

## HEARINGS BY VIDEOCONFERENCES IN FEDERAL COURT OF BRAZIL

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- **1. Introduction**

The significant amount of lawsuits and the current technological innovations, made the Federal Court of the 4<sup>th</sup> Region<sup>i</sup>, integrated by a Federal Court and three judicial sections, one in each state of southern Brazil (Rio Grande do Sul, Santa Catarina and Paraná), to take steps to enhance the use of videoconferencing equipment at hearings, especially those in which depositions by witnesses residing in other cities had to be made. Therefore, the old method of sending a rogatory letter by mail, requesting the judge to examine a specific witness, which ended up taking months, sometimes even more than a year, was replaced by videoconference.

Named Projeto XXI, it was initially regulated by Provision number 14/2012 of Corregedoria-Regional of the Federal Court of the 4<sup>th</sup> Region<sup>ii</sup> and started in November 2012, as a pilot program, at the 1<sup>st</sup> Federal Criminal Court in Porto Alegre, RS, presided by federal judge Jose Paulo Baltazar Júnior. Subsequently the project was adopted throughout the 4<sup>th</sup> Region, which from then on stopped sending rogatory letters for witnesses to be heard in Federal courts in the cities of Curitiba, Foz do Iguaçu, Florianópolis and Porto Alegre, determining that the hearings should be performed by means of videoconference.

At present, the issue is regulated by Provision number 31, of October 15, 2014, expanding the competence not only for the hearing of witnesses, confrontation and parties depositions per video hearing when they are performed outside the jurisdiction of the Court, but also for the civil, social security, financial system of housing, tax foreclosure and environmental lawsuits, including cases at Federal Small Claims Courts.

- **2. The implementation of the project**

The introduction of a new project always presents some difficulties. In the beginning the activities were performed in a courtroom at the Criminal Trial Court in Curitiba, with equipment which was shared with other trial courts, making it difficult to schedule a date. Since there was no waiting room for the defendants, they had to wait in other courtrooms. Besides this, there were doubts and difficulties when the videoconferences were held with subsections of other Brazilian regions, out of the range of TRF4, because the kind of connection and the technical characteristics were sometimes different.

However, the difficulties brought experience and solutions. In a short time at least two rooms for video hearing were created in each Judicial Subsection: one active room and one passive room. The active video room is the one located in the jurisdiction where the lawsuit was filed and that schedules the hearing of parties or witnesses from another location. It means that the judge can hear, from his court, the defendant or witnesses that live in another location. He organizes and presides the hearing, connects the equipment, records the depositions individually and makes all the necessary arrangements. He should request, if applicable, the presentation of the prisoner before the other judge, and the presentation of witnesses to provide testimony, including compulsory presentation if the witness refuses to obey the judicial order.

The responsibility of the judge on the passive side is only to book the equipment with all the technical and logistical conditions necessary for the audiovisual transmission of the deposition and provide staff for assistance.

The passive video room is where the hearing will take place, where the parties or witnesses go in person on the scheduled date for the hearing, chaired by another judge. In the 4<sup>th</sup> region the Secretariat of the court books the passive room via an agenda available on the E-proc<sup>iii</sup> system. These rooms should be used for a reasonable length of time, in order to allow its use for another hearing.

The use of audio and video equipment connected to the internet of the 4<sup>th</sup> Region allows the recording of the files and the inclusion of the depositions in the electronic process, so that the transcription by the court servants is not necessary.

- **3. Necessary actions for the hearings**

Due to increasing demand, in 16/01/2014 the Judiciary Subsection of Curitiba started a Videoconference Sector with seven rooms, four of which passive, prepared for scheduled criminal and civil hearings, which are administered by the Núcleo de Apoio Judiciário – NAJ<sup>iv</sup>, linked to the administrative Secretariat; one active room, shared by the Civil Courts, Federal Civil Small Claims Courts, Tax

Foreclosure and Social Security Courts, and two rooms for administrative meetings or hearings, coordinated by the Information Technology Center.

This sector is located on the 5<sup>th</sup> floor of the main building of the Federal Court, named Fórum Manoel de Oliveira Franco Sobrinho. It has also two rooms for the witnesses (one for the passive rooms and another one for the active room); a separate room for family members of the defendants to wait for the hearing; a private area for defendants who are in jail and are escorted by the police with two other rooms, one for those who have already been heard and another one for those who are waiting to be heard. There is also a support area for research, issuance of certificates and assistance to the parties.

Only one clerk designated by NAJ, sometimes with the help of an intern, assists all the passive rooms in Curitiba, assuring there is no communication between witnesses and defendants in criminal cases and checking the correct use of the equipment.

The NAJ is also responsible for one more videoconference room located on the ground floor of the same building, exclusive for the oral arguments of lawyers in cases that are tried in the Federal Regional Court of the 4<sup>th</sup> Region, in Porto Alegre.

In the other building of the Federal Court, called Forum Milton Luiz Pereira (Curitiba, downtown), where the Federal Small Claims Courts for Social Security are located, it was also made available an active room for the cases of depositions in subsections of the Federal Courts located in other cities in the region. There is also a room for oral arguments of the judgments, made by lawyers that live in other cities to the Appellate Board located in the capital city.

The three criminal courts of Curitiba also act as active rooms in their own courtrooms, and in a spare room, all of them with equipment to hold video hearings with other jurisdictional bodies.

The Judiciary Subsection of Curitiba also has a video conferencing equipment in the auditorium, for the transmission of courses or events to the other Judiciary Sections or Subsections, and another one in the Information Technology Center for administrative meetings inside and outside the Federal Court of Appeal of the 4<sup>th</sup> Region.

In 2013 the criminal courts of Curitiba received about 50 letters rogatory monthly for compliance and, with a single room, the NAJ had a heavy agenda, being necessary to wait about 6-7 months for a new hearing. At present, after the implementation of the four passive rooms, it is possible to schedule a hearing 45 days in advance.

In 2013, 607 hearings were held in a single passive room and in 2014 a total of 1267 video hearings in the 04 passive rooms in Curitiba. From

January to April/2015, 447 hearings have been made. These statistics show how successful the initiative was.

Hearings by videoconference may be currently held in other Federal Courts outside the 4<sup>th</sup> region. The system is also being adopted in the other four regions of the Brazilian Federal Justice. When the proceedings are to be performed out of the 4<sup>th</sup> Region, communication is sent through the system called INFOVIA, which is a program of the National Council of Justice, by informing the IP - Internet Protocol. At present, the request for a video hearing is made by rogatory letter, forwarded physically or virtually, with the date and time of appointment and the adoption of all the arrangements for its accomplishment. Today there are studies for the implantation of a national agenda to schedule these video hearings, in order to make it a faster process.

When the Federal District Court receives a rogatory letter or international rogatory letter, before distributing it to the competent jurisdiction for the necessary proceedings, the audience is already scheduled by the Distribution Section in one of the local passive rooms available in the e-proc. The Secretariat that receives the letter will send the necessary notifications and on the day of the video hearing the clerks responsible for that passive room participate in the hearing.

The success of the project has crossed the Brazilian borders. In 2013 and 2014 pre-trial hearings were held in a lawsuit of the 6<sup>th</sup> Federal Court of Curitiba, number 5033935-89.2013.404.7000. Depositions were made by people who were in Portugal, through videoconference. This procedure avoided the rogatory letter to be sent to Portugal, for a judge not linked with the case to hear the parties. Not to mention that the coming and going of the rogatory letter by mail would involve a huge waste of time, possibly around a year. This videoconference was held after simple exchange of messages between the judges, without reference to a treaty between the two countries

The direct interaction between the judge and the witnesses provides higher quality in adjudication, since there is more proximity to the facts. The judge has direct contact with the people to be heard, and there is the possibility of the sentence to be delivered in the same hearing or shortly after, creating more legal certainty, celerity in scheduling the hearings and procedural economy.

It is necessary to mention the importance of the Project XXI for the effectiveness of criminal justice, as it makes it possible a single hearing in the criminal proceedings. In the same act defendants are interrogated and witnesses for the defense and prosecution testify, regardless of where they live.

As advantages of this project we can still mention the concentration of the procedural acts in one hearing, avoiding the occurrence of prescription and consequent impunity.

- **4. Conclusion**

Project XXI has been proving to be a good practice, contributing to a more agile Federal Justice. Its contribution includes the optimization of human resources and it gives the Secretariat staff more time to work on general services.

Undoubtedly, the greatest benefit of this initiative is for the people under the jurisdiction, since this new system avoids displacement of parties and lawyers from one city to another, it shortens the production of evidence and the suits come to an end more quickly and with cost savings for the judiciary.

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<sup>i</sup> The Federal Regional Court of the 4<sup>th</sup> region in Brazil examines appeals from the Federal District Courts of the states of Paraná, Santa Catarina and Rio Grande do Sul, located in the south of the country. In Brazil there are five TRFs and all of them have administrative and budgetary autonomy. Therefore, they are the managers of all the administrative activities of the region, including appointment of judges and judiciary servants.

<sup>ii</sup> Corregedoria Regional is the organ responsible for inspecting the activities of judges and servants of the Federal District Courts.

<sup>iii</sup> E.proc is the name of the electronic system for lawsuits in the Federal Justice.

<sup>iv</sup> NAJ is an administrative organ whose function is to assist the public in the Federal Courts, to issue regional certificates, to perform the distribution of the electronic process, to coordinate video hearings activities, to assist the professionals in the use of the electronic process, to state in writing parties' requests in Federal Small Claims Courts, to digitalize physical suits to be included in the e-proc.

