

# Digitalization and the Courts in Central and Eastern Europe

A CEELI Institute Study



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In 2020, the [CEELI Institute](#) held its first online course on Remote Judging. Intended as a way of enabling peer-to-peer learning on all aspects of remote judging, one of the outputs of the course was a questionnaire, designed by some of the participants, with the aim of gathering information from across the region on the experiences of judges in conducting their work online and digitalization and the courts generally.

There were 70 respondents\*, mostly judges from across 19 countries\*\* and from both lower and higher courts – criminal, civil and administrative. Most respondents are part of CEELI Institute's Judicial Exchange Network, including judges and other court personnel who took part in our inaugural, large-scale online course on Digital Justice in April 2021. Thus, whilst this study aims to summarize the survey results, it is merely a snapshot of individual experiences and does not claim to be a comprehensive nor representative reflection of the level of digitalisation in the courts overall in the region.

## Structure of the survey

We first asked the respondents to name the types of remote proceedings for which they currently need technology, and received the following answers:

- Regular court meetings via remote technology, attending online forums and trainings and conferences.
- Pretrial hearings and administrative matters – setting down dates and so forth
- Electronic case management matters
- Certain civil cases such as small contractual claims proceedings, tax cases, or other uncomplicated matters
- Partial hearings to take witness or expert testimony, particularly for those who live abroad
- Taking testimonies and hearings for the purpose of mental health assessment in custodian proceedings and other emergency matters
- Criminal proceedings such as detention hearings; hearings at appeal level in different criminal cases; hearings in execution of requests for various types of international cooperation
- Online complete case hearings in both criminal and civil matters

The answers to the survey outlined below are organised into 6 main themes: Legislative Framework, Equipment, Accessibility, Capacity to be Public, Staffing, Conducting Hearings, Security.

\* 70 respondents replied to the survey out of a pool of 300 individuals to whom the survey was shared with. Not all respondents answered each question, only those relevant to them. Some quotes have been edited grammatically to make the sense clearer for the reader.

\*\* Albania, Armenia, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Georgia, Hungary, Italia, Latvia, Lithuania, North Macedonia, Poland, Portugal, Romania, Russia, Serbia, Slovenia, Ukraine

# Legislative framework

Does the legislation of your country contain specific provisions for organizing online hearings?

There are specific legal provisions which allow for organizing online hearings

50%

There are neither legal provisions nor guidelines for organizing online hearings

34%

There are guidelines from higher judicial authorities (judicial councils) which encourage the use of online hearings

16%

The lack of legal provisions was cited as the most common barrier for organizing or redirecting to online hearings. Other barriers cited include lack of finances, knowledge, technical capabilities, infrastructure and materials. For some, existing laws enabled online hearings in only one type of procedure (e.g. civil procedure).

Respondents noted that clear and precise provisions indicating which cases and circumstances online proceedings can be initiated are needed.

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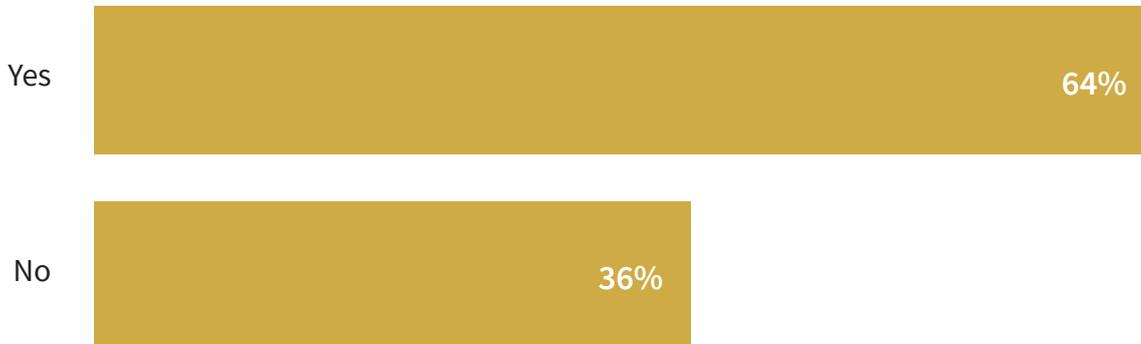
*“Neither the Supreme Court or the Judicial Council came up with a statement on how to organize remote hearings.”*

*“... in our country we have some legal provisions that allow us to perform remote hearings, but we also we have received Guidelines from the Judicial Council regarding the performance of online trials.”*

*“We don’t have any regulations in this area! We don’t have equipment! There is not enough technical support!”*

— From survey

Where there is no legislation providing for remote hearings, has this been a barrier to conducting them?



In regards to barriers, respondents indicated that due to the nature of the respective legal systems, concrete and specified provisions must exist to be able to organize online hearings.

Where there are no legal provisions, it may be possible to hold remote hearings on the basis of emergency legislation or guidelines from higher judicial authorities.

In other instances, the judges were strictly forbidden to organize remote trials.

“

*“No one knows what parties' rights are in some situations, for example, if it is necessary to participate in such remote hearings or not? I have no precise guidelines on how to conduct these hearings. What to do when suddenly we lose connection? Is it according to the law to force witnesses to give their statements?”*

*“...it is dependent on a judge's (and his/her administrators') own devices and the good will of the participants, but this leads to lack of uniformity in proceedings.”*

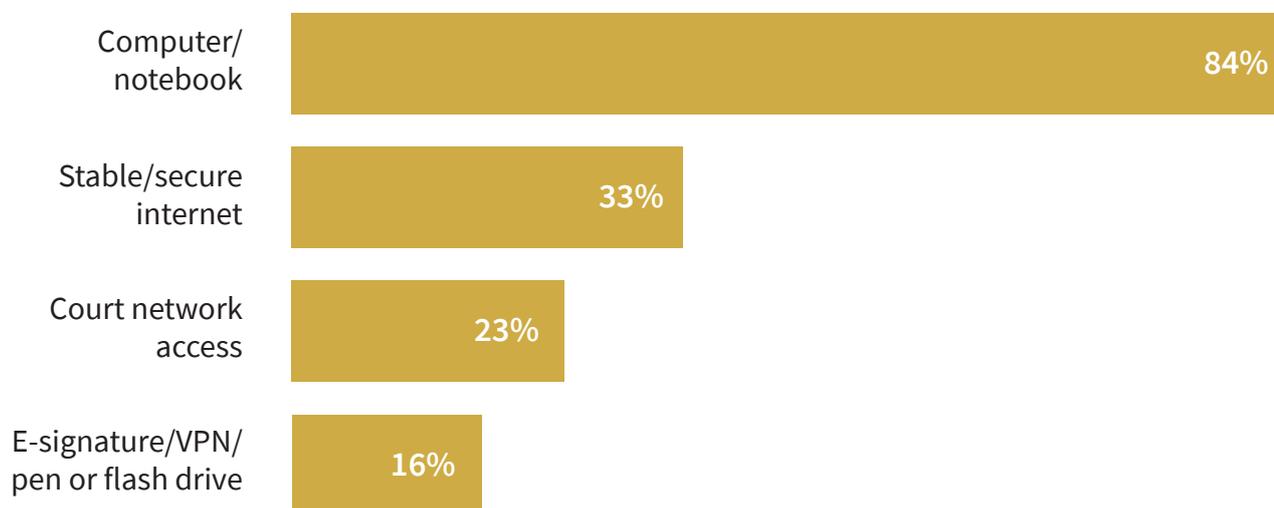
*“There are some legal provisions in my country allowing for remote hearings. Due to the pandemic, we have expanded remote hearings, even in the absence of specific regulations. Hence the latter has not imposed a barrier.”*

*“Our judicial council ... encourages [us] to use our creativity and decide every situation individually.”*

— From survey

# Equipment

What type of technical equipment do you need to conduct this work from home?



Replies varied as to what equipment was required, but they included the following: computer (with microphone and camera), secure internet, and access to the court's network (which may require digital keys/VPN, extra software, and files would need to be digitalized). Additional items like a mobile phone, scanner, printer, headphones, and mouse were also mentioned.

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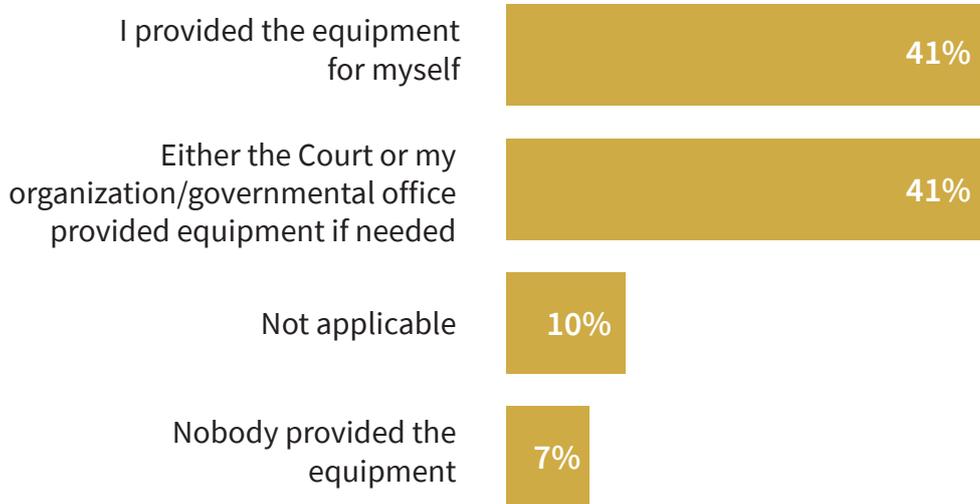
*“My personal laptop contains a program, which can connect me from home to my work place computer using the internet. I can access electronic materials for cases, but not every document is available in electronic form. I also need a printer at home, which I cannot afford.”*

*“I use a] Computer and encrypted internet connection to access our information systems.”*

*“I use a] Notebook, a laptop and pen drive to save the files and then I copy them to to the computer office system at the court and print.”*

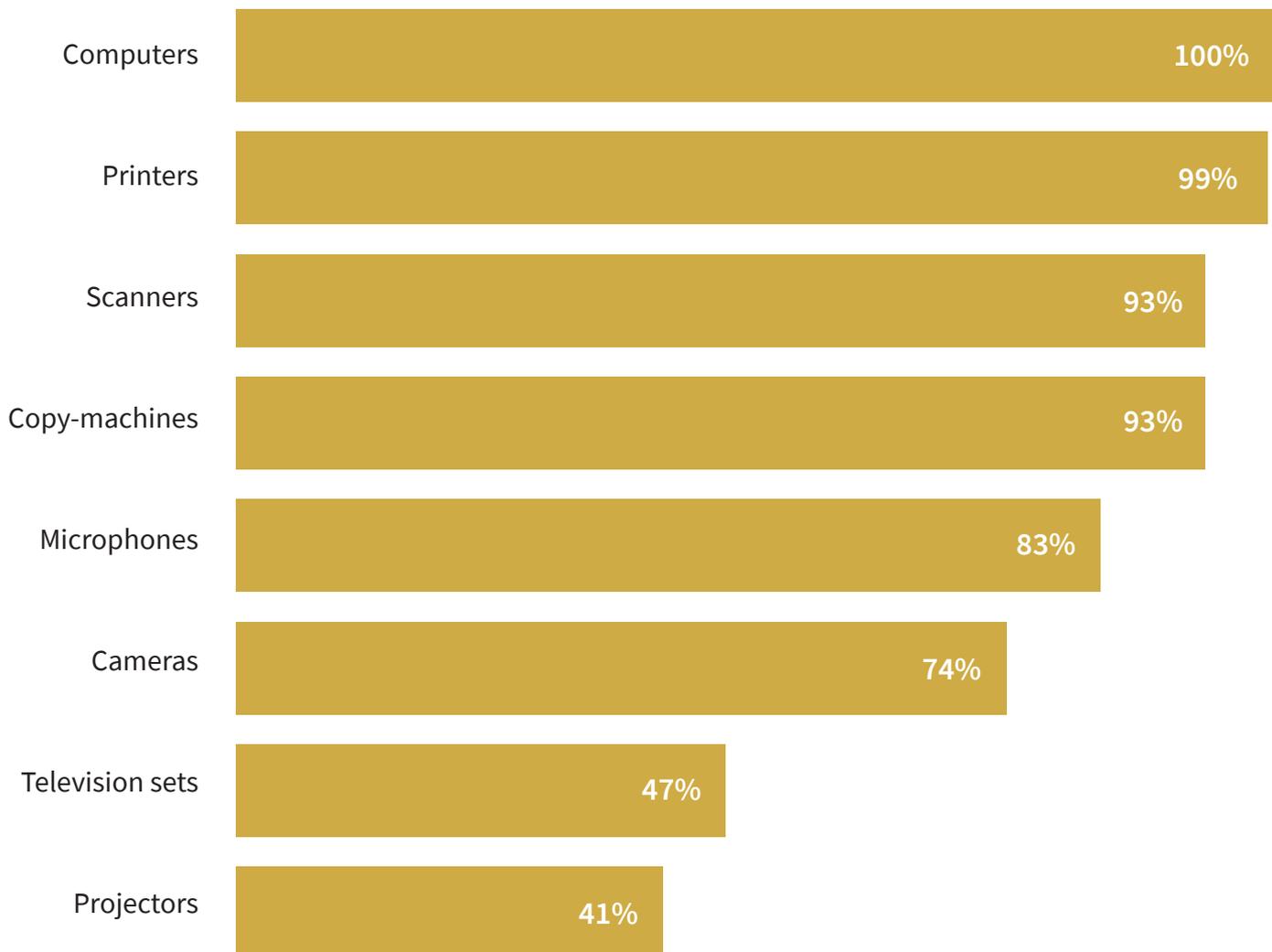
— From survey

## Who provided this equipment to you?



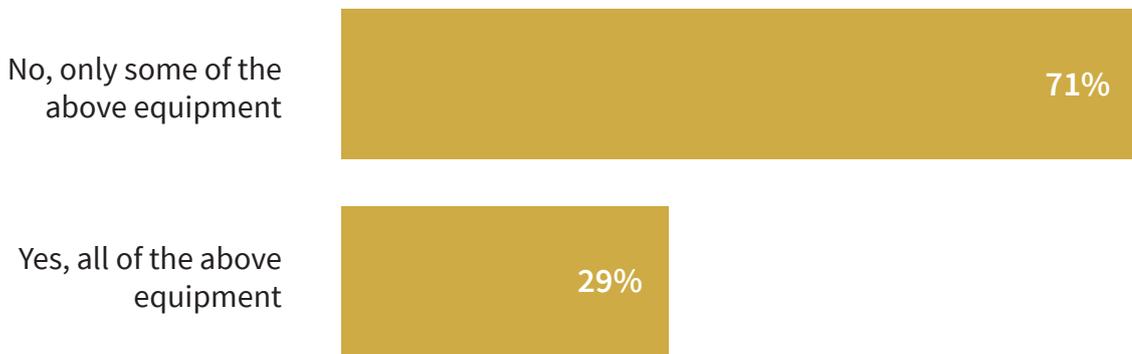
In several cases, the higher judicial authorities such as the Supreme Court, the Judicial Council, or the local court have provided the judges with necessary equipment. However, most of the responses indicate that they use their personal equipment – including computers, ISL lights, cameras, headphones and internet connections.

## What kind of electronic equipment is there in your court?



All respondents indicated that whilst there is the necessary technical equipment in most courts, they require modernization to organize online hearings. The equipment considered necessary to conduct hearings appropriately in the courts included: cameras (74%), projectors (41%), television sets (47%).

Is all of the above equipment available in each court room in the court building?



Over 70% responded that courts do not have all the equipment required. Printers, scanners, cameras, television sets and projectors were usually shared, and not every courtroom is equipped with these. As for computers, each courtroom and judge's office is equipped with a computer. In several cases, the equipment was considered to be outdated.

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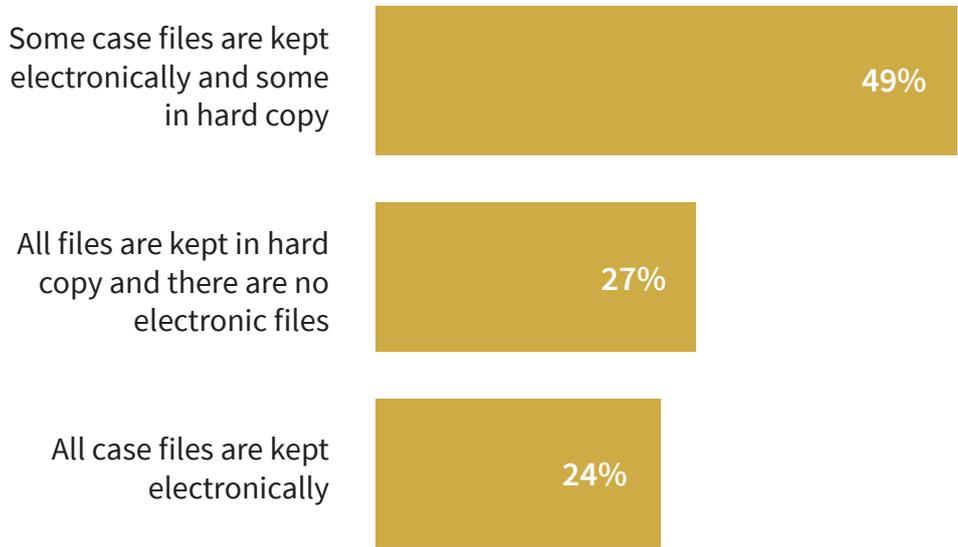
*“We have only one scanner for the entire Court.”*

*“Computers, cameras and microphones are in all courtrooms, for other equipment we need to put in a request.”*

*“Only one television set for the whole court building and about three cameras. We have twenty court rooms.”*

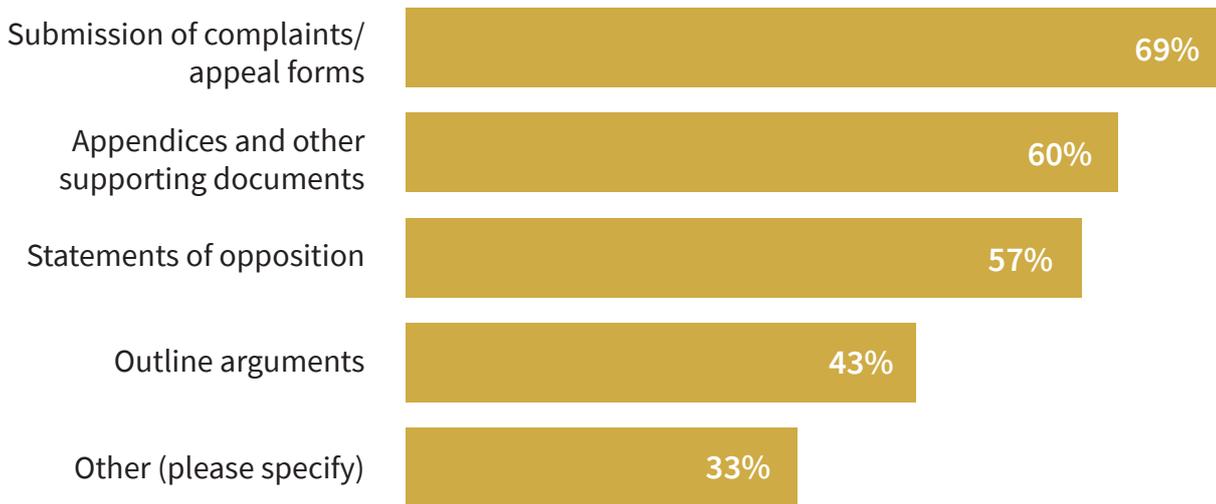
— From survey

### To what extent is there an electronic case management system in your court?



Concerning electronic case management system, most respondents confirmed that there is a hybrid arrangement in place with files kept electronically and in hard copy.

To what extent can pre-hearing formalities associated with proceedings (civil, criminal, commercial, etc.) before your court be concluded by electronic means?



Most respondents indicated that the submission of complaints and appeals is conducted by electronic means.

In some cases, there is full electronic communication and access to documents by the parties, and in other cases, it is only partial.

Several responses stated that communication is one-way, allowing submissions only by the court to the parties.

In some cases, the electronic system does not permit documents to be attached.

In very few cases, the judge allows for e-mail communication and submission of documents.



*"The following may be completed by electronic means: written pre-trial and criminal proceedings, written administrative proceedings and electronic civil cases."*

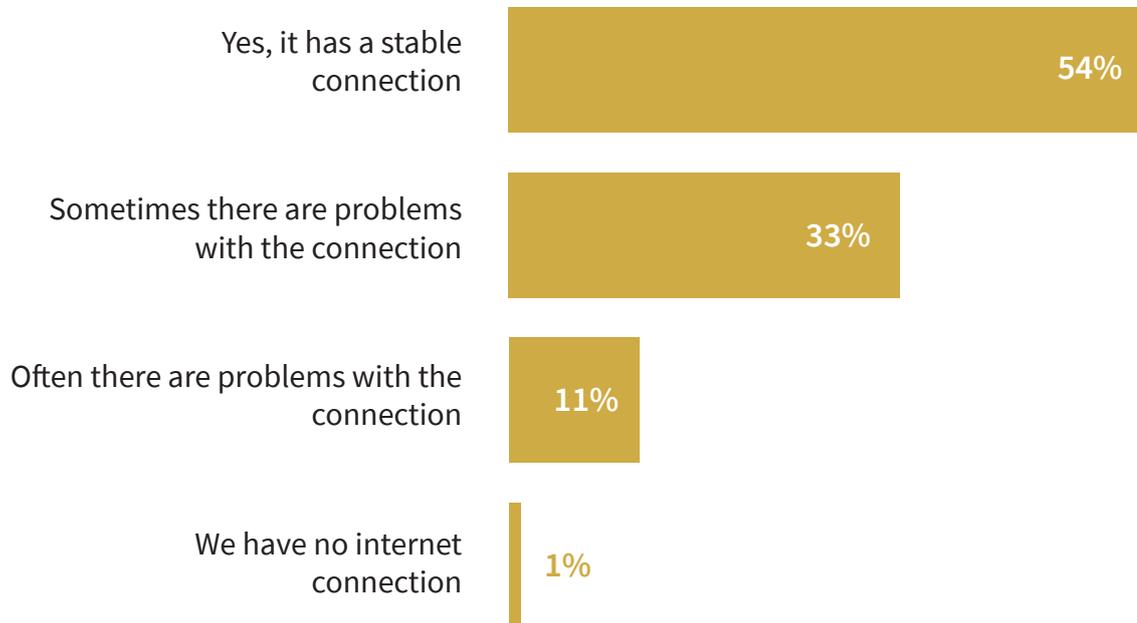
*"A party cannot attach anything to the electronic program themselves in criminal cases, but they can send documents by*

*email to the court or to court staff and they can attach it to the program."*

*"Still nothing of the above in place, but legislative changes are being drafted."*

— From survey

## Does your court have a stable internet connection?



Common problems highlighted with the internet connection included: network interruptions, weak signal, power outages, limited access and overloading of the system. In several cases, the unstable internet connection was a result of outdated computers and information systems in the courts.

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*“The internet provider does not provide a stable internet connection for the whole city, not only for the Court.”*

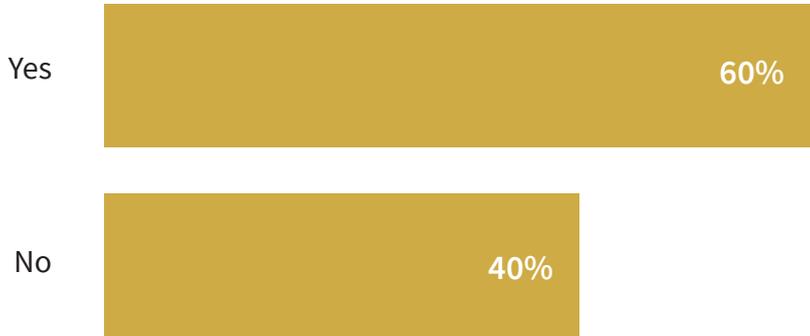
*“Sometimes the Internet connection falls ... when the air conditioning power is turned on.”*

*“In Armenia there is internet only in the offices of Judges and Judges' staff. We still do not have internet connection in the court rooms, where we hold hearings.”*

*“The difficulties are mainly when the electronic system, for some reason freezes or takes too long to open documents.”*

— From survey

Do you think other equipment is needed to conduct a remote hearing in your court?



The other equipment required included cameras, servers, microphones, projectors, wi-fi routers and televisions. Other respondents indicated that overhead projectors and translation software were also needed to conduct online trials and examination of witnesses or experts. Several respondents noted a need for more secure networks and connections when examining protected witnesses so as to ensure confidentiality.



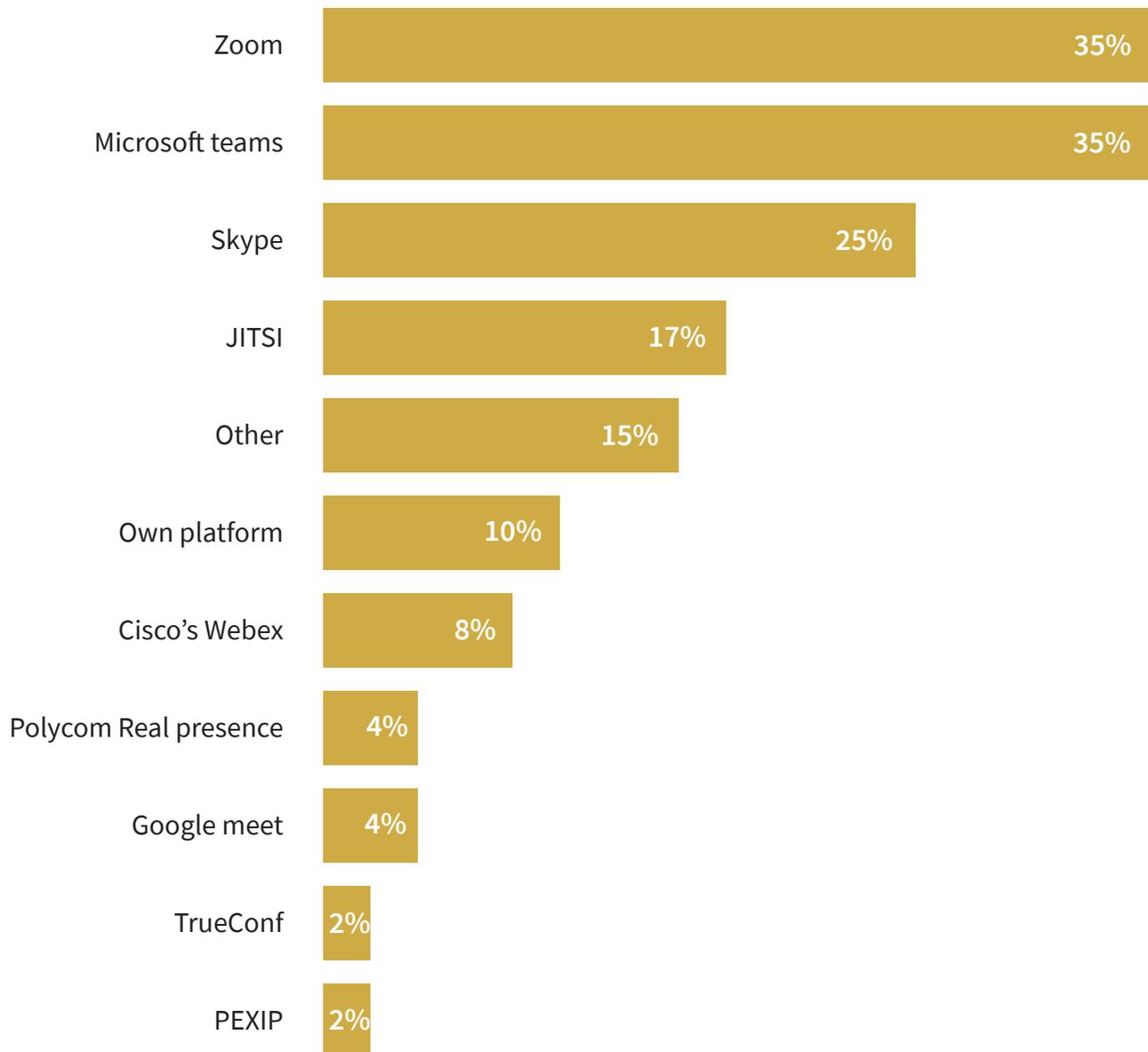
*"What we need are legal regulations and proper software."*

*"More courtrooms supplied with proper equipment for remote hearings as a computer and a camera are sometimes not enough."*

*"The equipment we have is old and worn out. We need much better internet connection. We need better backup and security support."*

— From survey

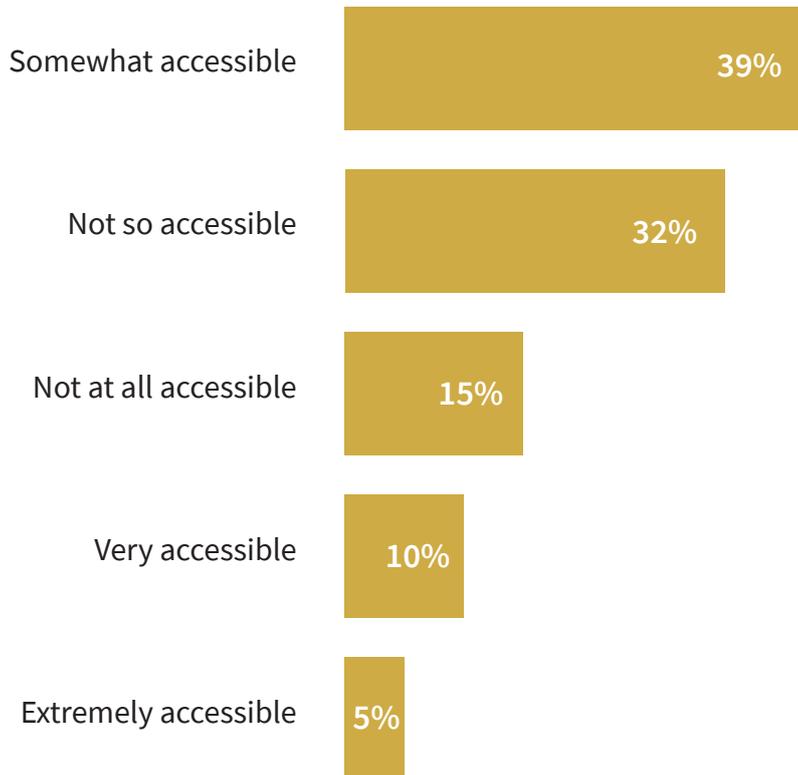
## Which platform is used to conduct remote hearings?



Out of the provided platforms, ZOOM and Microsoft Teams were the most commonly used, and considered the most reliable. Several respondents have also indicated that some courts are using their generic platform, created by the government – Cisco Meetings, Avaya Scopia.

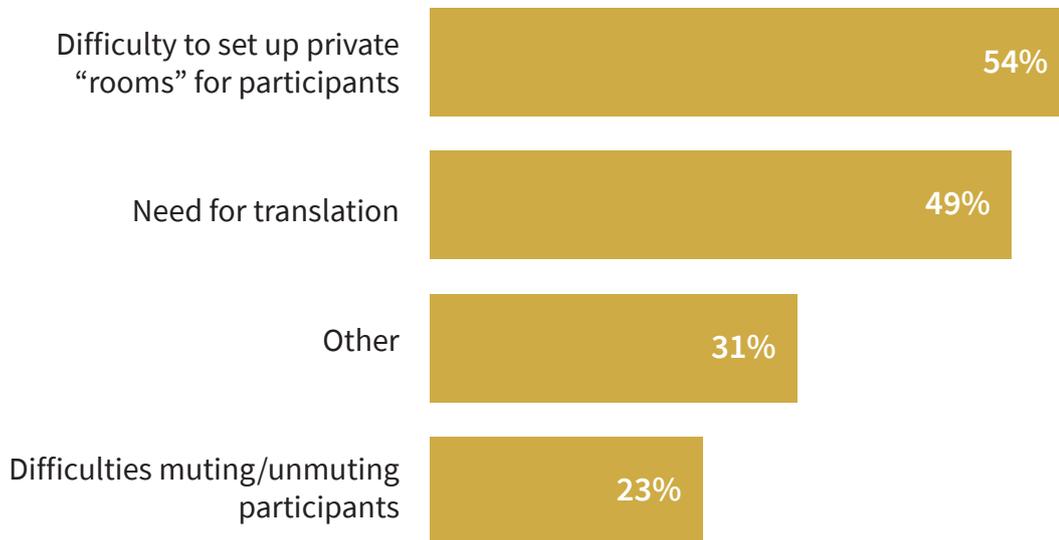
# Accessibility

How accessible is it to persons with disabilities (e.g. visual impaired, deaf, mental capacities, etc.) or other vulnerabilities?



Over half of respondents indicated that the digital platform was accessible to persons with disabilities to some degree.

## Are there any challenges with using the particular system for online hearings?



Among the challenges noted were: the lack of technical skills and knowledge of the program by the parties and witnesses, poor connections, the requirement that the parties download other software, the lack of staff to provide assistance, difficulties with displaying evidence and documents electronically, compatibility issues with other systems in use by the court, the courts not providing needed facilities.

“

*“The biggest challenge is a lack of technical skills and knowledge of the program by parties and witnesses.”*

*“The connection on some hearings is terrible. Education on remote hearings for judges, attorneys and others is necessary.”*

*“Lack of staff to help set up the equipment.”*

— From survey

# Capacity to be public

Can the platform be used to provide live streaming or a web feed in proceedings that are deemed public?



Various ways were identified in which the public or media could attend:

- Asking permission for an audio-video recording;
- Participating from the court room;
- With a Public Relations court personnel observing the case and then informing the media;
- Sending a link to a person who wishes to see the hearing, although one concern was voiced that this might result in too many respondents which could cause technical problems;
- Via a private court channel that has been created on YouTube.

“

*“The proceedings are not live-streamed. There is a possibility but we don’t use it often.”*

*“No [the proceedings are not streamed] but NGOs, monitors, journalists can ask for permission to receive an audio-video recording.”*

— From survey

Does the system provide the capacity for private communication between the defendants and his/her counsel, if they are not in the same location?



When this was offered, it was provided by:

- A private chat function or virtual rooms;
- The judge and other respondents disconnecting from the meeting and then re-entering after a specified period of time;
- Requesting a short break and pausing the hearing during that time;
- The use of mobile phones or email.

“

*“Only via a private chat option. If the accused asks for a private meeting with counsel, I ask everyone to leave the online hearing and I am disconnected too, leaving only the accused and his/her counsel. We re-enter the hearing again after some time and I ask the accused if the time given to consult was enough and then we continue the hearing.”*

*“There is no private communication between them.”*

— From survey

# Staffing

Do you have trained personnel in your court to assist in organizing remote hearings?



Where there were no such personnel, support was provided in a number of ways:

- Through an IT specialist when needed, available via phone during the hearing;
- The judge's typist or assistant or the court administrator providing the assistance.

Comments were made regarding the limited number of IT personnel. Two respondents noted that they had been provided with training, but one said this had not been sufficient.

Finally, some noted that they had to deal with the issues themselves or with an administrator, which could lead, according to one respondent, to postponing the case if the technical issues could not be resolved.

“

*“Nobody, I'm by myself.”*

*“We all are still learning, rather ourselves, but there was one training for those who wanted in the National School of Judiciary and Public Prosecution - online. I took part in some webinars organized by NGOs.”*

*“The court administrator does the technical connection, but if any problems arise, we have to postpone the case.”*

— From survey

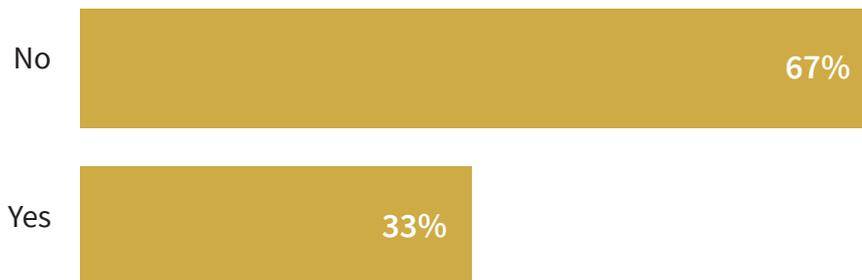
Does your court employ IT personnel to assist and train judges on IT platforms?



Of those who noted that IT personnel were available, all except two stated that there were not enough people to cope with the demand. This could result, according to respondents, in hearings being interrupted.

Although IT specialists assisted judges, only one respondent said that they also trained them.

Have you and other staff in your court undertaken training in relation to the application of the GDPR principles to your remote judging work?

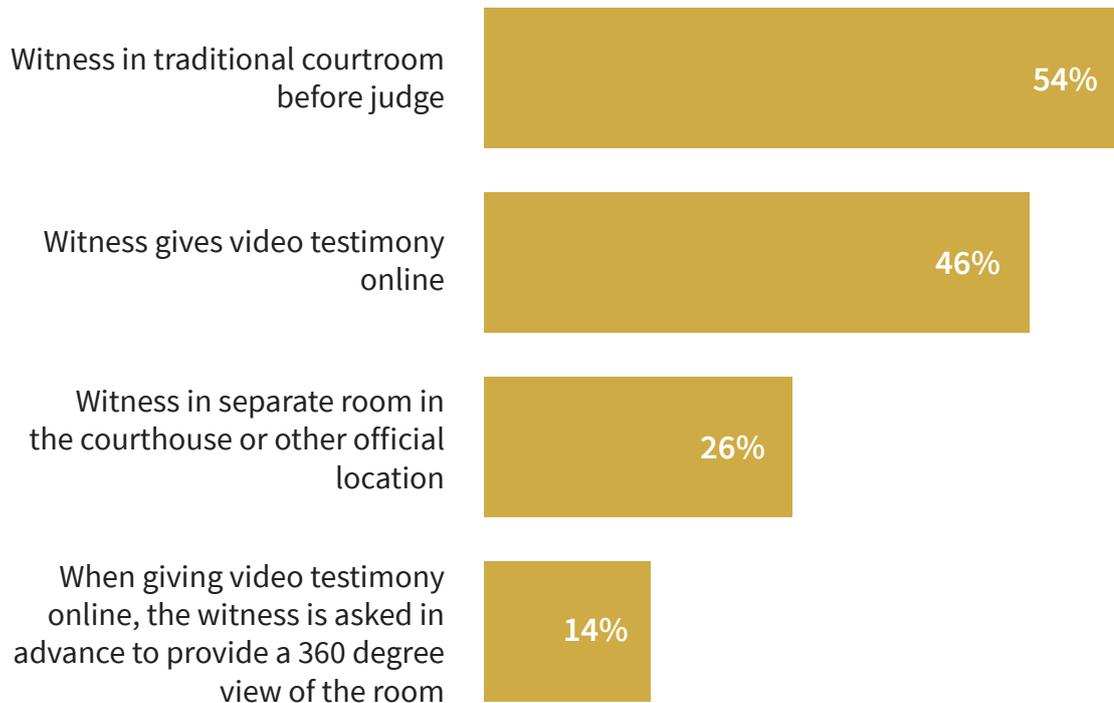


For those that had attended training, with respect to GDPR more generally, this may or may not have been mandatory and could be provided either by national organizations or external bodies such as the CEELI Institute. One respondent noted that obligatory annual training was required on GDPR, cybermatic security and handling confidential information.

For those that had not received training, it was noted that warnings were given by the President of the court. One respondent stated that no training had been provided because there were insufficient financial resources to do so.

# Conducting hearings

During online hearings in your court, what measures are taken to ensure the full participation and protection of a witness or expert?

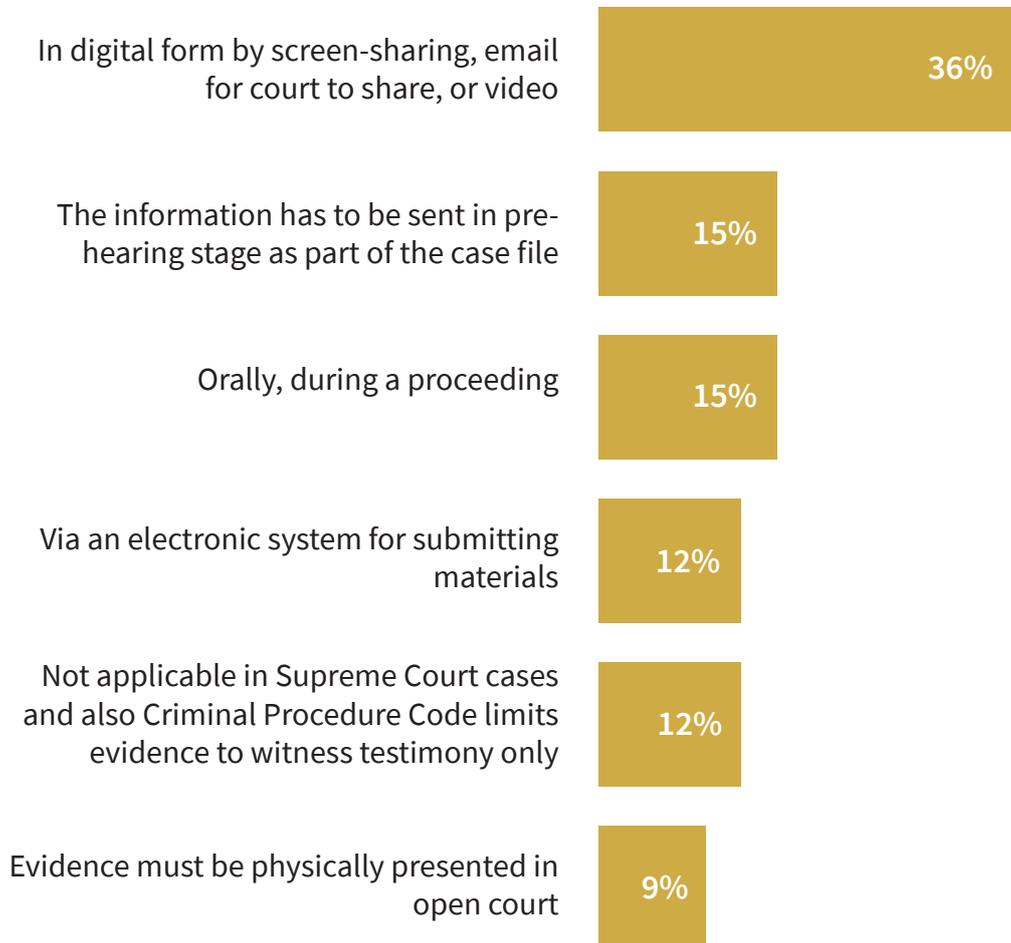


In terms of location, almost all respondents noted that the witness or respondent only gave evidence in the courtroom before the judge, in a separate room in the courthouse or in another official location.

Where the witnesses gave testimony online, they were asked to provide a 360 degree view of the room at the start of the session.

One respondent said that there were no secure measures for such a hearing. However, for several of the respondents, witnesses had not been heard by video conference—either because the law did not permit this or because there had been no opportunity to do so.

## How is evidence presented before and during an online hearing?



Some respondents noted that evidence can only be submitted directly to the court, not online. If a party to the proceedings is joining the hearing from a room in another court, then the evidence would be handed to a court official. Where evidence is sent in advance, the judge may evaluate and present the evidence orally, before the camera during the hearing.

Does the system permit sharing of documents, videos or other materials held by those users external to the court?



Depending on the system, this varied. Some respondents did not know, the information was not available in the instructions or they had not yet had the opportunity to use it. One respondent said that it was feasible if the screens were prepared in advance.

Does the system have the capacity for an electronic signature?



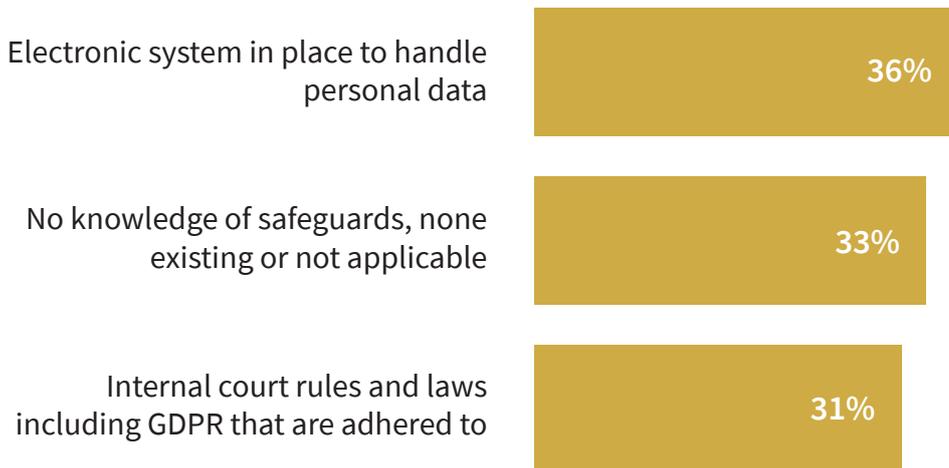
Where this was possible examples from respondents included:

- A bar code which replaced the signature in judgments;
- The court system enabling a judge to use an e-signature to sign judgments.

It was noted by one respondent that although electronic signatures were technically possible, this was not connected to the system used for remote hearings.

# Security

What safeguards are in place to ensure that any personal and other data will be collected and used for the purpose of the proceedings before the court?



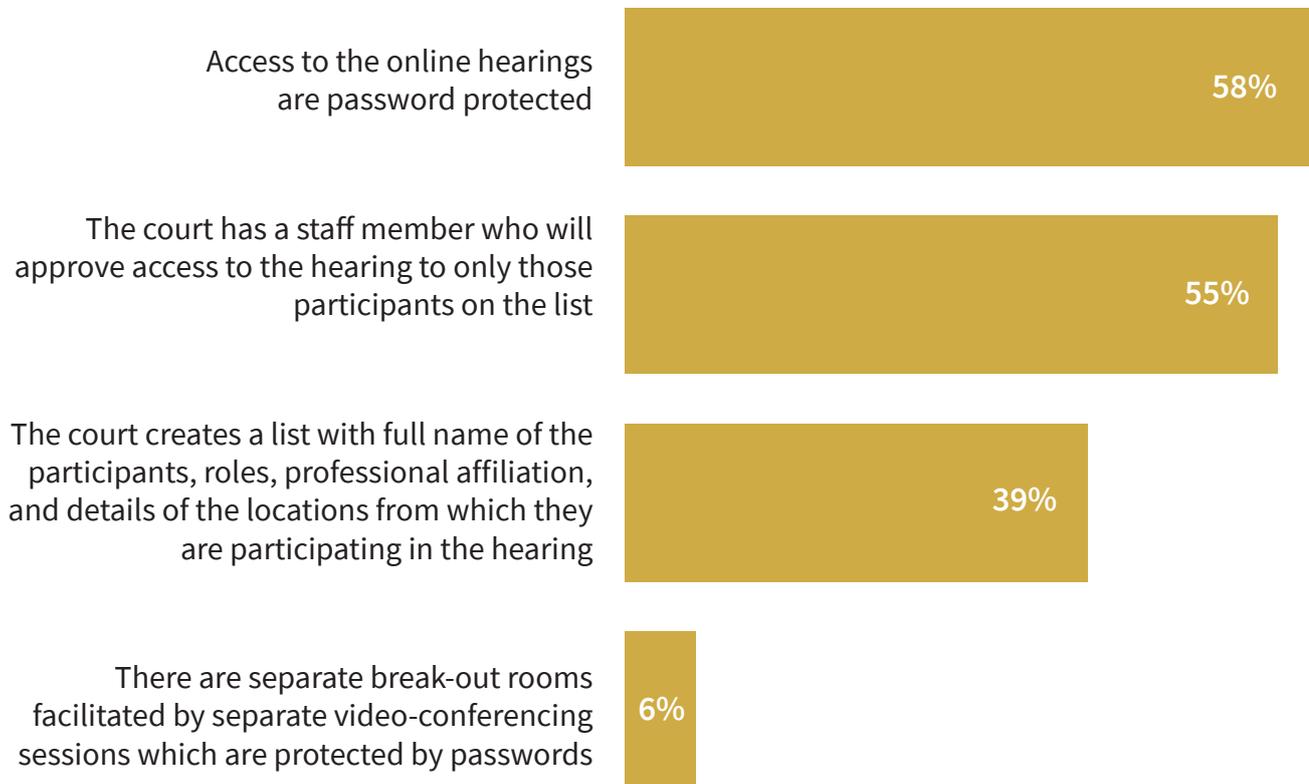
Where safeguards were in place, these included:

- Personal data stored separately from the material with a right of access only by court staff, or appearing on a separate file and not on the letter of claim — unless consent was provided by the author;
- Court staff signing a statement on the protection of personal data, or a specific data protection officer being present;
- The clerk or the judge ensuring personal data is protected;
- Access to the court files containing the personal data only being permitted to authorized persons;
- Access only being permitted to the parties if they affirm respect for confidentiality;
- Access only available via a secure system to those authorized to attend, with PINs and safe words;
- Ensuring that final verdicts are anonymized before being given to third parties or the public.

Some noted that laws or regulations, including GDPR, were in place to provide such protection.

Some respondents noted that no such safeguards were in place or they were not sure whether this was the case.

## What measures are taken to ensure the confidentiality and security of online hearings?



**Measures included:** access being password-protected, a staff member in the court who controlled access to a list of respondents, and separate breakout or secure rooms being available (again, protected by passwords). In addition, others noted that the court would create a list of the respondents, with their role, profession and location. However, others mentioned that there were no measures taken at all.

**Photo:** "Gavel and Hospital Chart - Hospital - Law"  
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