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Access to Justice in Labour Cases in Hungary during the Covid-19 Pandemic

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Abstract

Access to justice is a fundamental right of workers stipulated in a set of international, EU and national instruments of law. The lockdowns induced by the Covid-19 pandemic have had double negative impact on the effective enforcement of this right. While pandemic-related lockdowns resulted in an increasing number of labour disputes and dismissals as well as generated novel and difficult questions of labour law, accessibility of legal remedies in Hungary became limited through the (temporary) restrictions concerning the functioning of the judiciary. In parallel, emergency-related amendments of labour law have, on the one hand, supported the survival of undertakings, on the other hand, restricted individual and collective rights of workers. This paper is designed to give a comprehensive view on the endeavours of Hungarian labour courts to guarantee the possibly uninterrupted and safe maintenance of litigation in labour cases.

Keywords: Access to justice; Emergency procedure rules; Covid-19; Labour courts; Digitalization of justice.

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1. Why precisely the labour courts? The key role of judicial way in labour law dispute resolution in Hungary.

In Hungary, like in most countries, a number of ways of labour dispute resolution is known and used. After the fall of the communist era, from 1992, the newly introduced Labour Code guaranteed the right to the parties of individual and collective labour relationships to assert their rights before the reanimated, specialised labour courts.[1] The currently effective Labour Code (hereinafter: LC) still guarantees the judicial remedy for claims under employment law.[2] Besides, the LC envisages specific forms of alternative dispute resolution, such as conciliation[3] and arbitration in collective disputes.[4] Mediation is also a widely known and legally recognised form of resolution of both individual and collective disputes.[5] Several private entities (e.g. law offices and attorneys) provide mediation and arbitration services. The Labour Advisory and Dispute Settlement Service (LADSS), operated by the Government and social partners from EU funds, provides mediation, arbitration and conciliation services free of charge with the cooperation of the nationwide network leading employment law academics and experts.[6] Likewise, even courts provide "in house" mediation services for parties, carried out by specially trained court mediators (judges and judicial secretaries). In labour cases, using of court mediation service takes place on a voluntary basis.[7]

Nevertheless, in contrast to a number of other countries, alternative forms of settlement of labour disputes unfortunately could not become particularly significant forms of effective enforcement of labour law. Exact statistical data are not available, but telling figures are that in the period of 2016 to 2019, the LADSS, as the most important and best known service provider in the field of collective interest disputes, arranged in total 19 mediation, conciliation and arbitration cases.[8] The number of incoming litigious labour cases at the courts amounted to 13 477 in 2016, 12 667 in 2017, 6170 in 2018, 4615 in 2019 and 1129 in 2020 respectively.[9] The detailed analysis of the reasons for the regrettable unpopularity of alternative dispute resolution ways as well as the reduction of judicial cases would go far beyond the scope of this study. All that is important to note that the judicial way, in spite of the radical decline of the number of incoming cases during the recent years, is indisputably the predominant

[1] Act XXII of 1992 on the Labour Code, sec. 199.
[2] LC, sec. 285(1).
[3] LC, sec. 291-292.
[4] LC, sec. 293.
[5] Act LV of 2002 on Mediation (hereinafter: MedA), sec. 23-38.
[6] Website of the LADSS: https://www.munkaugyivitarendezes.hu/, accessed 21 May 2021.
[7] MedA, sec. 38/A, 38/B. The exact number of labour disputes arranged by court mediators is not published.
[8] *See* Kun A., *Tájékoztató a Munkaügyi Tanácsadó és Vitarendező Szolgálat (MTVSZ) első (2016–2019) és második (2019–2021) működési perióduságról* ["*Information sheet on the first (2016-2019) and the second (2019-2012) periods of functioning of the Labour Advisory and Dispute Settlement Service*"], in *Munkajog*, 3, 2019, 65-69. The author notes that these figures are still impressive in contrast to the predecessor organisation of the LADSS, the Employment Arbitration and Mediation Service, which acted in total in 90 cases during 11 years of operation. No data have been published on the current period of functioning (2019-2021) yet.
[9] *See:* https://birosag.hu/ugyforgalmi-adatok; accessed in May 2021. It should be noted that from 1 January 2018, due to specific organisational changes, labour litigations concerning public service were detached from the labour division and attached to the administrative judiciary, which resulted in a reduction of the number of cases. Cases before labour courts include predominantly individual labour disputes.

method of labour dispute resolution in Hungary. Accordingly, labour courts[10] still play an essential role in effective enforcement of labour law, and in particular, in protecting fundamental workers' rights.

Consequently, guaranteeing a genuine access to labour judiciary is a key factor in protection of workers' rights as well as a fair balance between the interests of parties of individual employment relationships and collective partners. It is especially true in times when current economic and social contextual factors put particular pressure on employees and employers that generates more conflicts than usual.

2. Increased necessity of effective enforcement of labour law during the Covid-19 pandemic.

Before the description of the pandemic-related amendments of labour law, it is advisable to have a view to the relevant changes of constitutional framework of legislation during the epidemic. The first "state of emergency" was declared by the Government[11] with effect from 11 March 2020 on the grounds of the Article 53 of the Fundamental Law. In the state of emergency, the Government is empowered, under an implementing act, to suspend the application of or derogate from certain laws, and introduce extraordinary measures.[12] The first state of emergency ended on 16 June 2020, covering the first wave of the pandemic in Hungary. From 17 June 2020 the "state of epidemic preparedness" was introduced by the Government.[13] In this period, the Government was not authorised to exercise the aforementioned extraordinary legislative powers, however, some fundamental epidemic-based restrictions remained in force. Along with the worsening of the epidemiological data during the second wave of the epidemic (started in Hungary from late August 2020), the

[10] In Hungary, there are no specialised labour courts in an organisational sense. Under the term "labour court", the following organisational units of the national judiciary are understood for the purposes of this study. First instance labour disputes are heard by the general courts located in each county seat (19) and in the capital. It is variable from county to county whether separate labour law departments deal with labour cases within the general courts or these cases are arranged by other departments acting in miscellaneous fields of law. Appeals against the first instance decisions can be lodged with regional appellate courts (5), which all have separate labour law departments. A petition for judicial review against the final decision of a regional appellate court can be submitted to the Kúria of Hungary, which is the single supreme judicial forum in the country. The Kúria has currently one specialised panel for labour cases.

[11] 40/2020. (III.11.) Government Decree on the declaration of the state of emergency, sec 1. The Parliament confirmed the Government decrees adopted from the time of the beginning of the state of emergency through the Act XII of 2020 on Measures for the Control of Coronavirus [sec 3(3)], adopted with qualified majority on 30 March 2020. In addition, this latter act authorised the Government to introduce specific extraordinary measures by means of a decree in order to guarantee that the life, health, personal safety and property, and the rights of the citizens are protected, and to guarantee the stability of the national economy (sec 2).

[12] Article 53 of the Fundamental Law.

[13] 283/2020. (VI.17.) Government Decree on the introduction of the state of epidemic preparedness (hereinafter: 283/2020. Gov. Decree), sec 1.

second state of emergency was declared with effect from 4 November 2020,[14] and it is still going on (prolonged by subsequent legislative acts).[15]

2.1. "Emergency labour law" – amendments of substantive labour law and measures supporting the labour market adopted during the pandemic.

Concerning substantive labour law, the Government, exercising its extraordinary legislative power during the first state of emergency, adopted some important amendments, which remained in force until 1 July 2020. The "emergency" labour law encompassed the following special provisions:

- The employer could deviate from the communicated work schedule (and thus avoid ordering overtime) at any time.[16]
- The employer could unilaterally order teleworking or work in home office for the employee.[17]
- The employer could take the necessary and justified measures to control the health of the employees.[18]
- Collective agreement provisions derogating from the provisions above should not apply.[19]
- The employer and the employee could agree on any derogation from the provisions of the LC.[20]
- The employer could unilaterally introduce a reference period for working time banking for a period of 24 months at the highest. The cessation of the state of emergency does not affect the reference periods introduced according to this

[14] 487/2020. (XI.3.) Government Decree on the introduction of the state of emergency, sec 1.
[15] According to the version of relevant legislation currently in force, the state of emergency ends on the 15th day following the first sitting of the autumn session of the Parliament. (Act I of 2021 on Measures for the Control of Coronavirus, sec. 5/A).
[16] 47/2020. (III. 18.) Government Decree on immediate measures to mitigate the effects of the coronavirus pandemic on the national economy [hereinafter: 47/2020. Gov. decree), sec. 6(2)(a)]. The 47/2020. Gov. decree was taking effect on 19 March 2020. According to the relevant provisions of the LC, the employer is obliged to communicate the work schedule for at least one week, at least 168 hours in advance of the start of the scheduled daily working time. The communicated schedule can be altered at least 96 hours before the start of daily work upon unforeseen circumstances in business or financial affairs of the employer (LC, sec. 96(4)(5).
[17] 47/2020. Gov. decree, sec 6(2)(b). According to the LC, teleworking can only take place based on the mutual agreement of the parties included in the employment contract. "Home office" is not at all regulated as such under Hungarian labour law, hence, there are several uncertainties concerning its practical application. *See* in detail Molnár B., *Gondolatok a home office-ról általában és vírus idején*, in *Magyar Munkajog E-folyóirat*, 1, 2020, 38-46, http://hllj.hu › letolt › 03_MolnarB_M_hllj_2020_1, accessed 22 May 2021.
[18] 47/2020. Gov. decree, sec 6(2)(c).
[19] 47/2020. Gov. decree, sec 6(3).
[20] 47/2020. Gov. decree, sec 6(4).

provision.[21] Provisions of collective agreements derogating from these rules should also not apply.[22]

The provisions above were obviously targeted to make a more flexible legal framework for employers to shape working conditions and organise work during the state of emergency. Employers enjoyed an excessively wide margin of discretion in terms of defining work schedule, which supported the survival of the business entities, the prevention of downsizings in lockdown periods, and enabled the employers to meet the challenges triggered by sudden illnesses or quarantines ordered for workers. However, it is also apparent that the employment practices developed on the basis of the emergency regulation could violate fundamental workers' rights including the right to have regular and sufficient rest periods.[23]

The protective function of labour law was also diminished by application of the concept of unrestricted freedom of contract, through the aforementioned extension of the margin for bargaining of the employer and the employee. Disregarding the weaker position of the employee's side, agreements could lead to severely detrimental or precarious working conditions. Apparently, the effectiveness of specific minimum standards of workers' protection guaranteed by relevant international agreements, EU law as well as the Fundamental law of Hungary could also be challenged by the emergency provisions. Nevertheless, from 11 April, the 104/2020. Gov. Decree declared that specific provisions of the LC, including the rules on daily and weekly rest, maximum and minimum daily and weekly working time, should not be deviated from.[24] This provision resumed the minimum protection of workers' rights in some core aspects of employment, however, with a very limited scope (e.g. the right to paid leave could be still waived off).[25]

As Attila Kun asserts: "[…] the main intention and effect of the above-mentioned measures were to push the burden of crisis-management to the parties of the employment contract (and more specifically, indirectly to the employee). As practice showed, this approach in itself could not suffice in the long run; more active (financial) forms of state support were needed."[26] As regards this latter need, a set of economic incentives have been indeed adopted enabling the adaptation of business entities to the difficulties caused by lockdowns and the protection of jobs. These measures included (but were not limited to):

[21] 104/2020. (IV.10.) Government decree, sec. 1(1)(2). This decree was effective from 11 April 2020. According to the LC, the employer is entitled to introduce unilaterally a reference period of working time banking for a period of 4 months/16 weeks. The law sets out further criteria for the introduction of longer reference periods (collective agreement, specific conditions of the employer's activity etc.) [LC, sec. 94].
[22] 104/2020. (IV.10.) Government decree, sec. 1(4).
[23] The measures of "emergency" labour law is commented by Horváth I., Petrovics Z., *COVID '19 – Hungary. Measures concerning employment, collective labour law and social security*, in *Noticias CIELO*, Número especial Noticias CIELO sobre COVID-19 y relaciones de trabajo, 2020, www.cielolaboral.com, accessed 14 May 2021 and Horváth I., Petrovics Z., *COVID '19 – Hungary (Part 2). Measures concerning employment, collective labour law and social security*, in *Noticias CIELO*, 4, 2020, www.cielolaboral.com, accessed 14 May 2021.
[24] 104/2020. Gov. decree, sec 1(1).
[25] The erosion of the protective function of labour law in analysed by Kun A.,*HUNGARY – The impact of the labour law measures taken by the authorities: reflections one year after the official recognition of Covid-19 as a pandemic*, in *Noticias CIELO*, Número especial Noticias CIELO sobre las consecuencias sociales del COVID-19, 3, 2021, www.cielolaboral.com, accessed 15 May 2021.
[26] Kun A., *ibid*, 3.

- introduction of a "Kurzarbeit"-scheme (i.e. granting a wage support for reduced working time agreed upon by the parties, combined with the ban on termination of the employment relationship for the duration of the support);[27]
- tax reductions: employers in a range of branches especially affected by the lockdowns were exempted from paying a number of taxes and contributions;[28]
- a ban on termination of rental contracts in vulnerable branches;[29]
- credit repayment moratorium for specific businesses and private persons for credit agreements existed on 18 March 2020.[30]

In the state of epidemic preparedness, which covered a milder phase of the pandemic, fewer further amendments of labour law were introduced, targeting some specific sectors as follows:

- compulsory measuring of body temperature was introduced upon entering buildings of public education for pupils and workers as well;[31]
- employers in healthcare services had considerably broader options for secondment of healthcare workers.[32]

Reference periods of working time banking up to 24 months, which were introduced on the basis of the authorisation included in the "emergency labour law" effective in the first period, were not affected by the cessation of the state of emergency. In addition, on the grounds of the individual license of an appointed Government Office, further "emergency reference periods" (up to 24 months) can be introduced by employers under the condition that it is related to a job creation investment, and it is in interest of the national economy.[33]

The aforementioned incentives were partly maintained, partly further refined.[34]

The second state of emergency in Hungary did not affect substantive labour law to that extent that was experienced during the first wave. Only a few relevant provisions have been adopted that concerned employment law:

[27] 105/2020 (IV.10.) Government Decree on support for reduced working time in the event of an emergency under the Economic Protection Action Plan. The wage support could be applied for from 16 April 2020 to 31 August 2020.

[28] 47/2020. Gov. decree, sec. 4. This provision, which covered employers in the sectors of tourism, hospitality, entertainment, gambling, film industry, performing arts, event promotion and sports service, was amended by the 61/2020 (III.23.) Government Decree, which extended the scope of beneficiary branches. The benefits were available from the months March to December 2020. Transitional provisions guaranteed the availability of specific benefits until 31 December 2020 [Act LVIII on the Transitional Provisions as Regards the Cessation of State of Emergency and on the Epidemic Preparedness; hereinafter: Transitional Act].

[29] 47/2020. Gov. decree, sec. 3. The ban was in effect until 30 June [Transitional Act, sec. 31]

[30] 47/2020. Gov. decree, sec. 1. The conditions of the moratorium was refined and the availability was extended for more times.

[31] 431/2020. (IX.18.) Government Decree on protective measures of the epidemic preparedness, sec. 4 to 5 (effective from 19 September 2020 to 10 November 2020); 484/2020). (XI.10.) Government Decree on the second period of protective measures during the state of emergency, sec. 17 to 18 (effective from 11 November 2020).

[32] The section 14 of the 531/2013. (XII.30.) Government Decree on crisis health care was amended by the sections from 64 to 71 of the 284/2020 (VI.17.) Government Decree on the transitional decree provisions related to the cessation of the state of emergency, and became temporarily applicable through the declaration of the status of health care crisis by the section 1 of the 283/2020. Gov. Decree. The amendments took effect on 18 June 2020.

[33] Transitional Act, sec 56(4).

[34] *See* the previous footnotes.

- substitution of duty of control of working environment of the employer in the event of teleworking by a duty of communication of information on the rules of occupational health and safety to the teleworker; [35]
- tax-free reimbursement of costs related to teleworking (up to the 10 % of the minimum wage);[36]
- an individual agreement of the employer and the teleworker may deviate from the statutory definition on teleworking and some special rules on teleworking.[37]

Economic recovery packages introduced in the second state of emergency were primarily targeted to specific vulnerable sectors (compared to the Kurzarbeit-scheme of the first period with general applicability):

- wage subsidies and tax reductions were granted for employers in sectors particularly affected by the pandemic (tourism, hospitality, leisure, sport and cultural services etc.);[38]
- specific recovery measures were maintained (e.g. tax reductions and exemptions, credit repayment moratorium).

2.2. New aspects and types of employment conflicts.

As regards the overall effect of the pandemic on the conflicts between the parties of employment relationship, the following conclusions can be drawn. On the one hand, the viability of businesses have been supported by multifaceted protective and recovery packages, which apparently decreased the possible conflict situations between the parties by enabling the enterprises to avoid implementing layoffs and to pay the wages in periods with low or no income. On the other hand, the pandemic has given rise to new types of workplace conflicts as well as novel and difficult application problems of labour law. The "emergency labour law" effective during the first state of emergency, with the rules ensuring extreme flexibility in employment, raised concerns about incompliance with the standards set out in the national Fundamental Law[39] as well as by the EU and international framework of labour law. As it was referred above, the role of social dialogue in crisis management was also in an

[35] Duty of control of the employer of the working environment as regards of occupational health and safety is provided by the section 86/A of the Act XCIII of 1993 on Occupational Safety. The application of this provision was suspended by the section 1 to 2 of the 487/2020. (XI.11.) Government Decree on the application of rules on teleworking during the state of emergency (hereinafter: 487/2020. Gov. decree).
[36] 487/2020. Gov. decree, sec. 2.
[37] Special rules on teleworking are set out at sections 196 to 197 of the LC. According to the 487/2020. Gov. decree, the parties may deviate from section 196, which concerns, *inter alia*, the definition of teleworking and the compulsory elements of agreement on teleworking (487/2020. Gov. decree, sec. 3).
[38] 485/2020. (XI.10.) Government Decree on specific measures concerning the protection of economy; effective from 11 November 2020. According to the latest amendments, the subsidies were available until and including May 2021.
[39] In the meanwhile, a number of motions have been lodged with the Constitutional Court related to specific amendments of labour law during the pandemic. In the orders No. 3326/2020. (VIII.5.) AB and 3159/2020., the Constitutional Court found a motion attacking the section 6(4) of the 47/2020. Gov. Decree and another motion concerning the rules on secondment of healthcare workers inadmissible; the decision on another motion (pursuing the unconstitutionality of the "emergency reference period") is pending.

unparalleled way restricted.[40] Employment during the pandemic has produced practical situations and questions, which are considerably difficult to address based on the rules of labour law, which are premised on the "normal" course of life and business. The most frequently occurring and expected hard questions include the following ones.

- What rules apply for "home office" unilaterally ordered by the employer as far as this legal construct is not nominated by the LC (in particular: responsibility for work accidents, covering of costs, controlling of working and rest time, responsibility for data protection and IT security etc.)?
- How should the term "vis maior" interpreted during a pandemic situation for the purposes of the provision that exempts the employer of duty to pay wages for down-times in periods of vis maior?[41] The same question arises concerning the termination of temporary employment, which is also only justified under specific conditions, among which the event of "vis maior" is referred as well.[42]
- In the framework of what constructs of labour law allowing paid or unpaid leave can parents stay at home with their children in times of extraordinary school vacations and digital schooling?
- How is the employer allowed to check the health condition or the status of vaccination of the staff? What consequences of labour law can be applied if the employee refuses to cooperate?[43]
- Under what conditions is the employee entitled or obliged to refuse to carry out an instruction of the employer with reference to presumed health risks related to the Covid19?[44]
- What does the employer's duty to provide work include in downtime periods (i.e. is the employer obliged to provide work temporarily under other conditions than agreed upon in the employment contract)?
- Under what conditions should an employer's policy be considered as discriminatory provided that it has significantly detrimental impact on specific vulnerable groups of workers, such as e.g. workers with bad health conditions or having family responsibilities, commuters etc. (e.g. general ordering of home office or general ban on home office, introduction of harsh or hectic work schedules etc.)?

Considering the fact that labour law has never had to address special situations arising from a world pandemic, the otherwise extensive and rich existing case law (concerning e.g.

[40] As Sára Hungler asserts, contemplating the history of management of previous (economic) crises, overriding the agreement of social partners by the legislation appears to be an unparalleled measure. *See* Balázs I., Hoffman I., Hungler S., „*Veled Uram, de nélküled" – állam, önkormányzatok, munkáltatók a koronavírus idején* [*"In Your Name, My Lord, yet Without You" – State, Municipalities and Employers During the Pandemic*], in *Magyar Tudomány*, 5, 2021., https://mersz.hu/hivatkozas/matud202105_f57945_p1#matud202105_f57945_p1, accessed 21 May 2021.

[41] *See* LC, sec. 146(1).

[42] *See* LC, sec. 68(8)(c).

[43] About the hot topics concerning pandemic-related questions of labour law: *see* Kun A., nt. (25), 6; *see also* Csorba A., *Milyen típusú munkaügyi perek várhatók a koronavírus hatására? ["What types of labour law disputes are expected related to coronavirus pandemic?]*, in *Magyar Munkajog E-folyóirat"*, 1, 2020, 29-37.

[44] *See*: LC, sec. 54 "(1) Employees shall refuse to carry out an instruction if it would result in direct and grave risk to the health of others or to the environment. (2) Employees may refuse to carry out an instruction if it violates the provisions of employment regulations, or it would result in direct and grave risk to the life, physical integrity or health of the employee."

the concept of "vis maior" or the duties of the employer in downtimes) can be indicative with restrictions, subject to a careful assessment of all the individual circumstances of the cases.

As a consequence, the pandemic has increased the number of potential conflicts arising from the special employment situations. As it was also referred above, Hungarian labour courts have an eminent role in settling labour law disputes. Accordingly, guaranteeing the possibly uninterrupted functioning and actual accessibility of labour courts has been extremely important during the Covid19 pandemic. However, like in terms of all private and public services, the operation of justice system had to be subject to specific, pandemic-related restrictions in interest of health and safety of the clients, the judges and the court staff. In the next section it is outlined, which restrictions applied from the beginning of the pandemic concerning the operation of courts, and how (labour) courts have taken advantage of the existing opportunities to continue the arrangement of cases.

3. Limitations on the functioning of labour courts.

Amongst the earliest measures of the Government related to the first state of emergency, acting on the proposal of the Kúria, the President of the National Office for the Judiciary (NOJ)[45] and the Chief Prosecutor, an extraordinary judicial vacation was introduced from 15 March 2020.[46] The relevant provision did not specify the duration and the detailed rules on the extraordinary judicial vacation (in particular: how it affects the procedural time limits), and the applicability of the rules on "normal" judicial vacations laid down in the Act CXXX on the Civil Procedure (hereinafter: CCP Act) was also not regulated.[47] As the relevant Government Decree expired after 15 day upon the entry into force, the extraordinary judicial vacation was not prolonged. Instead, a new Government Decree was issued on the detailed, special procedural rules applicable during the state of emergency (hereinafter: Emergency Procedure Gov. Decree).[48] The Emergency Procedure Gov. Decree provided a clear regulation on the calculation of procedural time limits which would have expired during or within 15 days upon the cessation of the previous extraordinary judicial vacation.[49] Further, this decree determined the special procedural rules on the operation of courts during the state of emergency, including the following ones.

- As general rule, the decree declared that the state of emergency did not suspend the time limits, unless otherwise provided by the decree.[50] In this provision, it was manifested that, according to the legislature's intention, proceedings had to be resumed and continued, if possible.

[45] The NOJ is the central organ of court administration in Hungary.
[46] 45/2020. (III.14.) Government Decree.
[47] CCP Act, sec. 148.
[48] 74/2020. (III.31.) Government Decree on specific rules of procedure applicable during the state of emergency.
[49] Emergency Procedure Gov. Decree, sec. 97.
[50] Emergency Procedure Gov. Decree, sec. 21(1).

- No "live" court hearing could be held.[51] As a substitution of hearings, the decree provided two opportunities for continuing the proceedings.
  - It extended the scope of application of written procedural steps. While, according to the CCP Act, it is, as a main rule, excluded to render a judgement or to approve a settlement of the parties outside a hearing, the emergency rules explicitly permitted these, if the case was mature for completion.[52]
  - It extended the scope of application of online means (as outlined in detail below).
- The first instance court acted as a single judge even in cases where the CCP Act provides that the court proceeds in a chamber.[53] This provision concerns labour disputes, where, according to the normal procedural rules, the first instance court consists of a professional judge and two lay judges.[54]
- The emergency rules deferred the mandatory application of specific procedural forms (e.g. for the statement of claim or the counter-claim submitted by a party without a counsel). When appropriate, the court had to provide the parties without counsel sufficient and comprehensive guidelines for remedying the deficiencies.[55]
- The proceedings could be stayed at the mutual request of the parties unlimited times (each for 4 months). In contrast, the CCP Act allows stays of proceedings out of this reason only for no more than three times.[56]

The emergency rules provided a detailed guideline for judges as regards the combination of written and online procedural acts. However, before the description of the special rules that were applicable during the first state of emergency, it is advisable to have an overview on the structure of first instance civil procedure. According to the CCP Act, first instance procedure consists of three stages. (1) In the stage of "bringing action", the statement of the claim, lodged with the court, is scrutinised, whether it contains the mandatory elements (remedying the deficiencies is also possible). Once the claim is admissible, the court delivers it to the defendant, calling him upon to present the defence. The stage of bringing an action takes place normally in writing, however, the judge may order to have the party without a counsel heard in person where it considers this to be more appropriate for remedying the deficiencies found in the statement of claim.[57] (2) In the stage of "case initiation", the parties refine and finalise their statements concerning the relevant facts, the legal basis, the legal arguments and the motions for the presentment of evidence (together: case initiation statements), i.e. the frames of the proceedings. After closing this stage, the case initiation statements can be altered only under very exceptional circumstances. Case initiation can take place, at the discretion of the court, through exchanging case initiation documents, or in the framework of a case initiation hearing, or in the combination of the two latter. (3) In the stage of "hearing as to the merits", the court takes the evidence in the framework defined

[51] Emergency Procedure Gov. Decree, sec. 21(2) to (4).
[52] Emergency Procedure Gov. Decree, sec. 28.
[53] Emergency Procedure Gov. Decree, sec. 23.
[54] CCP Act, sec. 510.
[55] Emergency Procedure Gov. Decree, sec. 24, CCP Act, sec. 246 (as effective until 31 December 2020).
[56] Emergency Procedure Gov. Decree, sec. 21(5), CCP Act, sec. 246.
[57] CCP Act, sec. 248(1).

during the case initiation: hear the witnesses, obtains expert's opinions etc. In this stage, holding an oral hearing (or successive oral hearings) is mandatory.

The Emergency Procedure Gov. Decree removed the procedural steps involving personal contacts from all the three stages of the procedure. (1) The Emergency Procedure Gov. Decree ruled out the option of "live" personal hearing of the claimant: the court could obtain the missing statements in writing or by using electronic means enabling the personal identification of the interviewed person.[58] (2) The decree prohibited the holding of oral hearings in the case initiation stage. The court could only request the parties to outline their case initiation statements in writing or by electronic means enabling the personal identification of the interviewed person.[59] (3) In the stage of hearing as to the merits, the court had three options. The hearings had to be held primarily via electronic communication networks or other means that are capable of simultaneous transmission of video and audio signals. If the conditions for this were not met, the court could obtain further statements in writing or by using electronic means enabling the personal identification of the interviewed person. If the oncoming procedural step required a personal contribution was not viable by the latter ways, the court had to establish the blocking of the proceedings and the stopping of the procedural time limits until the end of the state of emergency or the elimination of the obstacles of the blocked procedural step concerned.

The Emergency Procedure Gov. Decree was in effect until the end of the first state of emergency. The Transitional Act determined specific transitional provisions that enabled the smooth resumption of "normal" procedural rules, according to the CCP Act.[60] From 18 June 2020, "live" oral hearings could be held in the course of both the case initiation and the stage as to the merits. In labour cases, lay judges participated in the chambers in first instance again. However, in a few aspects, the Transitional Act preserved the rules of the emergency period, including:

- ensuring the opportunity to hold an oral hearing by electronic communication networks or other means that are capable of simultaneous transmission of video and audio signals;
- deferring the mandatory application of procedural forms for parties without counsel;
- opportunity for ordering that the hearing should be held in camera, if it is justified by pandemic-related safety measures.[61]

By creating a flexible context of procedural rules in this period, the courts had a wider margin of discretion in determining the most appropriate and safest way of contacting with the parties.

The courts were operating continuously during the whole second wave of the pandemic (which reached its peak late December 2020) on the basis of the CCP Act and the special rules laid down in the Transitional Act, even after the beginning of the second state of emergency. As the figures of the first weeks of third wave (caused predominantly by the Alpha variant of Covid19) showed that this latter wave appeared to be more severe than the

[58] Emergency Procedure Gov. Decree, sec. 21(7).
[59] Emergency Procedure Gov. Decree, sec. 21(2).
[60] In detail: Transitional Act, sec. 136 to 137, 141 to 144.
[61] Transitional Act, sec. 138, 140.

earlier ones, the Government introduced even stricter lockdowns and restrictive measures. The prohibition of live hearings took effect, by the adoption of the Emergency Procedure Gov. Decree2[62] no sooner than the introduction of the severest restriction package (including general digital education), from 8 March 2021.

The Emergency Procedure Gov. Decree2 contained basically the same special provisions as the Emergency Procedure Gov. Decree for the period of "restricted protection", which ended on 19 April 2021. In addition, the above referred procedural rules laid down in the Transitional Act applied as well. Thus, the procedural context given for judicial proceedings was already familiar for the participants. From 20 April, hearing of the cases occurs under the Transitional Act and the CCP Act again.

Along with the restrictions under emergency procedural law, administrative measures taken by the competent organisational units of the judiciary also envisaged to ensure the safe and smooth operation of courts.

A day after the introduction of the first state of emergency, the President of the NOJ established the Emergency Cabinet, comprising four judges besides the President of the NOJ in order to support the NOJ in carrying out the administrative tasks related to the pandemic.[63] The Emergency Cabinet functioned during the first state of emergency,[64] and issued a number of recommendations on different questions of court administration related to the pandemic situation. Such recommendations concerned for instance the rules on use of court buildings[65] as well as on the "document quarantine".[66] From 1 September 2020, similar functions are performed by the Crisis Cabinet established by the President of the NOJ.[67]

The President of the NOJ, with respect to the recommendations of the Emergency Cabinet as well, has adopted several decisions, which are binding on the courts, as well as non-binding recommendations. The most important decisions covered the following subject matters:

- temporary prohibition of organisation of plenary sessions of judges;[68]
- regular mandatory ventilation of courtrooms and client reception areas;[69]
- minimum requirements of courts' policies on use of court buildings.[70]

With regard of the aforementioned minimum requirements, general courts and the regional appellate courts created their own policies on entering and use of court buildings. These policies were several times amended taking into consideration the current status of the pandemic and the procedural law. Some examples from the rules on the use of court buildings:

[62] 112/2021. (III.6.) Government Decree on repeated application of specific rules of procedure during the state of emergency (hereinafter: Emergency Procedure Gov. Decree2).
[63] 36.SZ/2020. (III.16.) OBHE decision on the establishment of the Emergency Cabinet.
[64] It was dissolved by the 101.SZ/2020. (V.28.) OBHE decision, sec. 1, with effect from 28 May 2020.
[65] Recommendation No. III. of the Emergency Cabinet.
[66] Recommendations No. XIII. and from XVII. to XIX. of the Emergency Cabinet.
[67] 130.SZ/2020. (IX.1.) OBHE decision on the establishment of Crisis Cabinet.
[68] 147.SZ/2020. (XI.11.) OBHE decision on the prohibition of organisation of plenary sessions of judges.
[69] 148.SZ/2020. (XI.17.) OBHE decision on the mandatory ventilation of courtrooms and client reception areas.
[70] 49.SZ/2020. (IV.3) OBHE decision on the regulation of staying in court buildings in the period of state of emergency; 4/2020. (IX.15.) OBHE recommendation on the regulation of staying in court buildings in the period of epidemic preparedness.

- specification of persons who are entitled to enter the court buildings (including judges and court staff members, clients and counsels, experts, witnesses, persons having right to inspect case documents etc., but excluding the relatives of judges and court staff members);
- limitation on the time of staying in the court buildings (e.g. persons summoned to a hearing were expected to stay exclusively for the duration of the procedural step they participated in; time limitation on inspection of documents);
- duty of registration of audience of hearings and media representatives, and the power of the court to limit the number of the audience;
- restrictions on the operation of the registry and the information centres;
- mandatory use of masks and disinfecting liquids;
- prohibition of entering of persons who are subject to quarantine measures or are considered as contact persons;
- mandatory ventilation of court rooms during the hearings every 40 minutes;
- mandatory sanitation of court rooms after every hearing;
- keeping a distance of min. 2 meters between the persons staying in the courtrooms;
- measures that shall be taken by the court in the event if it is suspected that a participant of the procedural step is infected.[71]

Non-compliance with the rules on use of court buildings can be considered, with respect to the individual circumstances of the facts, either administrative or even criminal violations. Judges and court staff members are liable to disciplinary action in the event to failure to comply with these provisions.

4. Taking advantage of the existing and novel ways of litigation.

4.1. The "Digital Court Project" – an advantageous background for the crisis management.

In November 2019, the NOJ organised ceremonial closing events celebrating the completion of one of the ever largest court administration project: the Digital Court Project (DCP).[72] At that time, no one could foresee that the multi-faceted implementation of digitalisation of judiciary would not exclusively pursue the originally set objectives of the project such as increasing of convenience of clients as well as judges, strengthening of the confidence of society in the operation of courts, saving working time for the staff, enhancing environmentally sound functioning of the courts. Instead, within a few months, as the global pandemic created challenges that the world had never faced before, the upgraded digitalisation of functioning of courts would become the precise factor that could ensure the possibly uninterrupted provision of services of jurisdiction.

[71] *See* Policy of the president of the Metropolitan General Court No. 2021.El.II.B.8/2., based on the relevant recommendation of the President of the NOJ.
[72] Press release (in Hungarian): https://birosag.hu/hirek/kategoria/birosagokrol/celba-ert-digitalis-birosag-projekt, accessed 14 May 2021.

The first steps of digitalisation of judicial proceedings and court administration date back to the mid-2000s, when, first of all, company registration procedure became exclusively electronic. In the subsequent years, electronic communication with the courts became gradually optional for the parties and their counsels in in civil, commercial, administrative and labour cases. Later on, from 1 January 2016, electronic liaising with courts became mandatory for legal counsels, public bodies and business entities, while it has still remained optional for natural persons.

The DCP, implemented from July 2018 to end 2019, was not only focused to the improvement of technical background of electronic communication in the course of litigation. The DCP included, in particular, the following main elements.

- *E-administration services* (available on the courts' central website):
  - *E-complaint*: clients may submit their complaints by electronic way using their "client gate", which are specific secured communication interfaces to receive and submit procedural documents.
  - *Electronic information and warning system* is designed to send information for the parties and their counsels about the status of their case and to provide them with some specific information on procedural acts at their request.
  - *Electronic calculator of the duration of proceedings*: the calculator indicates the estimated duration of proceedings in a specific subject matter before a specific court, based on judicial statistical data.[73]
  - *Electronic payment service*: the parties may perform their payment duties for the courts (e.g. procedure fees) through a secure electronic interface.
- *Publication of anonymous judicial decisions supplemented with a smart browsing system*. Anonymous decisions are already published on the courts' central website, but the earlier used database was very difficult to use and did not provide means to carry out efficient searches to find the relevant decisions. The upgraded system of anonymisation and a modernised case-law database ensures a more convenient and effective surface.[74]
- *Introduction of an E-folder*. E-folders were introduced from 1 January 2020 as the ultimate means for the complete digitalisation of the documentation of the cases. The whole case file is accessible online at any time for the clients, counsels and the judges. There is no need for personal appearance to exercise the right to access the case file.[75]
- *Introduction of the "Via Video" system*. Via Video is designed to introduce a closed-circuit television (CCTV) system between different courtrooms and other endpoints (e.g. in penitentiary institutions) within the country, but it is also suitable for cross-border videoconferencing. The system enables the courts to carry out remote interviews and to produce video and sound recordings in the courtrooms. The infrastructure of the Via Video system is fitted for the performance of taking of evidence according to Council Regulation (EC) No. 1206/2001 of 28 May 2001 on cooperation between

[73] https://eakta.birosag.hu/eljaras-idotartam-kalkulator (in Hungarian), accessed 14 May 2021.
[74] https://eakta.birosag.hu/anonimizalt-hatarozatok (in Hungarian), accessed 21 May 2021.
[75] https://eakta.birosag.hu/ (in Hungarian), accessed 21 May 2021.

the courts of the Member States in the taking of evidence in civil or commercial matters (Evidence Regulation) and the Hague Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters outside the European Union.

The *daily work of judges and judicial staff* was supported by the following developments implemented in the framework of the DCP:

- *Provision of modern IT devices*: based on the judges' own choice, more than 2000 mobile devices (tablets, notebooks, e-book readers) have been purchased and provided for them. Working on these devices has granted a large flexibility for judges to determine the place and time of their work. (Working from home is, as a general rule, permitted for every judge after one year of service and occasionally permitted for judicial staff members as well.) The old, tape-based sound recorders, which were used for decades to produce minutes, were also replaced by high quality digital recorders.
- An upgraded version of *the Office software package* was installed to all the IT means of judges. Appropriate softwares and the *secure court network* ensure the *remote availability* of the judges' personal account and database and provide all judges with access to the case files uploaded to the network. The *E-Folder* ensures even more flexibility for judges regarding their work.
- *Speech-to-text softwares* based on the special vocabulary of judicial work can make the typing of decisions and minutes considerably faster. These are available for judges on a voluntary basis as well.
- *All public electronic registers* are directly available for judges (such as register of companies, land register etc.).
- *Unified e-learning portal ("COOSPACE")*. The portal, accessible for all judges and staff members, contains a large amount of e-learning materials and electronically available information related to past live courses (ppt, podcast). The portal provides the opportunity to take exams at the end of certain e-learning courses.
- *Court Benchbook*. The Benchbook provides a high number of frequently used templates for judicial decisions in a number of different formats (to print, to edit, to edit with speech-to-text software).[76]

It is easy to conclude that the high standard of digitalisation of functioning of the judiciary proved to be a huge advantage when, as the pandemic started, live contacts were in general subject to restrictions, and digital ways of communication were prioritised in all fields of life.

4.2. Practical challenges and experiences of labour litigation during the pandemic.

Below, it is assessed, how judges and clients could take advantage of the existing digital infrastructure or the means of written communication, and which difficulties they encountered as regards live hearings.

[76] Summarised by Halmos S., Csorba A., Fürjes A., Lele Z., Rózsavölgyi B. (labour court judges), Berkes B. (language editor) for the purposes the XXVII Meeting of European Labour Court Judges, 25-26 September, Geneva; organised by the International Labour Office.

– Orally, in writing or online?

In most labour cases, implementation of the procedural principle of directness is of crucial importance. The personal interviewing of the employee (and sometimes the corporate representative of the employer) used to take place during the stage of case initiation, as an essential step of investigating the relevant facts. The interview is conducted by the judge, and the opposition as well as the counsels may also pose questions and reflect to the oral submission. Exploring a complicated chain of events which had lead to a dismissal, the precise circumstances of a workplace accident, the occurrence of a continuing harassment etc. is unlikely to be successful through the mere exchange of documents, and without personal appearance and interviewing of the persons concerned. Consequently, in most of labour cases, the stage of case initiation normally includes at least one oral hearing. However, as it has been outlined above, there were two periods since the beginning of the pandemic, where no (live) hearings could be scheduled. The emergency procedural rules provided the opportunity of obtaining statements in writing or to hold hearings via electronic means. In the light of the above, calling the parties for submission of their statements in writing generally did not lead to satisfactory outcome. Therefore, labour courts had to consider the application of the means of online hearing.

As referred above, the Via Video system had already been available at numerous courtrooms and other endpoints. The CCP Act acknowledged the hearing executed by Via Video system as a regular and secure manner of interviewing a remote person and laid down the procedural rules on conducting such an interview.[77] Nevertheless, hearing through Via Video did not necessarily meet all challenges caused by the pandemic. Namely, the endpoints of Via Video are located in courtrooms and in other public premises (e.g. penitentiary institutions), which could appear not to be sufficiently safe or accessible places for personal appearance (especially for persons having underlying diseases or concerned by quarantine measures). Having said this, the Emergency Procedural Gov. Decree explicitly referred to *other* electronic communication means (than Via Video) that are capable of simultaneous transmission of video and audio signals. The question came up: Which videochat applications can be orderly and safely used as a framework of online hearings?

Within a few weeks after the begin of the first state of emergency, the Kúria expressed its (non-binding, but strongly indicative) opinion on this subject matter.[78] As the Kúria outlined, holding of a hearing on Skype for Business application can be considered as complying with the rules of Emergency Procedure Gov. Decree. At that time (as part of the Office package previously installed to every IT means distributed in the framework of DCP) Skype for Business application was available for all judges, and guaranteed a secure channel of communication with the parties. The opinion of the Kúria gave a detailed guideline on the practical steps of organisation and execution of online hearings. This document represented an encouragement for courts of lower instances to initiate the organisation of online hearings.

The court could offer the possibility for the parties to participate in an online hearing, when, with respect to the individual circumstances of the parties, it seemed to be an

[77] CCP Act, sec. 624 to 627.
[78] The Opinion of the Kúria No. 2/2020. (IV.20) PK on the conditions of holding of a hearing that are capable of simultaneous transmission of video and audio signals.

appropriate and accessible way of continuing the proceedings. The statutory law did not require either the parties or even legal counsels to provide the technical and organisational preconditions of attending an online hearing. While, as referred above, electronic communication has been mandatory for legal counsels, business entities and public bodies for years, even this group of participants of civil proceedings have not been required to be available for online hearings, even though the minimum equipment for participation includes no more than a smartphone with a headset and internet access.

Nevertheless, in the first state of emergency, there was a general reluctance toward online hearings. The potential participants were presumably somewhat concerned about this form of hearing, because they were less familiar with the technical background and the procedural requirements, which resulted in a low confidence in this solution. Further, the first promising trends of the pandemic (in Hungary, the first wave had not so severe consequences and passed by within approximately three months) inspired people to believe that Covid19 can be overcome within a relatively short time. Hence, a relatively high number of parties mutually initiated the temporary stay of the proceedings, or the court had to establish the blocking of these latter.

As time progressed, and the second and third wave of the pandemic proved to be much longer-term than the first one, it became clear that a durable adaptation to the pandemic situation and to more or less severe lockdowns is inevitable. This motivated judges and clients to adopt an increasingly open attitude towards online solutions. The fact that all judicial trainings and meetings took place on Skype for Business platforms in the states of emergency, considerably reduced concerns about online hearings as well. Similarly, most of the clients have gained sufficient experience in online meetings related to their own business activity. As a result, the popularity of online hearings has grown: an increasing number of judges offered this opportunity for the clients, and several clients, counsels and even witnesses initiated this as well. Nevertheless, the willingness of judges and participants to use online methods has considerably varied across the country: there has been labour courts where not a single online hearing has been held, while in other courts, these methods have started flourishing.

In practice, online hearing could take various forms, adjusted to the individual requests, needs and opportunities of the clients. The hybrid form of online hearing was the most common, where only one client, a counsel or a witness joined the hearing by electronic means (sometimes only for a certain phase of the hearing), and all other participants appeared in person in the courtroom. Depending on the current technical background, everyone could use his/her own device, or the remote participant could join by projection. In the period of "restricted protection" under the Emergency Procedure Gov. Decree2 (see above), entirely online hearings became also more frequent, where even the judge could attend the hearing from his/her home.

Although the statutory law does not provide a detailed set of rules on the orderly conduct of these hearings, it became common practice that, both the judge and all other participants establish at the beginning of the hearing that they do not perceive any circumstance that would jeopardise the smooth and undisturbed conduction of the online hearing (this is recorded in the minutes as well). The judge notifies the participants that they are not allowed to record or stream the hearing.

It is noteworthy that there is no well-established case law concerning the regular and fair conduct of Skype hearings, as the concerned cases have not already reached the revisional instance.

There would have been a high demand from clients and witnesses having a permanent residence abroad to join the hearings on Skype for business. In a technical sense, this option would have seemed to be a very beneficial solution with special attention to travel restrictions. However, involving participants in cross-border online hearings could have raised concerns in the light of EU Evidence Regulation. While remote interviewing of witnesses living abroad through Via Video system is entirely in compliance with the provisions of the Evidence Regulation, online Skype hearings based on the emergency procedure rules were not conducted according to the rules thereof. A national court has no power to conduct any procedural step outside the country borders without authorisation under EU legislation or an international agreement with the concerned foreign country. Therefore, the application of Skype for cross-border hearings of witnesses and clients has not become common.

Via Video system has also been applied during the pandemic, especially where the client was detained, in order to minimise contacts related to the transportation. Late April 2020, the Via Video system was also enabled to provide a framework for online hearings for participants joining with their own devices through a web link sent by the court. Thereby, only the judge has to appear in the court building where the endpoint is located, other participants of the conference call may choose their location. This method has also been used for the purposes of labour court hearings, whenever it appeared to be appropriate and viable.

– The role of e-folders and electronic communication

The introduction of E-folders, as outlined above, occurred almost simultaneously with the beginning of the pandemic. The courts' obligation to ensure online inspection of the files for the clients covered the cases started from 1 January 2020. The proportion of clients and counsels taking advantage of the possibility of online inspection in times of restrictions on the client receptions services of the courts was not particularly large. For instance, the number of applications of the clients for access of E-folders has not exceeded 13 in any months since the beginning of the pandemic at the Labour Department of the Budapest-Metropolitan General Court. This being said, it should be reminded that the electronic communication with the most of the clients (business entities, public bodies) and legal counsels have become mandatory for years, which enables them to possess all documents related to the litigation in an electronic format. Any natural person can request to use electronic communication as well, if it is more convenient for him/her. The high degree of availability of electronic documents of the proceedings ensured by the mandatory electronic communication combined with the accessibility of e-folder could considerably decrease the demand for personal appearance in court buildings for the purpose of inspection of documents.

– The judge as the supervisor of rules on use of court buildings

According to the CCP Act, the court is responsible for the maintenance of the order and safeguard the dignity of the hearing and other procedural acts. The means of disciplining of

the participants that are available for the court are also laid down in the CCP Act (limiting the number of the audience, calling the participants to order, remove persons from the hearing, imposing fines etc.).[79] During the pandemic, the court's responsibility for maintaining order in the courtroom includes the guaranteeing of the implementation of pandemic-related safety rules.

First of all, according to the established practice, the courts informed every person summoned to the hearing about the main rules on use of court buildings, which could take place by the attachment of a short guide to the writ of summons and/or hanging the guide on the walls of the court buildings.

At the beginning of the hearing, the judge is expected to interview all appeared persons whether they are aware of the pandemic-related requirements of personal appearance, and whether they meet them. Since the recording of their statements can involve sensitive personal data (i.e. about health condition), the participants may make their statements in writing, processed as a confidential document. If the participant reports that he/she is prohibited to appear at the court according to the rules on use of court buildings, the court shall take the appropriate measures laid down in the court's policy (e.g. interruption of the procedural act, removing the concerned person from the courtroom, sending him/her into an isolate room, notification of the competent authority etc.). During the hearing, the judge is also responsible for observing the courtroom protocol, including the rules on using of mask and keeping distance.

Many difficulties arise from the assessments of justification of omissions of hearings or deadlines. If a client, a witness or an expert is prohibited to appear before the court according to the rules on use of building, it is certainly considered as a justified omission, and cannot trigger any sanctions. According to the CCP Act, the application for justification should contain the reason for the omission and the circumstances to verify presumptively that the person in question is not at fault. As to whether the conditions for the application are satisfied, the court shall decide on an equitable basis.[80] The main problem was that in many cases the absent or omitting person cannot be expected to adduce his/her allegations on the cause of the absence or omission, and the judge has no professional competence to decide whether the omission or the absence is really justified. For example it is very difficult to assess whether an alleged contact with a presumably infectious third person; a medical attest on an underlying illness that could make the appearance even more hazardous; or the existence of mild respiratory symptoms without a positive test amounts to sufficient justification of absence. In doubtful cases the courts try to strike a fair balance between equitable consideration of such references and endeavouring to complete the cases within a reasonable time.

[79] CCP Act, sec. 234 to 236.
[80] CCP Act, sec. 151(2), 153(3).

3. Conclusions.

In the pre-Covid years, Hungarian judiciary implemented the "Digital Court Project", which provided the digital based functioning of courts in several aspects. The project involved the introduction of "e-folders", secured videochat hearings as well as the creation of the opportunity of home office for judges and the judicial staff. Hence, even though the emergency legislation restricted the functioning of judiciary for certain periods, a set of tools were ready to use for the courts to continue the cases on a digital platform as possible.

Employment law was subject to specific amendments during the periods of emergency, which, on the one hand, pursued to protect jobs and flexibilise employment, on the other hand, restricted workers' individual and collective rights. Therefore, there was a particular interest in ensuring the continuous availability of labour judiciary, which is the dominant forum of settlement of labour disputes in Hungary. Correspondingly, labour courts have asserted to take advantage of emergency procedural rules targeted to reduce human contacts, including the increasingly widespread application of videochat hearings. At the same time, strict safety provisions have been introduced on the use of court buildings in order to protect the clients and the staff, which have had to be also supervised partly by the judges during the traditional ("live") hearings.

As a remarkable development, it should be highlighted that the labour courts' and clients' increasing trust related to the use of online means, combined with the availability of the appropriate technical infrastructure already existing before the pandemic as well as a sufficiently flexible emergency procedural rules, have resulted that many of the cases could have been continued during the lockdown periods. Along with some uncertainties about the orderly and smooth conduction of online hearings, the extra tasks in connection with the safeguarding of safety of participants on live hearings and the difficulties related to the assessment of applications of justification of omissions, labour courts have made significant efforts to ensure the effective enforcement of right to access to justice of actors in the world of labour.

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