal professions.

Nevertheless, the major lesson learned is that evidence, assessment and analysis is needed before lessons can properly be learned; the changes should follow on from a systematic evaluation of court processes, the structure of the courts, the legal profession and judiciary as they form an interconnected ecosystem.

Annex II: Sources of information

Source

Study Visit Sweden Public Prosecution Office, 30/8/2023

Study Visit Sweden National Court Authority, 31/8/2023

Interview Brazil, 18/10/2023

Interview Croatia, 07/11/2023

Study Visit Greece, 15/11/2023

Interview Italy, 23/11/2023

Study Visit Netherlands, 29/12/2023

Interview Hungary, 14/12/2023

Questionnaire Bulgaria, 13/02/2024

Interview Slovenia, 08/03/2024

Study Visit Germany, 20/03/2024

Study Visit Poland, 10/04/2024

Study Visit Portugal, 23/05/2024

Study Visit Spain, 10+11/09/2024

Study Visit Austria, 25+26/06/2025

Desk Research: Project Handshake Deliverables

Desk Research: Expert Group Videoconferencing Contributions 2014 - 2022

Desk Research: Academic Papers: Anne Sanders: Video-Hearings in Europe Before, During and After the COVID-19 Pandemic

Desk Research: Academic Papers: John Sorabji: Initial Reflections on the Potential Effects of the Covid-19 Pandemic on Courts and Judiciary of England and Wales

Desk Research: CCBE Guidance on the use of remote working tools by lawyers and remote court proceedings

Desk Research: CEPEJ Guidelines on videoconferencing in judicial proceedings Selected national good practices on videoconferencing in judicial proceedings

Desk Research: CEELI Institute PRACTICAL GUIDELINES FOR REMOTE JUDGING IN CENTRAL AND EASTERN EUROPE

Desk Research: National Analysis AT: Civil Justice and Covid-19

Desk Research: National Analysis PL: Sądownictwo w czasie COVID-19 – raport z badania oceny wpływu pandemii COVID-19 na wymiar sprawiedliwości w Polsce

Desk Research: National Analysis PL: SĄDY W TRYBIE ONLINE – ZDALNA PRACA SĄDÓW W WYBRANYCH PAŃSTWACH EUROPEJSKICH W CZASACH PANDEMII SARS COV-19

Desk Research: National Analysis AT: Austria legal proposal for VC in civil law

Desk Research: National Analysis PL: Polish legal proposal for VC in civil law

Desk Research: National Analysis PL: „Problemy podczas przeprowadzania rozpraw w trybie zdalnym” (ankieta NRA)

Desk Research: National Analysis UK: Good Practice for remote hearings (May 2020 UK)

Project “Handshake”/ „Multi-aspect Initiative to Improve Cross-border Videoconferencing”: Package of Deliverables (2015) - <https://e-justice.europa.eu/fileDownload.do?id=c87e10f3-95d9-402a-89b8-fc5c663106a6>

General Secretariat of the Council: Guide on videoconferencing in cross-border proceedings (2013) - <https://www.consilium.europa.eu/media/30606/qc3012963enc.pdf>

Council of Europe/CEPEJ: Guidelines on videoconferencing in judicial proceedings (2021) - <https://edoc.coe.int/en/efficiency-of-justice/10706-guidelines-on-videoconferencing-in-judicial-proceedings.html>

Council of Bars and Law Societies of Europe: CCBE Guidance on the use of remote working tools by lawyers and remote court proceedings (2020) - https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/SURVEILLANCE/SVL_Position_papers/EN_SVL_20201127_CCBE-Guidance-on-the-use-of-remote-working-tools-by-lawyers-and-remote-court-proceedings.pdf

Hague Conference on Private International Law (HCCH): Guide to Good Practice on the Use of Video-Link under the 1970 Evidence Convention (2020) - <https://assets.hcch.net/docs/569cfb46-9bb2-45e0-b240-ec02645ac20d.pdf>

Annex: III Publications on the SimpliVi Website

The SimpliVi project has published its main contents and especially the publicly available Deliverables at:

www.simplivi.eu