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EVALUATING THE EFFECTIVENESS OF THE ELECTRONIC (REMOTE) JUSTICE MODEL IN GEORGIA IN TERMS OF EXERCISING THE RIGHT TO A FAIR TRIAL

Abstract. The paper discusses the effectiveness of the electronic (remote) justice model in Georgia. For this aim, public opinion has been examined taking into account the pros and cons and perspectives of remote justice. Despite the “speed and cheapness”, the efficiency of a fair trial has been revealed to be low: existing videoconferencing technology affects the objectivity of the parties’ assessment of evidence and arguments, the formation of a judge’s internal belief in decision-making, and so on. A discussion proposal on a new model of remote administration of justice has been developed.

Keywords: *remote justice model, model effectiveness evaluation, public opinion, law theory, management theory, decision making*

Introduction. The explosion of COVID-19 has become a serious challenge for the electronic (remote) justice process. It is no longer disputed that the long-established legal procedures for a fair trial have been delayed in 2020-2021 (P. Gori & A. Pahladsingh, 2021). It is also a fact that videoconferencing is not a new tool of remote justice (Multi-annual European e-Justice action plan 2009-2013), but the experience of conducting litigation of the judiciary’s declaration and guidelines in different countries is invaluable in the formation of the European Commission on the effectiveness, in the context of the COVID-19 pandemic (The European Commission for the Efficiency of Justice).

Analysis of recent research and publications. On March 13, 2020, the High Council of Justice adopted several recommendations regarding measures to be taken in the judiciary to prevent the possible spread of coronavirus in Georgia, including the remote holding of court hearings (Recommendation of the High Council of Justice of Georgia).

The decree of the President of Georgia of March 21, 2020, with the force of organic law, restricted the right of all persons involved in the process, to refuse to hold a remote session on the grounds of direct participation in it (On Approval of Decree no 1, March 21, 2020).

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After annulment of emergency state in the country (May 23, 2020), the Criminal Procedure Code was establishing a temporary rule for the administration of remote justice (it was in force until July 15, 2020). Under current law, a remote trial can take place if the accused, convicted or acquitted has given consent or has been deprived of his or her liberty and/or remotely remanded in custody that could jeopardize the opening of a crime or the public interest in prosecution (Criminal Procedure Code of Georgia, no. 1772).

The purpose of the article is to show how the online conferencing systems Cisco Webex and others adhere to the principles of remote justice in criminal proceedings, such as the principle of confidentiality with a lawyer, the principle of fair trial, the principle of objectivity, and more.

The paper is organized as follows. The main goals and objectives of the research and the ways their implementation are described in Item 2. The effectiveness of the existing model of remote justice is evaluated in Item 3. A discussion of the pros and cons of remote justice is given in Item 4. Public opinion on the prospects of remote justice in the Georgian judiciary is presented in Item 5. Conclusions both general and for judgment are presented in Item 6.

The essence of sociological research (main goals and objectives). The main purpose of the sociological research is to examine the citizens' attitude towards the alleged shortcomings in the process of remote justice and the use of new technologies.

The tasks performed to achieve this goal are: identifying the pros and cons of remote justice; assessing public perceptions/expectations regarding the effectiveness of remedial justice; determining the perspectives of remote justice in the Georgian court system.

Formulation of the main material. An e-Justice Assessment Questionnaire was developed to achieve this goal. Research was based on the study of an event in one stretch of time. In particular, the investigation was conducted from February 1, 2021 to March 1, 2021 in the Tbilisi City Court. Both closed and open-ended questions were used in the study.

The methods used in the studies are: survey, analysis of survey results (including multidimensional data analysis techniques, correlation analysis, methods of inference). The forms of survey methods are anonymity and confidentiality. The data obtained from the survey were processed using SPSS, a well-known and widely tested statistical computer package for data processing (J. Buhl & P. Zofel, 2001).

People with different social statuses was involved in the study, such as: judges, court officials, private and public sector employees, citizens with unemployed status. In total, 200 people (100 females and 100 males) participated in the study, whose percentage by social status is shown in Figure 1.

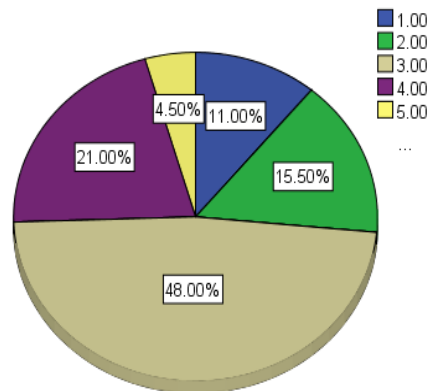


Figure 1 – Percentage of people by social status that were participating in the study.

1. Judge – 22 (11 %); 2. Court officials – 31 (15.5 %); 3. Employed in the private sector – 96 (48 %); 4. Employed in the public sector – 42 (21 %); 5. Currently unemployed – 9 (4.5 %).

At the stage of realizing the sociological research, subjects with relevant experience of participation in distance justice were selected. In particular: 1. Party to the process (121 (60.5 %) persons); 2. Judge (22 (11 %) persons); 3. Other participants in the process (session secretary, witness, translator, etc. A total of 57 (28.5 %) persons).

The incorporation of study participants into age groups is shown in Figure 2.

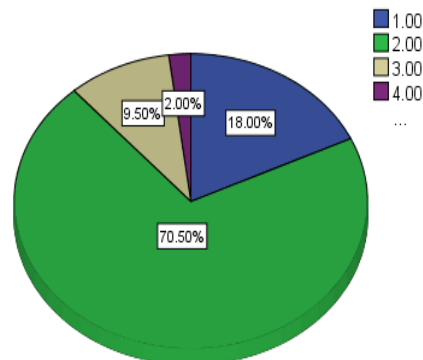


Figure 2 – Diagram of the division of people in the study into age groups.

1. From 18 to 30 (18 %); 2. From 30 to 45 (70.5 %); 3. From 45 to 60 (9.5 %); 4. 60 and over (2 %).

It should be noted that the gender of the respondents generally plays an important role in the process of realization of various sociological study. Accordingly, at the initial stage of processing the information obtained from the study, the hypothesis was tested as to how different the opinions of the men and women participating in the presented study were. As no statistical difference was found between the different sexes as a result of the statistical processing of the

obtained data, further analysis of the obtained data was carried out according to the opinions of all the respondents (women and men together). The obtained data were divided into three parts according to the goals and objectives of the research topic:

- Evaluation of the effectiveness of the existing model of remedial justice in terms of realization of the right to a fair trial;
- The pros and cons of remote justice;
- Public Opinion and Expectations on the Perspectives of Remote Justice in the Georgian Judiciary.
- The analysis of the results of the social survey was carried out according to separate parts.

Evaluation of the effectiveness of the existing model of remedial justice in terms of realization of the right to a fair trial

This part of the study, in turn, is divided into 4 sub-questions: 1) court access; 2) public hearing; 3) equality of the parties; 4) Possibility of confidential communication with a lawyer.

Court access

In order to assess the accessibility of remote litigation, respondents answered the question: Was the remote litigation, presented in its current form, an obstacle for you?

The distribution of respondents' answers by age groups and social status is presented in Figure 3.

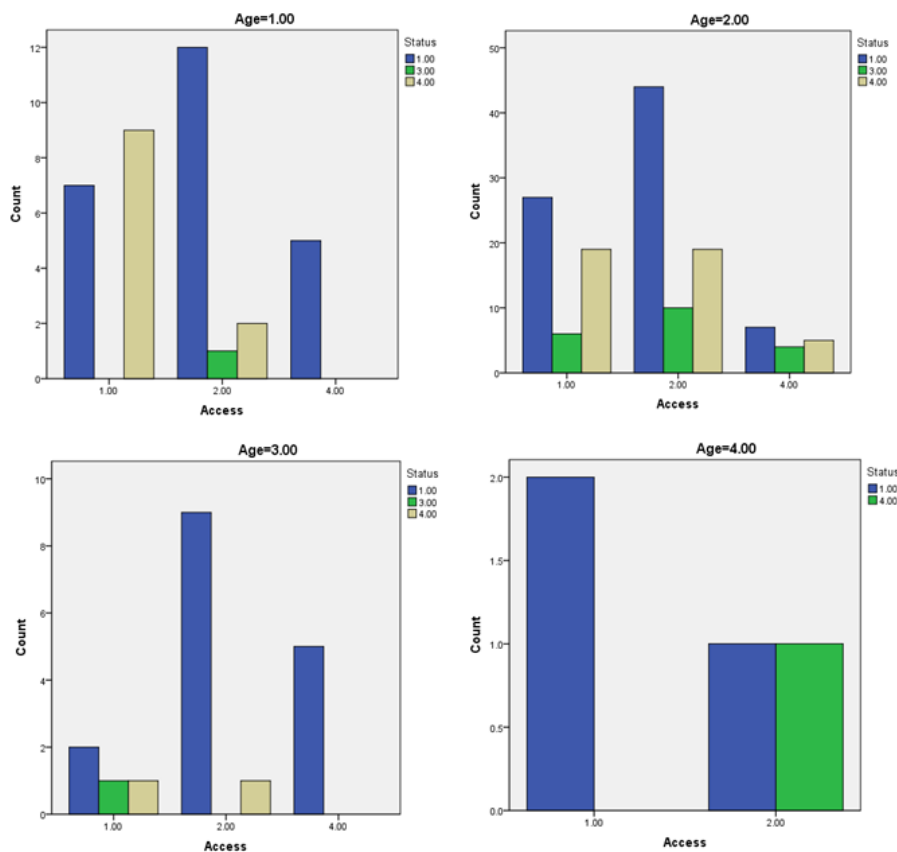


Figure 3 – Distribution of respondents' answers by age groups and social status.

The chi-square criterion and correlation analysis were used to determine the obstacle to remote litigation (see Tables 1 and 2).

Table 1

The results of using the chi-square criterion
Chi-Square Tests

Age		Value	df	Asymp. Sig. (2-sided)	Exact Sig. (2-sided)	Exact Sig. (1-sided)
1.00	Pearson Chi-Square	10.335a	4	.035		
	Likelihood Ratio	11.952	4	.018		
	Linear-by-Linear Association	6.496	1	.011		
	N of Valid Cases	36				
2.00	Pearson Chi-Square	3.511b	4	.476		
	Likelihood Ratio	3.293	4	.510		
	Linear-by-Linear Association	.004	1	.947		
	N of Valid Cases	141				
	Pearson Chi-Square	3.511b	4	.476		
3.00	Pearson Chi-Square	5.819c	4	.213		
	Likelihood Ratio	5.574	4	.233		
	Linear-by-Linear Association	2.476	1	.116		
	N of Valid Cases	19				
4.00	Pearson Chi-Square	1.333 ^d	1	.248		
	Continuity Correctione	.000	1	1.000		
	Likelihood Ratio	1.726	1	.189		
	Fisher's Exact Test				1.000	.500
	Linear-by-Linear Association	1.000	1	.317		
	N of Valid Cases	4				
Total	Pearson Chi-Square	7.052 ^f	4	.133		
	Likelihood Ratio	6.913	4	.141		
	Linear-by-Linear Association	3.012	1	.083		
	N of Valid Cases	200				

a. 7 cells (77.8 %) have expected count less than 5. The minimum expected count is .14.

b. 2 cells (22.2 %) have expected count less than 5. The minimum expected count is 2.27.

c. 8 cells (88.9 %) have expected count less than 5. The minimum expected count is .21.

d. 4 cells (100.0 %) have expected count less than 5. The minimum expected count is .50.

e. Computed only for a 2x2 table

f. 1 cells (11.1 %) have expected count less than 5. The minimum expected count is 2.86.

Table 2

The results of correlation analysis.

Symmetric Measures

Age			Value	Asymp. Std. Errora	Approx. Tb	Approx. Sig.
1.00	Interval by	Pearson's R	-.431	.090	-2.784	.009c
	Interval					
	Ordinal by	Spearman	-.476	.125	-3.160	.003c
	Ordinal	Correlation				
	N of Valid Cases		36			
2.00	Interval by	Pearson's R	.006	.084	.066	.947c
	Interval					
	Ordinal by	Spearman	-.039	.085	-.464	.643c
	Ordinal	Correlation				
	N of Valid Cases		141			
3.00	Interval by	Pearson's R	-.371	.131	-1.647	.118c
	Interval					
	Ordinal by	Spearman	-.437	.167	-2.001	.062c
	Ordinal	Correlation				
	N of Valid Cases		19			
4.00	Interval by	Pearson's	.577	.289	1.000	.423c
	Interval	R				
	Ordinal by	Spearman	.577	.289	1.000	.423c
	Ordinal	Correlation				
	N of Valid Cases		4			
Total	Interval by	Pearson's	-.123	.068	-1.744	.083c
	Interval	R				
	Ordinal by	Spearman	-.154	.070	-2.198	.029c
	Ordinal	Correlatio				
	n					
	N of Valid Cases		200			

- a. Not assuming the null hypothesis.
- b. Using the asymptotic standard error assuming the null hypothesis.
- c. Based on normal approximation.

Analyzing the obtained data, with a significance level of 0.95, we conclude that for the respondents of the second, third and fourth age groups, between the answers on the parameters Access (did the existing remote proceedings constitute an obstacle for you? (4 rankings)) and Status (What status did you participate in the hearing? (4 rankings)) there exist a correlation (the significance level of the Spearman correlation coefficient is > 0.05), though for the third age group this correlation is very weak. For the first age group, as well as for the combined group of all respondents as a whole, such an attitude does not exist with a confidence level equal to 0.95. This is especially evident for the first age group. On the other hand, with a significance level of 0.98, we can conclude that such an attitude exists for the united group of all respondents.

It should be noted that the first age group (18-30 years old) does not include persons with the status of a juror. And, the distribution of persons with the status

of party to the process (1), judge (3) and other participants in the process (4) (translator, witness, etc.) is presented in the graph, which shows that all participants had the appropriate skills (see Figure 3, first diagram). Similar results were observed in the second (from 30 up to 45 years) and third (from 45 up to 60 years) age groups (see Figure 3, 2 and 3 diagrams). As for the fourth age group (60 and over), here (the oldest) were represented only persons with the status of party to the process (1) and other participants in the process (4) (translator, witness, etc.), who were distributed according to the graph, which shows that some of the persons with the status as party to the process (1) had technical problems, while some (about twice less) of party to the process (1) and other participants in the process (4) (translator, witness, etc.) did not have relevant skills (see Figure 3, 4th diagram).

Based on the above, we conclude: parameter Age affects the dependence of the parameters Access and Status on the whole (the significance levels of the chi-square statistics is > 0.05) (see Table 1), i.e. this dependence exists for all age groups, which means that the status of the proceedings depends on the status of the person, except for age group 1 (from 18 up to 30 – the youngest), for which the significance level of chi-square statistics is equal to 0.035 (< 0.05). On the basis of the above, we conclude that the convenience of existing form does not depend on the status of the person of the first age group. However, it should be noted that the reliability of these conclusions is very low, as for most cases of possible combinations of values of the parameters under consideration, the number of observations does not exceed 5 (see notes at the end of Table 1), while for reliable use of this criterion should exceed 20.

The following groups of sociological study parameters were examined similarly:

- investigation of remote process publicity by social status and age;
- investigation of the equality of the parties in the process of remote consideration, according to the social status;
- fixation of the pros and cons of remote justice, according to social status;
- investigation of public views on the convenience of remote litigation, according to social status;
- determining public expectations on the perspectives of introducing remote litigation into the Georgian judicial system, according to social status.

Based on the analysis of the obtained results, the main conclusions of the presented paper were made.

Public consideration

In order to evaluate the principle of publicity of the trial in the distance justice process, the respondents answered the question: was the principle of publicity of the process observed during the remote proceedings safeguarded, in your experience?

Respondents gave the following answers to the question:

Process side

1. Yes, in all cases (11.5 %);
2. Basically was protected but in some cases not (11.0 %);
3. Was not safeguarded (38.0 %).

Judge

1. Yes, in all cases (4 %);
2. Basically was protected but in some cases not (2 %);
3. Was not safeguarded (5 %).

Other participant in the process

1. Yes, in all cases (13.5 %);
2. Basically was protected but in some cases not (7 %);
3. Was not safeguarded (8.0 %).

Overall, 51 % of respondents believe that the principle of public hearing was not observed in the existing form of remote court proceedings. 29 % of respondents believe that the principle of public hearing was observed, while 20 % believe that it was mostly observed, although in some cases it was not so.

Although no one in the world criticizes remote justice in terms of the publicity of the process and believes that the electronic court system should be the means of ensuring publicity, the results of the survey make it clear that publicity measures are necessary to be developed in the case under consideration.

Equality of the parties

At the stage of remote court hearing, in order to assess the observance of the principle of equality of participated sides, the respondents answered the question: did the parties involved in the process have an equal opportunity to present their positions? Obtained answers were distributed as follows:

Process side

1. Yes, in all cases (46 %);
2. Mostly yes, although in some cases there were technical problems (13 %);
3. No (1.5 %).

Judge

1. Yes, in all cases (9 %);
2. Mostly yes, although in some cases there were technical problems (2 %);
3. No (0 %).

Other participant in the process

1. Yes, in all cases (28 %);
2. Mostly yes, although in some cases there were technical problems (5 %);
3. No (0 %).

Overall, a positive trend was observed in terms of adherence to the principle of equality of the parties. In particular, 83 % of respondents believe that in the process of remedial justice, the parties had equal opportunities to present their positions in court. 15.5 % of the respondents believe that in terms of equality of the parties, in some cases there were problems of a technical nature, although in the main case the equality of the parties was maintained, while only 1.5 % of the respondents stated that equality of the parties was not observed in the remote justice process. Adherence to the principle of equality of parties in the process of administering remote justice is less dependent on artificial intelligence and it relies mainly on traditional forms of administering justice. Therefore, in the process of developing a new model, technical guarantees for ensuring the principle of equality should be taken into account.

Possibility of confidential communication with a lawyer

In order to evaluate the issue, the respondents were asked the following question: did the defendant have the opportunity to communicate confidentially with a lawyer during the remote proceedings?

Respondents gave the following answers to the question:

Process side

1. Yes (8.5 %);
2. No (42 %);
3. In some cases yes, but in some cases not (4.5 %);
4. I have not encountered a similar case (5.5 %).

Judge

1. Yes (2.5 %);
2. No (4 %);
3. In some cases yes, but in some cases not (2.5 %);
4. I have not encountered a similar case (2 %).

Other participant in the process

1. Yes (10 %);
2. No (15 %);
3. In some cases yes, but in some cases not (2.5 %);
4. I have not encountered a similar case (1 %).

In total, 61 % of the respondents stated that the defendant did not have the opportunity to communicate confidentially with a lawyer during the remote proceedings.

As international practice shows, the transition to e-justice has been done on the basis of resolving disputes “fairly, quickly and cheaply”, but the parties must show what are the real dangers of “unfair resolution” in addition to technical inconvenience (On Approval of Decree no 1, March 21, 2020). As the results of the survey showed, the human rights standard has been violated. Accordingly, guarantees of confidentiality as to the privilege of the accused and the provision of a fair trial should be developed, using electronic technologies in the administration of justice.

Pros and cons of remote justice

The second part of the study, which was devoted to the analysis of the pros and cons of remote justice, in turn was divided into two sub-questions: 1) The positive side of remote justice; 2) The negative side of remote justice.

The positive side of remote justice

In order to evaluate the advantages of remote justice, respondents were asked the following question: what are the advantages of e-justice in your opinion?

The respondents gave the following answers to the question:

Process side (60.5 %)

1. Justice proceedings is faster, cheaper and more efficient (31.5 %);
2. Justice proceedings is free from the emotional influence of the parties (participants) (1.5 %);
3. It is easy for people with disabilities to participate in the process (16 %);
4. All of the above listed (7.5 %);
5. I do not agree with any of the answers (4 %).

- Judge (11.0 %)
1. Justice proceedings is faster, cheaper and more efficient (8.5 %);
 2. Justice proceedings is free from the emotional influence of the parties (participants) (0 %);
 3. It is easy for people with disabilities to participate in the process (1.5 %);
 4. All of the above listed (1 %);
 5. I do not agree with any of the answers (0 %).
- Other participants in the process (28.5 %)
1. Justice proceedings is faster, cheaper and more efficient (19 %);
 2. Justice proceedings is free from the emotional influence of the parties (participants) (5 %);
 3. It is easy for people with disabilities to participate in the process (5 %);
 4. All of the above listed (2.5 %);
 5. I do not agree with any of the answers (1.5 %).
- For the evidence, the answers are presented in Figure 4.

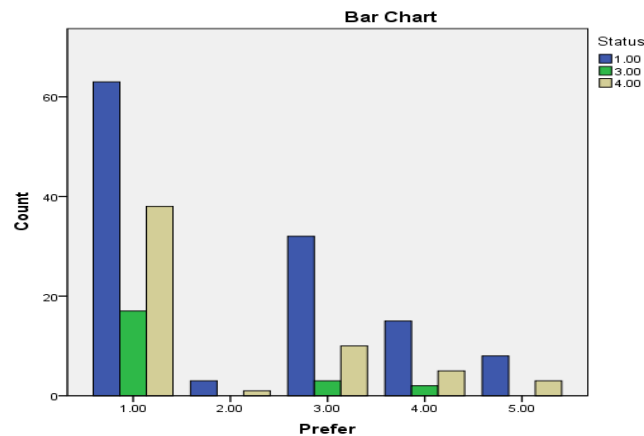


Figure 4 – Distribution of survey results to evaluate the pros of remote justice

Overall, considering that the 4th answer includes the first answer, it can be concluded that 70 % of the respondents name the speed, cheapness and efficiency of remote justice as the main positive side of e-justice; 22 % think it is easy for people with disabilities to participate in the process; 2.2 % believe that the court is free from the emotional influence of the parties (participants) in e-justice; 5.5 % disagreed with either answer. It is interesting that according to the results of the survey presented in Item 5, respondents reported negative attitude to the access to court, equality of the parts and confidential communication with a lawyer (61 %). Nevertheless, the vast majority of respondents (70 %) view e-justice positively. The emphasis is on speed and affordability in this case. We will not analyze the imbalance between entitlement and need in this study. But one thing is clear, the new model of remote justice must maintain the signs of speed and cheapness and, at the same time, ensure the practical implementation of the traditionally established principles of a fair trial (accessibility, confidentiality, equality of the parts).

The negative side of remote justice

To assess the disadvantages of distance justice, respondents answered the

question: “what are the disadvantages of e-justice in your experience?”

The answers to the question were distributed as follows.

Process side (60.5 %)

1. The evidence cannot be fully examined (3.5 %);
2. The legal status of the accused has deteriorated (2 %);
3. There are technical problems in the courtroom (no sound, bad image, bad internet, etc.) (40.5 %);
4. All of the above issues (8 %);
5. It has not negatives sides (6.5 %).

Judge (11%)

1. The evidence cannot be fully examined (1 %);
2. The legal status of the accused has deteriorated (5 %);
3. There are technical problems in the courtroom (no sound, bad image, bad internet, etc.) (6 %);
4. All of the above issues (1 %);
5. It has not negatives sides (2.5 %).

Other participants in the process (28.5 %)

1. The evidence cannot be fully examined (5 %);
2. The legal status of the accused has deteriorated (0 %);
3. There are technical problems in the courtroom (no sound, bad image, bad internet, etc.) (10 %);
4. All of the above issues 4 %;
5. It has not negatives sides (13.5 %).

For the evidence, the distribution of the obtained answers is presented in Figure 5.

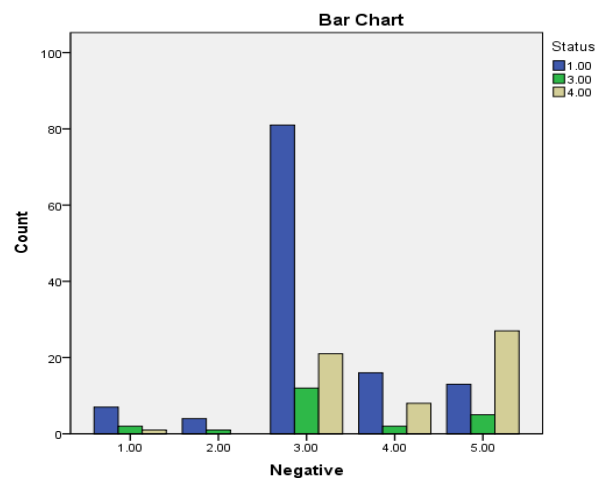


Figure 5 – Distribution of survey results to assess the disadvantages of remote justice

The obtained answers show that 57 % of the respondents consider the main negative side of e-justice to be the technical problems in the courtroom (no sound, bad image, bad internet, etc.).

*Public Opinion/Expectations on Prospects for
Remedial Justice in the Georgian Judiciary.*

The third part of the research, which was dedicated to the study of public

opinion/expectations on the perspectives of remote justice in the Georgian judicial system, in turn was divided into two sub-questions: 1) Determining public views on the convenience of remote litigation; 2) Determining the public expectations on the prospects of introducing remote legal proceedings in the Georgian judicial system.

Investigation of public opinions on the convenience of remote litigation

In order to study the convenience of remote litigation, respondents were asked the following question: how comfortable was the communication in the courtroom during the remote justice process?

The distribution of the answers to the question according to the four levels of comfortability is presented in Figure 6.

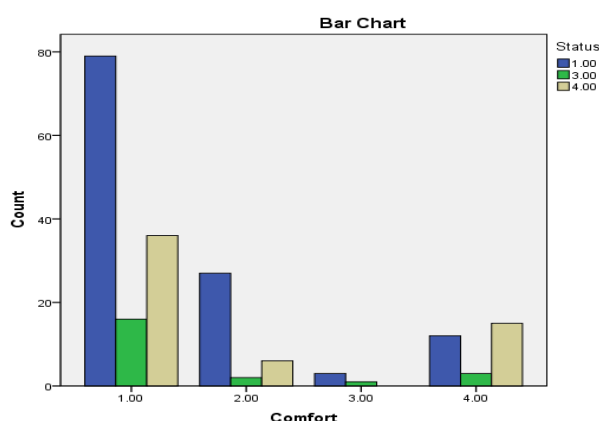


Figure 6 – Distribution of survey results on the convenience of remote litigation

As it is clear from the analysis of the survey results presented in Figure 6, the respondents gave the following answers to the question:

Process side (60.5 %)

1. It was comfortable as the court hearing was simplified, although there were technical problems (39.5 %);

2. It was not comfortable as remote justice could not fully investigate the facts (13.5 %);

3. It was not comfortable as the parties had difficulty maintaining order (1.5 %);

4. It was convenient since all the conditions for a smooth hearing were (6 %).

Judge (11 %)

1. It was comfortable as the court hearing was simplified, although there were technical problems with (8 %);

2. It was not comfortable as remote justice could not fully investigate the facts (1 %);

3. It was not comfortable as the parties had difficulty maintaining order (5 %);

4. It was comfortable since all the conditions for a smooth hearing were (1.5 %).

Other participant in the process (28.5 %)

1. It was comfortable as the court hearing was simplified, although there

were technical problems with (18 %);

2. It was not comfortable as remote justice could not fully investigate the facts (3 %);

3. It was not comfortable as the parties had difficulty maintaining order (0 %);

4. It was comfortable since all the conditions for a smooth hearing were (7.5 %).

Finally, the analysis of the first and fourth answers allows us to conclude that for 80 % of the respondents the remote proceedings are comfortable, although it should be noted that 65 % of the respondents mentioned that they had technical problems during the remote proceedings.

The imbalance of accessibility, equality of parties, ability to communicate confidentially and comfortability, in the existing model of remote court, should be explained by the following circumstances: attending a web conference in a home or office environment is much more comfortable for parties than in a courtroom, it is possible to focus on details, they can make an affidavit in a calm environment.

Determining Public Expectations on Prospects for Introduction of Remote Litigation in the Georgian Judicial System

In order to study the issue of introduction of remote legal proceedings in the Georgian judicial system, the respondents were asked the following question: based on the experience gained, would you like to introduce remedial justice in the judiciary in the future?

The distribution of survey results by age and social status is as follows.

Process side

1. Yes, in full (10 %);

2. Yes, but depending on the nature of the specific procedural actions (42.5 %);

3. No, because the right of a fair trial is violated (4 %);

4. No, because it hinders justice (4 %).

Judge

1. Yes, in full (5 %);

2. Yes, but depending on the nature of the specific procedural actions (9 %);

3. No, because the right of a fair trial is violated (1 %);

4. No, because it hinders justice (5 %).

Other participant in the process

1. Yes, in full (1.5 %);

2. Yes, but depending on the nature of the specific procedural actions (23 %);

3. No, because the right of a fair trial is violated (2.5 %) (from 45 up to 60 years);

4. No, because it hinders justice (1.5 %).

The distribution of the obtained answers according to the age of the respondents is given in Figure 7.

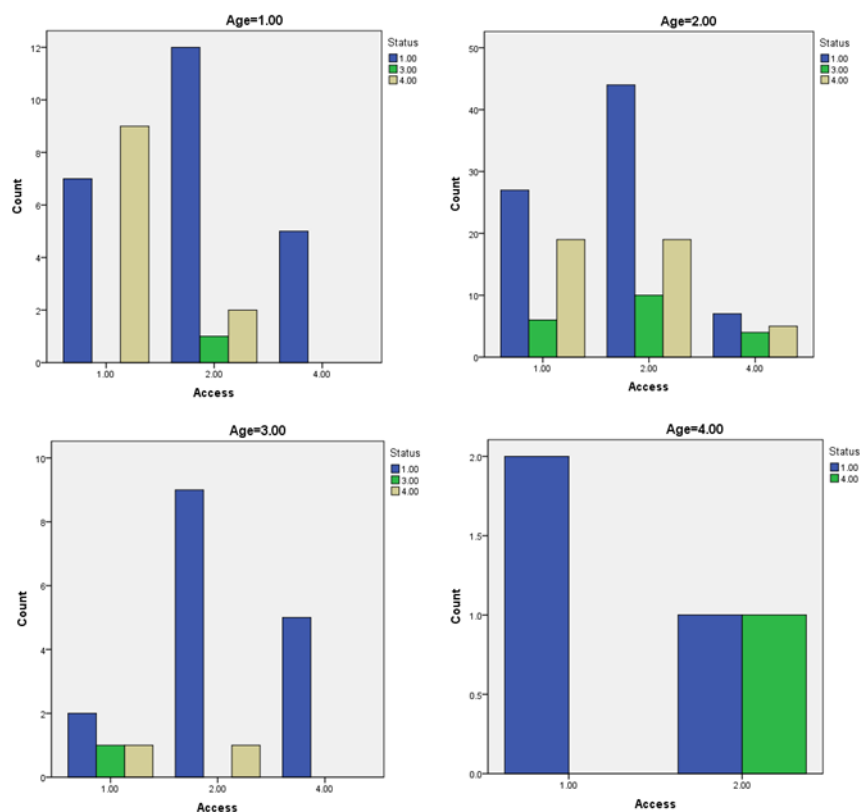


Figure 7 – Distribution of survey results on the prospects of introducing remote legal proceedings in the Georgian judicial system

As can be seen from the graphs of Figure 7, the largest part of the first age group (18-30 years old) agrees with the partial introduction of distance justice. Then, also a significant part of this group agrees with the full introduction of remote justice. The same situation is in all age groups. Taking into account the results of the survey of all age groups, 86.5 % of the respondents expressed a desire to introduce remedial justice in the Georgian judiciary.

Sociological research has shown that there is a difference between public views/expectations regarding the forms of the remote justice system. In particular, 74.5 % of respondents support the introduction of remedial justice given the nature of specific procedural actions.

Conclusions. Based on a critical understanding of the results, we conclude that the principle of distancing in a fair trial may run counter to the principle of obtaining and hearing evidence directly, as the risk of information distortion is high (e.g., interference, blurred images). The risk of bias in the evaluation of the evidence and arguments of the parties in the videoconference format is very high, which affects the formation of the judge’s internal beliefs, and so on.

The results of the investigation confirm the opinion expressed in the scientific literature that the quality of digital litigation is missing in legal reforms, which has a fundamental impact on the legitimacy and results of litigation [8]. This means that we must approach the remote justice system not only in terms of the formation of technical protection mechanisms, but also in terms of the legality of all actions taken in this format, the protection of the rights of the parties and unauthorized access to information.

Due to the multifaceted nature of the problem, the results of the study also determine that the remote form of justice must meet the following requirements:

collecting information, its storing and its protecting from modification; compliance with the requirements of conformity, admissibility, reliability and integrity of the information provided by the criminal procedure legislation; ability to examine and evaluate the information provided during the remote hearing of the case.

In turn, due to global trends, from an organizational-technical point of view, the implementation of remote justice is associated with the introduction of “smart court” technology, which implies a close connection between the design, the frame and the ritual elements of the virtual listening (M. Rossner et al., 2021). In this case, we are not talking about “robotizing” the trial, but about the introduction of smart technologies in the remote justice: the adoption of court acts required for a specific plot; elimination of technical contradictions in court practice or the ability of the court to make decisions using artificial intelligence; opportunity for citizens to use e-Justice services (along with court and business orientation); establishment of effective mechanisms for the protection of information related to legal proceedings; establishment of a database of criminal cases and the possibility of sanctioned access to them in electronic format; data protection; dissemination of information outside the professional, legal environment; expanding the capacity of e-litigation, providing education to citizens and more.

Conclusions for judgment. The growing popularity of remedial justice is due to the simplicity of the interface and the use of technology, accessibility, simplicity of legal, administrative, technological procedures. At the same time, the “one-sidedness” of the introduction of technologies exacerbates internal systemic contradictions. The criminal process is quite conservative in nature, the use of new technologies in this area carries some risks. The generalization of the practice has established that the management of these risks should be carried out in the following directions: separate involvement of the lawyer and the defendant (principle of direct participation); involvement of the lawyer and the convict in the court process; involvement of jurors in remote mode and more.

In order to overcome these risks, we consider it appropriate to develop a remote court model taking into account the following elements:

In the courts of first instance, there should be a remote justice room, from where the convict and the lawyer will be involved in the video conference (according to the location);

The development of the existing automated system of court proceedings in the field of information protection; the improvement of the electronic delivery of documents;

In order to ensure an integrated chain of justice, the following should be introduced:

3.1. remote Justice Room;

3.2. “smart search engine” as a way to implement information technology-based justice, through which it will be possible to exchange information electronically; similar software allows us to use artificial intelligence in the process of gathering evidence, analyzing a case, evaluating documents; it eliminates technical deficiencies, involvement of strangers in video conferencing, etc;

3.3. special so-called “Coutroom” Internet platform (Cisco Webex and other online conferencing systems ZOOM, SKYPE), which integrates litigation, staff, data attachments, provides dynamic monitoring in the process of solving court organizational and managerial tasks;

3.4. the so-called Front Offices – for jurors and citizens to master the rules and technical skills of distance justice.

Therefore, providing the public with structural-functional procedures that determine the integrity of the remote justice system includes: integrating the prosecutor’s office and lawyers into automated document management,

maintaining confidentiality and professional ethics by professional groups, ensuring the internal faith of the judge, introducing practical and effective mechanisms for the right to a fair trial.

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Conflict of Interest and other Ethics Statements

The author declare no conflict of interest.

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Георгій СВІАНАДЗЕ

ОЦІНКА ЕФЕКТИВНОСТІ МОДЕЛІ ЕЛЕКТРОННОГО (ДИСТАНЦІЙНОГО) ПРАВОСУДДЯ В ГРУЗІЇ ЩОДО РЕАЛІЗАЦІЇ ПРАВА НА СПРАВЕДЛИВИЙ СУД

Анотація. У статті розглядається ефективність моделі електронного (дистанційного) правосуддя в Грузії. З цією метою досліджено громадську думку з урахуванням переваг та недоліків, а також перспектив дистанційного правосуддя. Незважаючи на “швидкість і дешевизну”, ефективність справедливого судового розгляду виявилася низькою: існуюча технологія відеоконференц-зв’язку впливає на об’єктивність оцінки сторонами доказів і аргументів, формування внутрішньої віри судді в процесі ухвалення рішення тощо. Розроблено дискусійну пропозицію щодо нової моделі дистанційного здійснення правосуддя.

Автор наголошує, що зростання популярності дистанційного правосуддя пояснюється простою інтерфейсу та використанням технологій, доступністю, простою правових, адміністративних, технологічних процедур. Водночас “однобічність” впровадження технологій загострює внутрішні системні протиріччя. Враховуючи, що кримінальний процес носить досить консервативний характер, використання нових технологій у цій сфері несе певні ризики. В статті встановлено, що управління цими ризиками має здійснюватися за такими напрямками: окреме залучення адвоката та відповідача (принцип безпосередньої участі); залучення адвоката та засудженого до судового процесу; залучення присяжних у дистанційному режимі тощо.

Для подолання цих ризиків автор вважає за доцільне розробити модель

дистанційного суду з урахуванням наступних елементів: у судах першої інстанції має бути віддалена кімната правосуддя, звідки засуджений та адвокат будуть залучатися до відеоконференції (за місцем розташування); розвиток існуючої автоматизованої системи судочинства у сфері захисту інформації; удосконалення електронної доставки документів.

При цьому для забезпечення цілісного ланцюга правосуддя необхідно запровадити: віддалену кімнату юстиції; “розумну пошукову систему” як засіб реалізації правосуддя на основі інформаційних технологій; спеціальну так звану Інтернет-платформу “Coutroom”, яка об’єднує судові процеси; так звані Front Offices – для присяжних і громадян для оволодіння правилами та технічними навичками дистанційного правосуддя.

Ключові слова: *модель дистанційного правосуддя, оцінка ефективності моделі, громадська думка, теорія права, теорія управління, прийняття рішень*

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