

INTERNATIONAL SURVEY OF THE JUDICIARY SYSTEM – COVID 19 PANDEMIC -

We present the result of the International Survey of the Judiciary System - Covid 19 Pandemic - conducted by the International Association for Court Administration (IACA) in partnership with Federal Justice and iJuspLab (Federal Justice Innovation Laboratory of São Paulo).

Survey Methodology

The survey was made available for IACA members to answer questions regarding access to Justice, work management and technological infrastructure of the Judiciary in many countries, after the declaration of an emergency situation resulting from the pandemic caused by the new coronavirus (COVID-19) declared by the World Health Organization (WHO) on 11/03/2020. The objective was to collect data for scientific research, organizational learning and the sharing of good practices among the judicial units regarding the judicial service, despite the restrictions imposed by the social distancing. The sample consists of 115 responses from IACA members from 38 countries. In some countries, we had more than one respondent, which allows for a greater display of the perception of the judicial service.

Presentation of data

The team of the Innovation Laboratory of the Federal Court of First Instance in São Paulo (iJuspLab) developed panels in Business Intelligence (B.I.) to facilitate access to data with filtering and graphics that allow different types of comparison and retrieval of the survey data. It makes it possible to select the countries and the subject according to the researcher's interest. In addition, the survey is available in Portuguese (Brazil) and English.

Three panels were made in B.I. The first panel presents general data with clusters of the subjects of access to Justice, work management and technological infrastructure of the Judiciary, in which responses were compiled to classify them as satisfactory or insufficient. In this panel, it is possible for the user to select the questions and countries that he wants to view. In the second panel, the questions were made available in another proposal, with a more specific possibility on the answers. In addition, it is

possible to check the various responses, when there were more than one, in relation to the same subject in the same country. Finally, the third panel sought to provide the researcher with the full written responses, which can contribute with more elements for data analysis. The survey can be accessed at the following links:

English: <https://tinyurl.com/yylw9494>; Portuguese: <http://www.jfsp.jus.br/iaca/>

Data analysis

Through the reading of the results, it is possible to outline the scenario of the Judiciary in the countries that comprise the survey, in its three items: access to Justice, work management and technological infrastructure of the Judiciary.

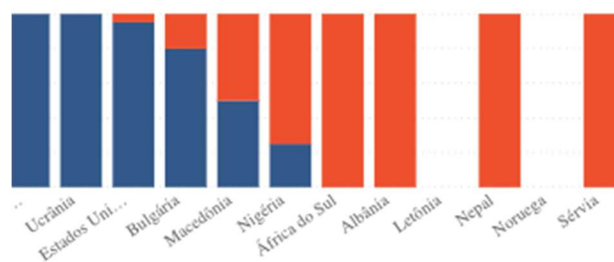
Due to the COVID-19 pandemic, several countries have adopted social distancing as a health measure. Public services had to adapt to this new reality, quickly implementing public policies. The same occurred in the Judiciary, with the objective of maintaining access to justice and the regular processing of cases.

Through the survey we can see that several countries created governance to implement measures for the good functioning of the Judiciary. For example, in Luxembourg, Crisis Councils and Cabinet were created, among other measures; Nepal, with the Full Court (a board of all judges, including the supreme judge) that ruled on the nature of the cases, petitions and requests to be heard during the pandemic; Rwanda, where task forces were created; Brazil, through a Crisis Observatory to deal with all management issues related to the pandemic.

Technological infrastructure of the Judiciary

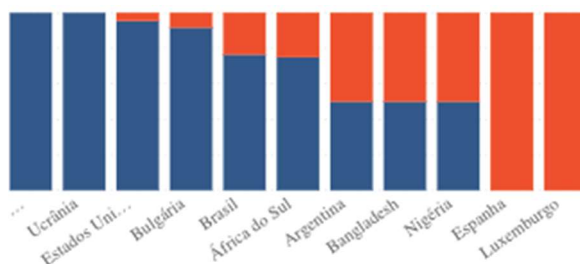
The existence of state bodies technologically prepared for the job, favored the continuity of the services, with the establishment of home office for the judges and staff, assistance to the parties (lawyers and public prosecutors), virtual meetings for work teams, conducting tele-hearings, virtual trial sessions, among other jurisdictional and administrative acts. The adoption by the Courts of electronic processes and technological equipment that could be lent to judges and staff, made it possible for many places to fully deliver the services, including with increased productivity.

When looking at the global survey data, 77.87% of the result is satisfactory regarding technological infrastructure, showing that there has been investment by the Judiciary. However, some countries do not have yet electronic processes such as South Africa, Albania, Nepal and Serbia, and some have a partial number of electronic processes, demonstrating that countries are investing in digitalization of the archives, such as Nigeria, Macedonia, Bulgaria and the United States, the latter two with almost the entire collection digitized. Regarding Latvia and Norway, the question was not answered.



On the last screen of the survey, respondents had the opportunity to clarify the question, which is very rich. Regarding South Africa, there is information that: *“Some provinces have obtained electronic records and hearings”*; *“Only one Division of the Superior Court has an electronic system and virtual hearings are being held whenever possible. It is only being introduced now during Covid-19”*. The qualitative diagnosis is excellent, showing very clearly how the current pandemic is influencing the technology of the Court of this country, which is certainly happening to the other ones, that had to add new technological equipment and access.

The data in the graph below reveal that the Judiciary of the countries advanced in investments in technology park, with 87.96% of satisfactory answers. It is noteworthy the availability of computers in Spain and Luxembourg. Going forward in the analysis of the data, it appears that *“Not all judges receive laptops. Public servers have a VPN connection.”* Thus, from the answer, Spain is on another level regarding the supply of technological equipment. Also, in Luxembourg, the additional information is that *“All judges and most officers have computers”*, with the observation that those without laptops receive a token to access the court's webmail. Therefore, in these two cases the result must be a positive answer.

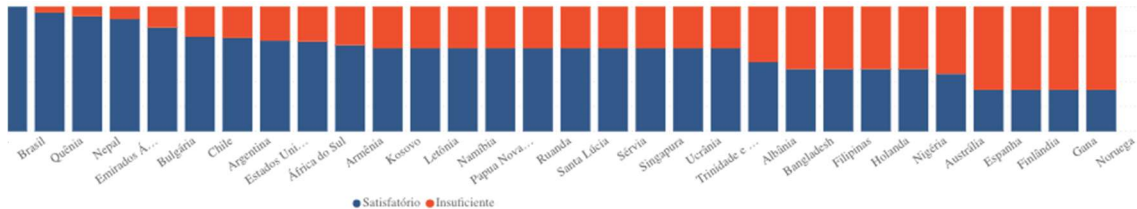


Access to justice

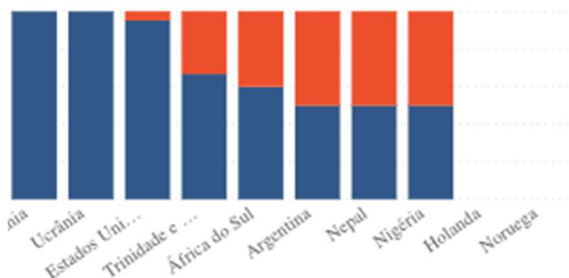
A second impact on jurisdictional activities was the possibility of access to justice. With the face-to-face service activities suspended, the digital capacity of the legal operators and those under the jurisdiction to file new cases and to participate in the production of evidence emerges. In this item, issues of social development arise, for two reasons. The first one concerns the digital inclusion of the population, institutions, and professionals. The degree of access to digital instruments favored access to the exercise of citizenship.

Most public bodies have created digital accesses, albeit to address urgent issues. The question is whether the population had access to these channels, and, if not, whether institutional partnerships were created to make it viable.

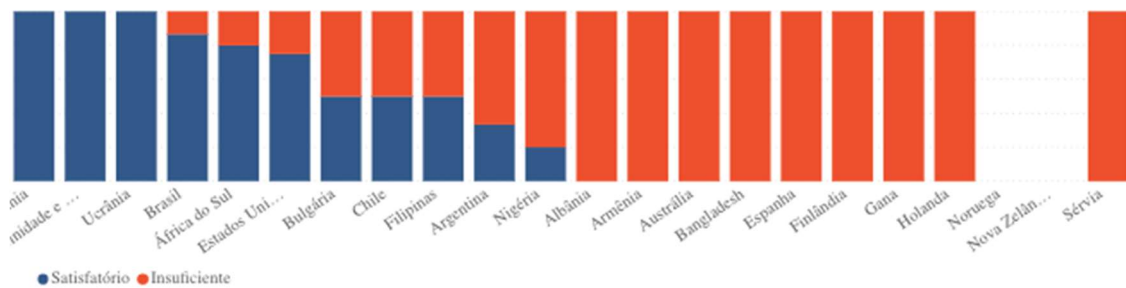
In the item access to justice, 76.38% of the result indicates that the Judiciary in the countries covered in the survey is allowing access to justice.



The possibility of filing new lawsuits has a relevant percentage of 92.23%, which indicates that the Judiciary has channels for filing new lawsuits through physical or virtual means. Some countries have not reached 100% access to justice, such as, in increasing order of access, Holland, Nigeria, Nepal, Argentina, South Africa, Trinidad and the United States. But even in these countries the access is over 50%, indicating the partial operation of the Judiciary. Below in the chart, only countries that have not reached 100%:

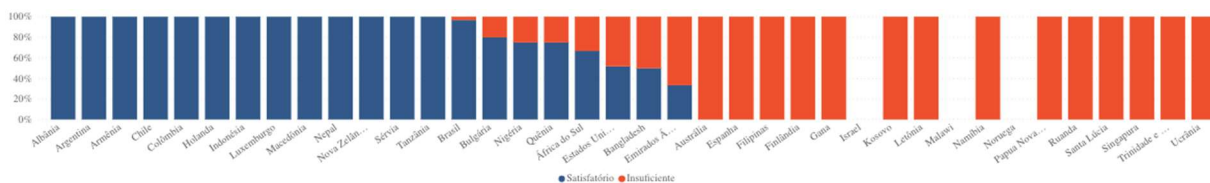


The percentage of access to justice is lower when the focus is on serving the parties, lawyers, and prosecutors. The percentage is 67.65% of the sample. It is noteworthy that in some countries there was no assistance to the parties during the pandemic (Albania, Armenia, Australia, Bangladesh, Spain, Finland, Ghana, Holland, Norway, New Zealand, and Serbia), either physically or digitally. The assistance to the parties may take place digitally through previously scheduled online meetings. Therefore, social distancing does not prevent the delivery of service. Furthermore, service to the parties is closely linked to the existence of a technological park, virtual cases and changing of flows and organizational design. The graph shows countries that have not reached 100%:

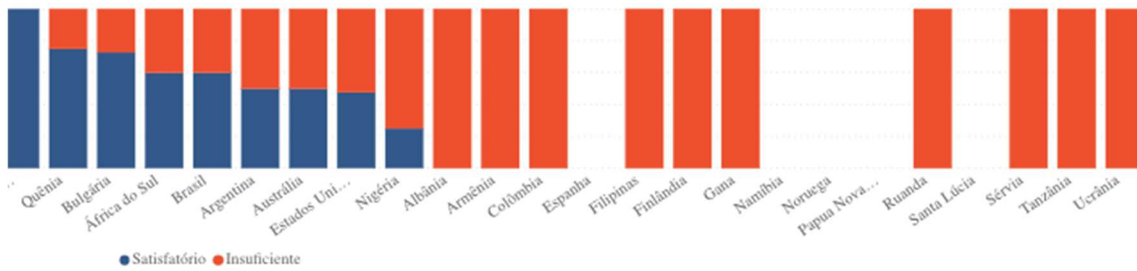


New actions related to the exercise of rights related to COVID-19

In the item about access to justice, there is an increase in conflicts resulting from health and socioeconomic impacts. In some countries there has been an increase in lawsuits. This is an important marker, as it can portray the full fulfillment, by the public Administration, of the population's needs with few case files or an exacerbated number of new lawsuits resulting from restrictive measures to the exercise of rights. In the latter situation, access to justice is essential to guarantee these rights. The filing of cases related to COVID-19 requires a qualitative analysis. It is interesting to highlight the issues mentioned: lawsuits arising from breaking the quarantine (Bulgaria), labor lawsuits (United Arab Emirates); personal protection equipment for healthcare professionals (Argentina); acquisition of medical equipment, emergency income (Brazil), among other information that can be found in the B.I. These data are extraordinarily rich considering that it is possible to trace the impacts of the pandemic on society. Below, the graph with the general data of this item:

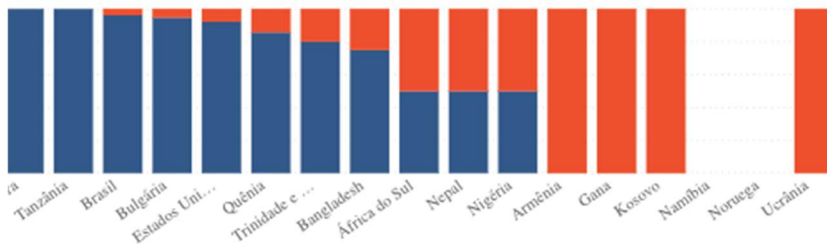


Finally, regarding the access to justice during the period of social distancing, it is important to analyze whether technical evidence is being produced during the pandemic, such as medical and socioeconomic expert reports. In Brazil, this issue has arisen very strongly in social security cases in which disability generates the right to retirement benefits or sickness benefits. Thousands of cases were suspended for lack of expert reports. It appears that many countries have not carried out technical expertise or have just partially done it.

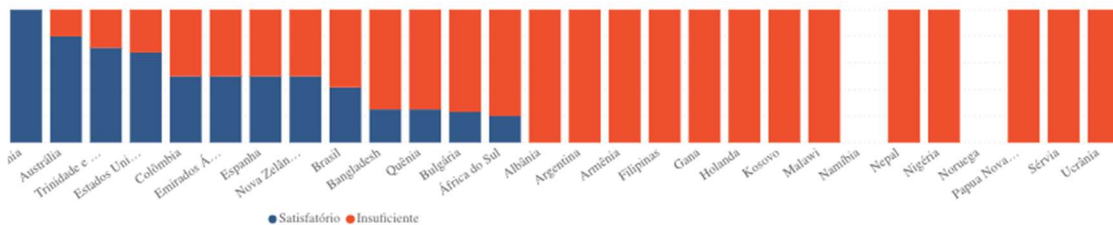


Work management

With the social distancing, public and private institutions had to quickly adapt their activities to be carried out online. Courts faced several challenges in structuring teleworking. Home office has become a reality for judges and judicial officers. Several factors influenced this procedure, such as the existence of previous experiences. The result for the question of whether there was an increase in the home office of judges and judicial officers during the pandemic is 89.70%, a remarkably high number. In several countries the home office was 100%. Some countries did not establish the home office or did it partially, but we do not know if in these countries there was social distancing. The chart with the result of the countries that did not have 100% is below:



Some Courts have set up home office management, setting goals to be fulfilled, work orientation to avoid psychological and physical damage, among other measures to ensure adaptation to this new reality. The additional information in the survey raises relevant questions and shows how the home office management has been diversified. In some places, such as the United States, there was even a supply of computers (but not furniture). Following, is the general graph:



Final considerations

This analysis portrays only a first look at the data presented. We were able to see several interesting experiences in different countries. The result is that there was a great effort by the countries' judiciary to maintain the jurisdictional provision. Technology, in times of pandemic, has proven to be a strong ally for advances in jurisdictional activity, necessary to ensure fundamental rights in times of humanitarian crisis. Certainly, measures taken by the Judiciary at this time of crisis will be maintained in the post-pandemic period.

The research resulted in a rich material for study and reflections on the performance of the Judiciary in several countries that were part of the survey. It is important to highlight that the information came from users of the justice system, and do not represent official data from the agencies, which is interesting, as it portrays the perception of those who use the judicial service. With the Business Intelligence tool, it is possible for the researcher to extract various data to aggregate others, such as the HDI (Human Development Index), to highlight countries by continent, by degree of development, among other possibilities.

We hope to have contributed to the study and exchange of good practices and thank everyone for their participation with this rich research material!

Federal Judge Luciana Ortiz T. C. Zanoni

Federal Judge Antonio Cesar Bochenek

Former Chief Judge of Federal Court of Appeal, 4th Region, Vladimir Passos de Freitas (Brazil)