The role of Supreme Administrative Courts during the Covid-19 crisis

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Summary

General Report

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Theme 1

The advisory division of the High Administrative Court during the Covid-19 crisis

1. Have Covid measures been submitted to the Court for opinion?

The advisory divisions of the Supreme Administrative Courts have regularly ruled on Covid-19 measures.

In **Algeria**, only measures provided for in the Finance Act were submitted to the Council of State for an opinion. The opinion of the Council of State was not mandatory for measures taken by regulatory administrative acts.

In **Chile**, the Supreme Court ruled on Covid measures when they affected the operation and organization of courts and tribunals. In such cases, the Chilean Constitution provides that consultation of the Supreme Court is compulsory

In **France**, the **Netherlands**, **Italy** and **Luxembourg**, draft legislation relating to the health crisis was submitted to the Council of State in accordance with the procedures specific to each country. The crisis did not change the law making process.

In **Belgium**, the Minister of the Interior invoked urgency for the first 38 ministerial decrees (out of a total of 44). The Legislation Division of the Council of State was consulted for the first time in April 2021. The Division was generally consulted on the many socio-economic measures taken by the Federal Government and federated entities. Although during the first and second waves of the crisis some of these measures were taken on the basis of "Special Powers Acts", the Legislation Division was able to give opinions on some of these Acts, on most of the Special Powers Orders, as well as on the Acts confirming these Orders. The Legislative Division played its traditional consultative role.

In **Luxembourg**, Covid's regulatory measures following the declaration of a state of crisis and emergency were not submitted to the Council of State for an opinion. On the other hand, the

law extending the state of crisis for three months was submitted for an opinion, as it was a law passed under the usual legislative procedure.

In Greece, the Covid-19 measures were not taken by acts requiring consultation of the Council of State.

2. Has there been a slowdown, an increase or a standstill in the number of advisory opinions?

In some countries (such as Algeria, Chile, the Democratic Republic of Congo, Finland, Hungary, Italy and Morocco), the health crisis had no impact on the consultative activity of the High Administrative Jurisdiction.

In France, the law establishing the state of health emergency led to a particularly high level of normative production in all areas of public action. In 2020, 14 of the 47 laws promulgated, 99 of the 125 ordinances and 99 of the 646 decrees issued by the Council of State were related to the epidemic and its economic and social consequences. The increase in the number of cases examined is around 25% higher than in normal times (40% for the social section of the Council of State). The time limits left to the Council of State for examining these texts was particularly short. In 2021, the consultative activity of the Council of State remained very high - 1141 texts examined compared with 1163 in 2020 - although this flow cannot be directly attributed to the management of the health crisis. 4 of the 10 texts examined in 2021 by the Council of State's standing committee were bills relating to the state of emergency and the health crisis.

In Luxembourg, there was a slight increase in the number of opinions.

In Greece, on the other hand, there was a slight decrease in the number of opinions issued over the period.

In the Netherlands, the number of bills submitted to the Council of State for an opinion fell, and the accelerated procedure was regularly followed.

3. Have specific laws exempted legislative or regulatory authorities from seeking the opinion of the High Administrative Court?

No specific law passed during the period exempted the legislative and regulatory authorities from seeking the opinion of the High Administrative Jurisdiction.

In **Colombia**, the Constitution directly empowers the President of the Republic to issue decrees with the force of law during a state of emergency, without having to seek the opinion of the Council of State.

In **Belgium**, the federal special powers laws of March 27, 2020 allowed draft royal decrees drawn up to "combat the further spread of the Covid-19 coronavirus within the population, including the maintenance of public health and public order" not to be submitted to the Council of State for its opinion. A limited use was made of this possibility: only 9 federal decrees of special powers were not submitted for opinion.

4. Have legislative or regulatory authorities, on their own initiative, dispensed with seeking the Court's opinion?

Legislative and regulatory authorities have not, on their own initiative, dispensed with seeking the opinion of the High Administrative Jurisdiction.

In **Colombia**, the independence of the legislative power exempts it from seeking the opinion of the Council of State.

In **Belgium**, to avoid having to consult the Council of State, the legislative and regulatory authorities applied pre-existing possibilities. On the one hand, the possibility of not requesting the opinion of the Council of State on regulatory texts has frequently been used, when justified by an emergency situation. ON the other hand, some legislative acts, although drafted by the Government, have been submitted directly to Parliament by Members of Parliament.

5. If the health crisis has been used as a reason for dispensing with the need to seek compulsory opinions, in particular because of the urgency of the situation, have the texts been declared irregular?

In view of the answers given by the courts to question n°4, the answers are generally negative.

6. Have consultation deadlines been shortened or extended? On the initiative of the courts (force majeure) or under special (exceptional) legislation?

In most countries - such as Algeria, Chile, Greece, Hungary, Ireland and Italy - the health crisis had no impact on processing times for draft texts submitted for opinion. Texts were examined on schedule.

In other countries - such as Finland, France and the Netherlands - examination times for draft texts were extremely short.

For example, the time available to the Council of State of France to examine texts passed in the spring of 2020 was particularly short. Generally speaking, in 2020, the administrative sections examined almost all draft laws and ordinances in less than two months. The average review time for draft texts examined by the General Assembly stood at 24 days for 2020 - compared with 16 days in 2019 and 21 days in 2018. The Standing Committee examined all the texts before it within an average of 4 days - compared with 15 days in 2019. This significant reduction in average time is due to the urgency declared by the Government for the examination of projects involving measures linked to the state of health emergency. Specifically for texts related to the health crisis, examined by the social section of the Council of State, examination times were considerably shortened (60% of texts were examined in less than 15 days; 79% in less than one month). In the Finance section, examination times have also been considerably reduced, rarely exceeding one week. In the Interior section, out of 67 draft legislative or regulatory texts linked to the health crisis, 42 were examined in less than 5 days, including 8 in 24 hours, and 17 in less than 15 days.

In the Netherlands, in most pandemic-related cases, the Council of State granted the government's request for an accelerated procedure.

In Luxembourg, consultation times were considerably shortened. In the referral letters, the Council of State was asked to issue its opinion on bills containing provisions to combat the effects of the pandemic as soon as possible. Between receipt of the bill and the vote on it in the Chamber of Deputies, the Council of State sometimes had barely a week to examine the text and draw up its opinion. Consequently, in some of its opinions, the Council of State takes care to specify that, given the urgency with which it had to deliberate on the bill, it had limited

itself to examining the essential legal issues. At the same time as priority was given to Covid texts, the Council of State observed a certain slowdown in the number of advisory opinions issued on matters not covered by Covid-19.

In Switzerland, the Federal Supreme Court was consulted informally within very tight deadlines.

7. Has there been a reduction in the number of people examining cases in chambers (or panels) in order to issue opinions in restricted chambers (or panels) (and thus increase the number of opinions)? Or has there been an increase in the number of advisors to cope with the growing number of urgent cases?

With the exception of one country (the Democratic Republic of the Congo), there has been no change in the number of staff allocated to advisory panels. In France, at the height of the crisis, the organization of work was adapted to respond to the urgency and particularly difficult working conditions (examination of cases and deliberations frequently held, by videoconference, in restricted formations, around the chairman, deputy chairmen and rapporteurs).

In Belgium, right from the start of the health crisis, the referral of cases to the general assembly or to the combined chambers of the Legislation Section was met with a certain amount of reservation, as it was feared, on the one hand, that in the context of videoconferencing it would be impossible to deliberate effectively and deliver a detailed opinion and, on the other hand, that such procedures would interfere with the smooth running of the Section in an uncertain and busy period.

8. Have there been any videoconference meetings? Were these meetings held on a new legal basis?

With three exceptions (Algeria, the Democratic Republic of the Congo and Morocco), most meetings were held by videoconference.

In France, for example, the organization put in place by the consultative sections of the Council of State has guaranteed the continuity of their activity. On the basis of a business continuity plan, identifying essential missions and the staff needed to carry them out, telecommuting immediately became the principle.

In Luxembourg, committee meetings and plenary sessions were held by videoconference. Plenary sessions, at which the Council of State reads draft opinions and approves them by majority vote, were held remotely. During these sessions, votes were cast by e-mail. This new method of operation was expressly provided for in the law of July 17, 2020 on measures to combat the Covid-19 pandemic. On the other hand, the sessions at which the Council of State ruled on dispensing with the second constitutional vote by the Chamber of Deputies were held in public, as required by Article 59 of the Constitution. The Councillors of State thus met in limited numbers, while ensuring that the necessary quorum was respected, in a meeting room where they were able to maintain a certain distance.

9. Has the procedure for requesting advice been adapted to health circumstances? For example, have you imposed the use of an electronic procedure for submitting requests for advice?

In most countries, requests for advice have been sent to the Council of State by e-mail.

The Colombian Council of State has developed an efficient digital system, known as "SAMAI", to ensure the continuity of advisory and judicial services.

Theme 2

Case law of the Administrative Jurisdiction Division of the High Administrative Court during the Covid-19 crisis

A. On the merits

1. Has Protocol No. 16 to the ECHR been implemented by your High Administrative Court?

Some of the Association's member jurisdictions are not Party to the ECHR, or have not ratified Protocol no. 16.

The Estonian Supreme Court has received several requests for preliminary rulings. However, the Court considered that the questions could be resolved on the basis of national case law. Moreover this case was not related to the Covid-19 pandemic.

2. Have fundamental rights been invoked?

The fundamental rights mainly invoked before the administrative courts have been : - the right to life; - the right to family life; - freedom of association; - rights of access to public administration and the administration of justice; - protection of property; - the right to free movement; - the right to health; - the right to freely choose one's employment and location; - freedom of assembly (peaceful without prior authorization and without arms); - freedom of enterprise; - the right to demonstrate; - protection of the personality and autonomy of the individual; - religious freedom; - the right to medical self-determination; - the right to enter the national territory; - equality of citizens before the law; - separation of powers; - personal freedom; - the right to honor; - the right to live in a balanced, healthy environment; - the right to strike; - the right to protect and improve physical and spiritual existence.

3. Were the grounds relied upon based on national law, European or other international law, or a combination of the two?

The main grounds for appeal were based : - on national law alone; - on a combination of national law and the law of the ECHR and certain of its additional protocols; of European Union law (TFEU - art. 18, 20, 21, 49 and 56); of the law derived from: ▪ the American Convention on Human Rights, known as the Pact of San José de Costa Rica; ▪ the Universal Declaration of Human Rights; ▪ the United Nations International Covenant on Civil and Political Rights; ▪ the case law of the African Court of Human Rights; ▪ the Oviedo Convention (Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine); ▪ the Convention on the Rights of the Child.

B. Provisional judicial emergency order

4. Is there a référé-liberté mechanism in your legal system and, if so, was it implemented during the crisis? If so, is urgency presumed in this type of recourse?

In some countries, the emergency procedures provided for were not implemented.

The Supreme Court of Chile states that its jurisdictional system includes an "action de protection" (adequate protection of persons affected by acts or omissions infringing the legitimate exercise of certain rights and freedoms) and an "action d'amparo" (protection of individual liberty in the event of the arrest, detention or imprisonment of a person in violation of the law or the Constitution).

Most of the High Administrative Courts state that the emergency procedures provided for are not reserved for the control of potential infringements of fundamental rights. These procedures are characterized by their summary nature and the need for rapid handling of the dispute, either by virtue of the law or by its very nature.

Some High Administrative jCourts indicate that there is no specific mechanism for summary proceedings, but that the court may, when an appeal is pending, prohibit the execution of a decision, suspend its execution, enforce a decision or issue an injunction.

Other courts may be seized of an application for interim relief or may order provisional measures. In France, there are two emergency procedures before the administrative judge: référé suspension and référé liberté. The référé liberté was preferred in the vast majority of cases, and the flow of applications was exceptional (60% more than in normal periods, and in 2020, the Council of State issued 840 emergency decisions on covid-19 measures, ruling on 6 times as many appeals as in 2019, often within 48 hours). Up to April 15, 2022, more than 1,500 summary orders relating to Covid-19 have been issued by the French Council of State.

For individual measures, German law distinguishes between the situation in which an unfavorable measure infringing a person's rights can be challenged, and the situation in which the applicant requests a positive action or benefit from the administration which has been refused. In the first case, the appeal is admissible when an administrative act is enforceable independently of an appeal on the merits, i.e. in all cases in which the appeal has no suspensive effect. There is no additional condition of urgency. In the case of regulatory acts, there is normally no requirement to demonstrate the need for such a rapid and provisional decision, since the norm is in force and produces effects that infringe the petitioner's rights. It could therefore be said that urgency is presumed.

In the Netherlands, there is a summary procedure with a presumption of urgency, but it is not based on the infringement of fundamental rights. Jurisdiction is shared between administrative and civil courts, the latter having jurisdiction over regulatory acts. For example, there have been decisions concerning the wearing of masks, curfews (declared illegal in the first instance and subsequently reformed) and temporary closures.

In Belgium, there are two procedures for summary proceedings and provisional measures, subject to the condition of establishing (extreme) urgency and the seriousness of a plea. Recourse to the extreme urgency procedure must remain exceptional, as it reduces the opposing party's rights of defense and the investigation of the case to a strict minimum. Indeed, when a petition is lodged under the extreme urgency procedure, the time limit for setting the case down for a hearing is generally very short, within three or four days, and the auditor in charge of examining the case does not have to make a written report, only an oral notice being given on the day of the hearing. The opposing party may file a memorandum of observations, but is not obliged to do so. This type of recourse can only be accepted when this procedure is

the only one capable of effectively preventing the irreversible damage feared by the petitioner, even if the procedural timeframe for ordinary summary proceedings, of simple urgency, would not allow it. The claimant must also have taken all possible steps to prevent the damage and to bring the matter before the Council of State as soon as possible, in accordance with the appropriate procedure. It is not because a fundamental right is directly at stake that the Belgian Council of State, according to its jurisprudence, must necessarily admit that there is a serious peril justifying recourse to extreme urgency.

Some high administrative courts do not have emergency mechanisms.

5. Have the conditions for summary proceedings (notably urgency) been relaxed during the crisis?

Some high administrative courts have relaxed the conditions for admissibility of emergency proceedings.

In Chile, for example, the law of exception made it possible to appear by videoconference, and to extend certain legal time limits. Although the law of exception is no longer in force today, its objectives are now met by permanent rules introduced by a law in force since November 30, 2021. This allows hearings to be held on the case and pleadings to be heard by videoconference and, in the event of malfunctioning of the technological means by which the party appears, the possibility of invoking an impediment.

France points out that the substantive conditions of the référé suspension and référé liberté procedures have not been modified, but that certain procedural rules have been partially adapted by ordinance (an option has been added: when the judge considers, after investigating the case, that a hearing is not necessary, he can decide to dispense with it).

The Council of State of Greece emphasized the very thorough balancing of the interests at stake (protection of public health, on the one hand, and protection of individual freedoms, on the other). It also points out that the assessment of the legality of the contested acts was much more thorough.

Other high administrative courts indicate that the assessment of the conditions for emergency procedures has not been relaxed.

6. What happens if the applicant does not appear at the hearing because of Covid, even though his presence is required on pain of rejection of the appeal?

In almost all high administrative courts, the applicant's presence at the hearing is not required. If attendance is compulsory and the applicant is unable to appear, the case is postponed to a later date, as it cannot be examined in his absence.

One high administrative court states that the appeal is not rejected because the procedure is in writing and the applicant must be represented by a lawyer at the court.

Other high administrative courts specify that the appeal is not rejected if the court is informed, in advance, of the reason why the applicant is absent.

In **Belgium**, in summary proceedings, all parties to the proceedings must be present or represented. Under the regulations of the Council of State, if the petitioner is absent and unrepresented, the request for suspension, penalty payment or provisional measures is rejected *ex officio*.

Other parties who are absent or unrepresented are presumed to acquiesce to the claim. However, according to certain case law, this absence does not exempt the Council of State from verifying the admissibility and basis of the request, since the presumption of acquiescence established by this provision does not take precedence over the conditions imposed by the coordinated laws relating to the Council of State. Generally speaking, the Council of State does not apply these sanctions if the party concerned demonstrates *force majeure*.

C. Judgment

7. Have you noticed any divergence or competition between your High Administrative Court and the courts of the judiciary?

Some countries have a system of exclusive division of jurisdiction between courts, organized in such a way that the powers and responsibilities of administrative and judicial courts are determined on the basis of a criterion that allows for little or no overlap. As a result, these administrative courts report that there have been no divergences in case law.

Other high administrative courts report discrepancies between Supreme Court and appeal court decisions.

For example, the Dutch Council of State reports that there have been divergences between the case law of the administrative courts and that of the civil courts, as well as between the administrative courts themselves.

In Belgium, some petitioners questioned the legal basis for the health measures included in the ministerial orders, arguing that the Minister of the Interior could not have such extensive powers and that legislative intervention was essential if fundamental rights and freedoms were to be infringed. This question was examined by the General Assembly of the Litigation Section of the Council of State, in the context of extreme urgency procedures. In a number of rulings handed down in October 2020, the latter ruled that the laws on which the ministerial decrees were based could *prima facie* provide them with a sufficient legal basis. On the other hand, in the context of interim injunctions brought, this time, before the judicial courts, certain judges sitting alone took the view that the ministerial decrees had no legal basis.

They enjoined the Belgian Federal Government to adopt a specific law governing the actions of the executive in the context of a health crisis, under penalty of a fine. Several of these decisions were not upheld on appeal, and finally, in a decision dated September 28, 2021 (P.21.1129.N), the Supreme Court (Cour de cassation), plenary chamber, following the example of the general assembly of the administrative litigation section of the Council of State a few months earlier, confirmed the appropriate legal basis for the decrees. The Supreme Court confirmed its analysis in a ruling dated November 10, 2021.

8. Is there any difference in the wording of annulment or suspension rulings in the context of Covid measures (maintenance of effects, balance of interests, etc.)?

The vast majority of High Administrative Courts report that there is no difference between the operative part of decisions in Covid cases and the operative part in other cases. One Court points to the balance of interests it has achieved, while another states that it has deferred the effects of an annulment ruling.

In Belgium, the Council of State has applied the "balance of interests" mechanism. In a ruling handed down on December 8, 2020, it recognized the urgency invoked by the petitioner and declared a serious plea, but did not suspend the contested decree. Indeed, the Minister of the Interior had requested a balance of interests, as he considered that suspending the execution of the contested order could result in greater prejudice than that invoked by the petitioners. The Minister therefore invited the Council of State to grant him a ten-day period in which to take new measures. Finally, the Council of State decided to apply the provisional measure and ordered the Minister of the Interior to take a new decision within five days. In a ruling dated February 2, 2021, the Council of State also carried out a balance of interests and decided that the suspension of the contested measure had no immediate effect.

9. Has your High Administrative Court submitted any preliminary questions? If so, why, if not, why not?

Few administrative courts have referred a question for a preliminary ruling during the period under review. These courts stated that the questions asked were not related to the health crisis. Two High Administrative Courts referred questions to their country's Constitutional Court.

10. Have any human rights associations had access to the courtroom of your High Administrative Court? As plaintiffs or interveners? Has this access been assessed more flexibly than would normally be the case?

Some High Administrative Courts report that associations have access to their courtrooms, either as plaintiffs or interveners. Their interest in acting or intervening is then assessed in the light of their status and corporate purpose. However, few jurisdictions mention the action of human rights associations in relation to measures taken in the context of the health crisis.

On the contrary, in some High Administrative Courts, only certain associations, operating in areas delimited by law, may intervene. For example, the Supreme Court of Ireland states that only the Irish Human Rights and Equality Commission may intervene in proceedings relating to these matters. However, it did not make use of this power during the health crisis.

Theme 3.

The practical organization of jurisdictional activity and procedure during the Covid-19 crisis

A. Prior to appeal

1. Has your High Administrative Court accepted methods of lodging appeals not provided for in the legislation (e.g. by e-mail) instead of by post?

In the case of almost all the High Administrative Courts, it was not necessary to adapt the means of lodging appeals: electronic submission was already in place and postal services continued to operate.

However, the Supreme Court of **Ireland** reports that, on this occasion, it allowed appeals to be lodged by e-mail.

Luxembourg points out that while the procedure for lodging appeals has not changed, in practice the parties' representatives no longer went to the filing office but to the entrance of the building housing the Administrative Court. The parties' written documents were still deposited in the boxes provided for this purpose. As soon as a filing was made, Court staff members would collect the documents and send an acknowledgement of receipt, by e-mail, to the agent concerned. In addition, the Administrative Court has relaxed its methods of communication with the registry, mainly by e-mail.

Since 2011, the Court of Justice of the **European Union** (CJEU) has had a secure system for filing procedural documents electronically (e-Curia). Use of this system is optional for cases brought before the Court of Justice and compulsory, since 2018, for cases brought before the General Court. During the crisis, both jurisdictions relaxed the terms and conditions for opening e-Curia accounts, accepting electronic submission of the necessary supporting documents.

In **Canada**, the filing and notification/signature by e-mail of applications for leave to appeal were already permitted under the Rules of the Supreme Court, but the filing of the original and two

printed copies of these documents was required. From now on, only filing by e-mail is mandatory. However, the original and printed copies must be sent to the clerk's office within a reasonable time.

2. Have the procedural deadlines been extended? If so, has this been done ex officio, under special Covid legislation, or has the situation been deemed to be one of force majeure authorizing such an extension?

The majority of High Administrative Courts indicate that procedural deadlines have been adapted to take account of the health crisis. In some cases, these deadlines were extended on the basis of the rules of civil or administrative procedure, which provide for the possibility of extending deadlines in cases of force majeure. In other cases, the time limits were suspended or interrupted.

Chile reports a modification of time limits before all courts, with the exception of Supreme Court proceedings. Other measures have been taken: hearings have been postponed in cases where a party has been prevented from meeting the deadlines set for proceedings.

Some High Administrative Courts indicate that there has been no legal modification of time limits, but a change in the assessment of force majeure.

In Thailand, the judge may apply the provisions of the law of December 5, 1999, creating administrative jurisdictions and contentious administrative procedure, in order to extend procedural deadlines. Thus, appeals lodged after the expiry of the time limit may be declared admissible if the interests of the proper administration of justice so require. This option remains at the sole discretion of the judge, who must assess the appropriateness of granting an extension in the light of the practical difficulties encountered by litigants.

The Supreme Court of Latvia has stated that the time limit for appeal may be extended at the request of the parties.

Finally, the CJEU states that certain time limits have been extended by one month *ex officio*. This measure was lifted in September 2021.

3. Has your High Court imposed the use of a written procedure? If so, was this done in consultation with the parties?

For most of the High Administrative Courts that answered the question, the use of a written procedure was already imposed by the rules of administrative litigation. In the case of jurisdictions adopting a mixed procedure - written and oral - the application of measures aimed at replacing the oral phase with a written phase was subject to the agreement of the parties to the dispute.

In Hungary, the written procedure was imposed by regulation, with the possibility of postponing the hearing.

In Türkiye, the UYAP e-Justice system was presented as an alternative to the written procedure.

At the CJEU, certain hearings have been replaced by written procedures, based on questions and answers.

B. During the procedure

4. If your country's legislation only provides for the exchange of pleadings by post, has the High Administrative Court accepted methods of exchanging pleadings not provided for by this legislation (notably by e-mail)?

In many High Administrative Courts, the procedure was already largely electronic.

In Lithuania, at the height of the crisis, the Supreme Administrative Court allowed documents to be sent to it by e-mail, rather than by post or via the dedicated online platform. A post box was also installed on the Court's doorstep, so that parties could file their briefs.

5. Has your High Court imposed the use of an exclusively electronic procedure?

In most countries, the use of an exclusively electronic procedure has not been imposed.

In Italy, the use of an electronic procedure had already been generalized since 2017. It has been imposed in Norway, as well as in South Korea for the State and administrative authorities.

In Chile, the courts, with the exception of the Supreme Court, use an exclusively electronic procedure.

6. Has there been a reduction in the number of councillors making up the chambers in order to issue more single-judge rulings (and thus increase the number of rulings)?

In the vast majority of High Administrative Courts, there has been no reduction in the number of councillors per chamber.

In the Democratic Republic of Congo, single-judge chambers have been set up by order of the First President of the Conseil d'Etat.

In France, a "task force" has been set up to deal with the influx of applications for interim relief.

7. Have the usual notifications (by post) been replaced by other methods?

Methods of notification have not changed. Most High Administrative Courts state that the electronic procedure pre-existed the pandemic.

However, the CJEU reports that some notifications had to be made, exceptionally, by e-mail.

The Council of State of the Democratic Republic of the Congo states that official announcements were made on the national channel.

8. Did your Court's registry remain open during the health crisis?

In the vast majority of High Administrative Courts, the registry remained open. Some adjustments were made (telephone, e-mail, appointments, partial teleworking). When the registry was closed, an external post office box was provided or an electronic contact existed.

C. The hearing

9. Has there been any legislative or executive intervention to regulate the practical aspects of hearings (wearing of masks, distancing, Plexiglas, etc.), or have the High Administrative Courts dealt with these issues autonomously?

The majority of High Administrative Courts have implemented the measures provided for by law or regulation. Often, these measures were adapted to the operating needs of the administrative jurisdiction.

However, a significant minority of jurisdictions mention the autonomy they have enjoyed in determining the measures needed to organize the practical aspects of hearings.

In Chile, the judiciary has drawn up a Protocol for the Prevention and Management of Covid-19 which, among other things, organizes the cleanliness and hygiene of facilities.

In Estonia, the regulatory requirement to wear a mask has been interpreted by the Supreme Court as not applying to court buildings. In addition, recommendations have been issued by the Court Management Board to promote written procedures.

In Germany, the Länders have prescribed social distancing and the wearing of masks in areas accessible to the public, with the possibility of dispensation by the president during the hearing.

In Ireland, the legislator cannot intervene in court proceedings: sanitary measures have been taken by the Supreme Court.

In Israel, instructions were issued by the Courts Administrator (temperature measurement, masks, distancing, etc.).

In Türkiye, the Ministry of the Interior issued circulars to the governorates of the country's 81 provinces ordering the implementation of sanitary measures in public spaces. According to these circulars, all citizens are required to wear a mask. People who have not been vaccinated must also provide negative PCR test results or present HES (Life Fits Home) codes to attend public events. Judicial staff ensured that these measures were respected. Masks and disinfectants were distributed to all Court units, and temperature measurements and HES code checks were carried out at the entrance to the Court building.

Lastly, the CJEU states that it managed the practical aspects of the hearings independently, with the assistance of its medical advisor and in compliance with Luxembourg regulations.

10. Are hearings open to the public? Has the number of participants been limited (at the initiative of the Court or on an exceptional legal or regulatory basis)?

In the vast majority of high administrative jurisdictions with hearings, hearings are open to the public, usually with a limit on the number of participants, and many jurisdictions also use remote hearings.

In France, the Council of State reports that public hearings were maintained, but that the public was effectively "confined" to their homes. The press, however, was invited to cover the hearings.

The Federal Administrative Court of Germany also reports that the hearings remained public, but that the number of participants was limited on the basis of a circular from the President of the Court to guarantee the rules of distancing in the public space laid down in the "Covid 19" regulations in force in Saxony. These regulations also laid down (until April 2, 2022) the obligation to present a full vaccination, a cure or a negative test result for people who were not directly involved (as a party or in another capacity) in the hearing, i.e. the public. Some High Administrative Courts indicate that hearings were also projected on screen or streamed.

Luxembourg states that, as in the past, all the parties' representatives received the hearing sheets, which were also published on the internet in compliance with the provisions of the GDPR. No limitation on the number of parties present had to be introduced in view of the habitually low public participation.

The Colombian Council of State mentions the organization of hearings by videoconference, sometimes bringing together more than 800 virtual participants.

The Council of State of Türkiye reports that, during the pandemic, in order to avoid any risk during hearings, all hearings and proceedings were postponed until the end of April 2021, and then postponed again until June 15, 2021. Due to the written procedure in its administrative justice system, the holding of hearings is exceptional and there are no specific regulations.

In Canada, the Supreme Court building was closed to the public from the start of the pandemic, due to the sanitary measures put in place by the authorities. In order to maintain publicity of proceedings before the Court, hearings were broadcast live on the Court's website, and video recordings of the hearings are archived and available shortly after the end of the hearings.

At the CJEU, the public nature of hearings has been preserved in all circumstances, but the number of participants has been limited in view of the need to protect people's health.

11. Have hearings been replaced by remote hearings, and has the legality of such a modality been raised by the parties?

In many High Administrative Courts, particularly at the start of the epidemic, cases were heard by videoconference. The legality of these methods of holding hearings, which in most cases pre-existed the pandemic, has not been challenged. In other jurisdictions, hearings were held in person.

In France, the possibility of holding hearings by videoconference or, where this is not possible, by telephone, was introduced by a court order. The appeal against this order was rejected.

In the Netherlands, the possibility of holding hearings by videoconference has also been provided for in legislation.

In Switzerland, no Federal Supreme Court hearings have been held by videoconference. In fact, the Tribunal's Administrative Commission found that the law in force did not allow magistrates to be dispensed from sitting in person at a public hearing.

The CJEU points out that public hearings have been replaced by remote hearings, during which the judges systematically sit in the room.

12. How has computer security for remote hearings been guaranteed, if at all? How have the practical aspects of remote hearings been settled (do you need to connect to a specific link, is it accessible to third parties, etc.)?

When organizing their remote hearings, administrative courts have often used digital remote conferencing applications (such as Zoom, Skype, Teams, Cisco Webex and One Conférence). In

some cases, courts have used their own digital remote-working systems, or platforms developed by state authorities.

Several types of measures were taken to ensure the computer security of hearings. Most often, these involved asking the parties to confirm their identity; providing access to the hearing by means of a link obtained after registration; storing digital data on European servers; requiring the parties to guarantee that they were not in the presence of third parties (with the exception of people whose presence was necessary to provide technical support) ; limit the places from which the public could follow the hearings (e.g. from the seat of another jurisdiction); use an encrypted communication channel; prevent unauthorized recording of the hearing and leakage of confidential information.

For example, at the Council of State of Türkiye, it is forbidden to take photos or make recordings of hearings held by videoconference, on pain of criminal sanction. In cases where the trial process makes it necessary, recordings are made by the court. They are then kept by the court or in the central recording system for two weeks, before being transferred to the file. At the end of this period, the data is irreversibly deleted. The recordings may not be published without the express authorization of the court and the persons concerned.

The Colombian Council of State states that participation in videoconferences is permitted by means of an access link sent to the parties and interveners. Third parties with no direct or indirect interest in the dispute can attend hearings when they are broadcast via streaming and social networks.

At the CJEU, IT security for remote hearings is guaranteed by the use of secure internal communication tools.

13. Have there been higher court hearings to rule on Covid measures?

Most of the High Administrative Courts report that they have not held higher court hearings. However, some jurisdictions, such as the Dutch Council of State, the Portuguese Supreme Administrative Court, the Monaco Supreme Court, the Mexican Federal Court of Administrative Justice and the French Council of State, are exceptions.

Reports on the workshops

Report on workshop n° 1

Vassilis Androulakis, Councillor of State, Council of State of Greece

Ladies and Gentlemen,

Our workshop was devoted to the first topic of the questionnaire, namely the repercussions of the Covid-19 pandemic on the work and functioning of the legislative, or advisory, section of the Supreme Administrative Courts.

It is true that any comparative approach between such different legal systems involves dangers and limits, but these dangers and limits are at the same time the whole point of our approach. We are discussing advisory jurisdiction, but this term may cover different realities that have emerged in the course of our work.

First, with regard to the actual organization of the advisory function, we noted several examples among the participants. In some countries, the advisory function of the Supreme Administrative Court is very extensive and concerns both draft laws and other draft texts of a normative nature. In other countries, this function is less important and is limited to draft laws or some draft regulatory acts such as decrees. The overview is completed by countries where the Supreme Administrative Court simply has no such jurisdiction. In such cases, in order to ensure the correct drafting of normative texts, this consultative function is devolved to a specially instituted body. We have discovered that in one country, the consultative function initially assigned to the Council of State was subsequently withdrawn. Representatives of this Court have rightly expressed their deep regret at this development. We also found that in some countries, referral to the advisory section is optional, for fear of slowing down the adoption procedure, while in others it is compulsory.

The extent of control over the text submitted for consultation appeared to be a very important issue: it is certain that if the opinion cannot cover questions of expediency, which are of a political nature, a control of the proportionality of the measures envisaged to deal with the pandemic - measures which generally restrict public freedoms - in relation to the circumstances

is essential. However, participants noted that the proposed measures have rarely been sanctioned on this ground.

The question remains as to whether the competent authority - Parliament, the administrative authority or the Minister - is obliged to follow the opinion of the advisory section, and to what extent. We also wondered about the legal consequences of a situation in which a mandatory opinion has not been sought, and in particular whether this failure should automatically lead to the annulment of the draft act. Nevertheless, several participants noted that urgency and a state of necessity could exempt the government from requesting an opinion, where it was previously obliged to do so.

In some countries, the period of the Covid crisis led to a veritable inflation of advisory work, resulting in a considerable increase in the volume of texts submitted for opinion. Other countries, however, saw no increase in the number of referrals to the advisory section of the Supreme Administrative Court. In this case, we wondered whether the stability of the number of referrals was due to a more general policy of taking few normative measures. In at least one country, the number of requests for opinions was very low at the very start of the health crisis. The number of referrals then increased as the pandemic took hold.

We then turned to the question of the deadlines set for our institutions to deliver their opinions. In some countries, the texts do not provide for any deadline, while in others, on the contrary, deadlines of varying lengths are laid down. One conclusion emerged: collaboration with the relevant ministry or government secretariat is essential to ensure that opinions are issued within a reasonable timeframe, adapted to the circumstances of the pandemic. In this respect, one country noted that the average notice period during the crisis was four days.

In the majority of cases, the pandemic had no impact on the composition of the Advisory Section. In one case, the President of the Court made use of his broad organizational powers and significantly reduced the number of people sitting on the advisory panel.

In almost all countries, the pandemic has accelerated the adoption of new methods of referral to and work by the Advisory Section, to adapt it to the circumstances of the health situation: electronic referral, teleworking and videoconferencing have been introduced or reinforced. Some participants questioned the adequacy of their country's legal framework, which seemed

to be unaware of such procedures, while others remarked that the entry into force of a specific text was not necessary when it came to organizing consultative work. The same cannot be said of the organization of the courts' litigation function, for which the definition of a precise legal framework seems indispensable. In any case, all participants agreed that the working methods inaugurated during the pandemic, as well as the development of the use of electronic tools, will persist after the health crisis. They noted, however, that videoconferencing was extremely useful in emergencies but could not totally replace face-to-face work.

The discussions addressed more general issues, such as the publication of opinions (in some countries, opinions are always made public, while in others the court may choose to do so); the difference between *a priori* control of a text, which is more rigorous when it comes to examining the conditions under which it was drawn up, and *a posteriori* control carried out during a judicial appeal, which is more thorough; the extent of the administration's obligation to follow the opinion, given that political responsibility for the text always lies with the government (there are cases where the government can choose between its own text and that proposed by the court in its opinion).

In conclusion, the participants agreed that, irrespective of the context of crisis, the consultative competence of the Supreme Administrative Courts contributes to better quality legislation, to more precise and clearer texts, which give rise to less ambiguity when interpreted by the public, by the administration and, ultimately, by the courts.

Report on workshop n° 2

Mrs. Angela Vivanco, Minister of the Supreme Court of Justice of Chile

Workshop 2 enabled representatives of the High Administrative Courts to share their experiences of the jurisprudence of the courts' litigation divisions during the Covid-19 crisis.

We would like to thank Ms. Barbara Pořízková, Vice President of the Supreme Administrative Court of the Czech Republic, for her dynamic and efficient chairmanship of this workshop, as well as all the participants who made these enriching exchanges possible.

The health crisis has given rise to a wide variety of disputes before the administrative courts of first instance and appeal, as well as before the Supreme Administrative Courts.

First of all, a few general remarks.

The first is self-evident: freedom is the general rule, and any measure restricting the rights and freedoms of individuals must be an exception, even during a health crisis. Most of the administrative litigation surrounding the Covid-19 crisis concerned the legality of the measures taken to deal with the pandemic. As guarantor of the rule of law, the administrative judge examined whether these measures infringed rights and freedoms. Applicants have often invoked infringements of the right to privacy, the right to a normal family life, the right to health, freedom of assembly and freedom of worship. The Supreme Administrative Courts have thus ensured that the measures decided in the context of the crisis respect a balance between individual interests and the general interest. Similarly, they have weighed the obligations of the State against those of individuals, which arise from their status as citizens and their membership of society.

The Supreme Administrative Courts have also become emergency jurisdictions, obliged to rule quickly to meet the demands of the health crisis. The speed of judicial activity in times of crisis must nevertheless be reconciled with the need to harmonize jurisprudence and avoid rendering contradictory decisions, at the risk of rendering the state of the law illegible.

The second observation concerns the evolution of legal rules in force during the health crisis. Indeed, workshop participants noted situations in which transitional rules, enacted for the crisis, became perennial.

The third observation concerns the rules of admissibility and procedure before the Supreme Administrative Courts. The participants observed that these rules had not been disrupted by the health crisis. They did, however, note the importance of written procedures which have, in limited cases, replaced hearings.

In terms of working methods, the health crisis has undeniably reinforced the use of computer technology in administrative litigation. In some cases, hearings were held by videoconference. However, participants insisted that face-to-face meetings were indispensable for examining complex legal issues.

Compulsory vaccination is a sensitive subject that has generated a wealth of complex litigation. The participants all noted that the mandatory nature of vaccination was generating intense debate in society, and that there was a major challenge in ensuring that the public understood the measures decided upon. In particular, the existence of a "vaccination pass" has been challenged before the courts, on the grounds that it would discriminate between vaccinated and non-vaccinated citizens. However, administrative jurisprudence has confirmed the legality of such a system. Participants also raised the question of the consequences, in terms of administrative liability, of the side effects of vaccines.

In this very particular context, the representatives of the Supreme Administrative Courts stressed how essential it was for the courts to explain their decisions in a pedagogical way, going beyond the reasons given in the judgment. This does not mean justifying their decisions, but rather making the reasoning behind their decisions more comprehensible. In this respect, the presence of Supreme Administrative Courts on social networks can be an interesting way of explaining jurisdictional decisions to citizens. Such explanations contribute to the acceptance of decisions rendered.

To sum up, the participants in Workshop 2 felt that, in the context of a health crisis, the supreme administrative jurisdictions had focused on fulfilling their primary function: controlling

the legality of administrative action in order to ensure greater protection of individuals' fundamental rights.

Synthesis

Luc Vermeire and Eric Thibaut, General Auditors of the Council of State of Belgium

Madam Minister, Mr First Chairman, Madam Secretary General, Ladies and Gentlemen, distinguished guests, dear colleagues,

The time has come for general conclusions.

I think I can say that this congress has been a success. This was only possible thanks to all of you, and to the organizers, the Belgian Council of State and the International Association of Supreme Administrative Jurisdictions. In particular, we would like to pay tribute to the work of the Secretary General, Martine de Boisdeffre, Yves Gounin and their entire team, and, on behalf of the Belgian Council of State, to our administrator and the staff here present: Frédéric Gosselin, Gregory Delannay, Viviane Franck, Joris Casneuf, Florence Van Hove, Katty Lauvau, Nele Rose Harvey and Peggy Van Londerzele, and, last but not least, our First President, Roger Stevens.

The work of the three workshops was lively and always fruitful, thanks to the three chairmen and the participation of all of you. Many thanks also to the three rapporteurs for their clear and comprehensive reports.

The first overall observation is that, at the start of March 2020, many of our jurisdictions were not really prepared to work in "containment" mode.

Many of us had to change certain practices and habits, modernize our IT infrastructure, enable teleworking for the first time or extend its practice, in some cases to almost all magistrates and agents, allow the introduction of pleadings and requests for opinions by electronic means, reorganize hearings and deliberations, all the while respecting and guaranteeing the essential role of our jurisdictions in a state governed by the rule of law, as well as the right to a fair trial. Generally speaking, I can say that everyone has risen to these challenges, demonstrating flexibility and a sense of responsibility, collegiality and cooperation between all the magistrates and staff in each of our jurisdictions.

Synthesis of workshop n° 1

This workshop underlined the implementation of a fundamental and universal principle of public service, its continuity and permanence, despite the difficulties sometimes generated by successive confinements.

As we know, some of our association's member jurisdictions do not have a legislative or advisory section. Where they do exist, the contribution of advisory sections to the work of the national authorities responsible for drafting standards is essential, and enhances legal certainty. This was clearly demonstrated in the first workshop.

The Covid-19 crisis sometimes prevented these sections from being consulted, but as soon as the health crisis entered a controlled phase, their work resumed and often increased, due to the quantity of draft texts submitted for opinion and the tight deadlines they were given to examine the texts.

It was possible for the sections to operate at the heart of the health crisis because, very often, consultative procedures are not as strictly formalized as contentious procedures. With one exception, the holding of meetings by videoconference was authorized by the courts' internal organizational measures.

So, the first lesson to be drawn from these exchanges is that we mustn't have rules that are too rigid, and that we must leave room for crisis management by the jurisdiction itself, without wanting to lock everything into standards. Legislators must have confidence in the men and women who run and work within the advisory panels of the highest administrative jurisdictions.

In a very interesting and spontaneous way, the exchanges that took place during the first workshop also led to questions that had not been envisaged by the authors of the questionnaire, and which were not necessarily linked to the Covid-19 crisis.

The first lesson to be learned from these exchanges is that we must continue to distinguish between the advisory function, performed by the courts, and the decision-making function, which belongs to the government and the legislature. In other words, the moral legal authority

of the consultation is sufficient to give it enormous influence over the person seeking an opinion, and there seems to be no need to make opinions binding.

The second major lesson concerns the distinction between *a priori* and *a posteriori* control of the standard, exercised by the administrative jurisdiction. It has been shown that the work involved in examining a text at the draft stage is often much broader than that involved in appealing against the text once it has come into force, even if the *a priori* examination does not exactly embrace the realities that are presented to the courts.

The third lesson concerns the role and contribution of an advisory section. It has been found that without consultation, the quality of texts is inferior, and there is a greater risk of contestation. In addition, consultation helps to enlighten the authority behind the project, the citizen and, in the event of litigation, the court. Participants also stressed the added value of preventive control of the proportionality of measures.

Finally, in the interests of transparency and information, workshop participants insisted on the need to publish the opinions issued.

It is clear from the discussions at the first workshop that, despite the crisis, the advisory sections of the Supreme Administrative Courts have succeeded in fulfilling their role. They have demonstrated their importance in providing legal protection for citizens and legal advice to the authorities, thus anticipating the work of the litigation sections.

Synthesis of workshop n° 2

The work carried out in workshop 2 shows that, despite their different working methods, all jurisdictions were forced to adapt some of their practices.

However, review of the merits of Covid-19 cases was carried out as usual, on the basis of the same reasoning methods as those used for other cases. Nevertheless, the large number of summary proceedings often led the courts to issue their rulings more quickly.

When reviewing the legality of sanitary measures, for example, the courts examined the relevance and proportionality of the measures. Sometimes, at the start of the crisis, they gave governments greater leeway. As the crisis unfolded, this room for manoeuvre narrowed.

However, many jurisdictions mentioned the difficulties they had encountered in exercising their control while scientific data remained disputed.

We have therefore taken account of current circumstances - the judge has not remained in his "ivory tower" isolated from reality - while at the same time exercising our essential role of protecting the rule of law.

During a discussion on the general or partial obligation to vaccinate, some of us wondered whether, in the event of such an obligation, the State should not, in return, be subject to a no-fault liability regime. One of the participants, a former judge at the European Court of Human Rights, referred to the Vavřička and others judgment (April 8, 2021) handed down by the Grand Chamber of that Court. It was noted that this judgment, although not dealing with Covid-19 vaccination and handed down under specific conditions, had been used by our jurisdictions. For many of us, the Strasbourg Court's reference to an obligation of social solidarity was important in the context of the Covid-19 litigation.

Discussions also focused on the effects of interim measures ordered by the courts, and on the possibility of obtaining compensation, assuming a ruling on the merits. The particular case of “référé liberté” in France was also discussed. The question was raised as to whether, when the court has rejected a request for suspension of a measure, it will still dare to annul the contested act when appealing on the merits - at the risk of disqualifying the first court, or whether, in the words of one of the participants, "we would not dare". However, the answer was largely "yes, if necessary", because it is then a question of examination on the merits. Indeed, the rejection of a request for suspension can be based on grounds other than the absence of a serious reason, such as the absence of urgency.

Given the diversity of jurisprudence between courts, it was pointed out that within the same jurisdiction opinions were sometimes divided.

On the subject of communication and criticism of certain judgments by a certain section of the population, all participants agreed that judgments should not be justified in the press. Their motivation is their justification. On the other hand, we must try to communicate in a way that is clear and comprehensible to non-lawyers. One of the participants pointed out that we don't

write our rulings for legal scholars. The challenge of communication is not confined to Covid-19 litigation; it is essential in many cases to maintain or restore confidence in the rule of law.

Synthesis of workshop n° 3

Workshop 3 was devoted to adapting the conditions for exercising the judicial function. In particular, participants discussed the possibility of judges deliberating using IT tools.

The main conclusion of this workshop was the importance of giving courts and their presidents a degree of flexibility to adapt and organize themselves in times of crisis.

General conclusions

Our jurisdictions faced major challenges during the Covid-19 crisis. However, we must not forget those who have died, those who have lost loved ones, those who have fallen ill and sometimes still have health problems, those who have not been able to be with their loved ones for a long time, those who have lost their jobs or their life's work, the young people who have seen a part of what should have been a carefree childhood pass.

At the same time, we've managed to get through it all together: vaccines have been developed in a short space of time, we've relearned how important small gestures of help or contact can be, and how much we all need social contact.

The Covid-19 crisis was difficult, but it also taught us a great deal, and we will no doubt be able to continue certain new practices in the future and in general.

It remains for us to thank you for these three days of work but also of pleasure and conviviality around administrative justice. We hope you have been able to enjoy this beautiful country and appreciate its gastronomic riches.

One regret, however! And that's the Belgians talking. We love a good laugh.

Some of our colleagues here have also expressed the same regret.

We were able to taste chocolate, but we didn't eat any French fries, even though we're also specialists in this type of potato cooking, known as "French fries".

It's only a postponement.

Thank you for these three days, and we look forward to seeing you all again.

Questionnaire

Theme 1. The advisory division of the High Administrative Court during the Covid-19 crisis

1. Have Covid measures been submitted to the Court for opinion?

2. Has there been a slowdown, an increase or a standstill in the number of advisory opinions?

3. Have specific laws exempted legislative or regulatory authorities from seeking the opinion of the High Administrative Court?

4. Have legislative or regulatory authorities dispensed, on their own initiative, from seeking the Court's opinion?

5. If the health crisis has been used as a reason for dispensing with the need to seek mandatory opinions, in particular because of the urgency of the situation, have the texts been declared irregular?

6. Have the consultation deadlines been shortened or extended? On the initiative of the courts (force majeure) or under special (exceptional) legislation?

7. Has there been a reduction in the number of people examining cases in chambers (or panels) in order to issue opinions in restricted chambers (or panels) (and thus increase the number of opinions)? Or has there been an increase in the number of advisers to cope with the growing number of urgent cases?

8. Have there been videoconference meetings? Were these meetings held on a new legal basis?

9. Has the procedure for requesting opinion been adapted to health circumstances? For example, did you impose the use of an electronic procedure for submitting requests for opinion?

Theme 2. Case law of the litigation division of the High Administrative Court during the Covid-19 crisis

A. On the merits

1. Has Protocol No 16 to the ECHR been implemented by the Court?

2. Have fundamental rights been invoked?

3. Were the grounds relied upon based on national law, European or international law, or both?

B. Provisional judicial emergency order

4. Is there a mechanism of provisional emergency order based on fundamental rights in your legal sytem? If so, was it implemented during the crisis? Is there a presumption of urgency in this type of procedure?

5. Have the conditions for summary proceedings (especially urgency) been relaxed during the crisis?

6. What happens if the applicant does not appear at the hearing because of the Covid, even though their presence is required on the risk of the appeal being rejected?

C. Judgment

7. Have you noticed any divergence or competition between the High Administrative Court and the courts of the judicial order?

8. Is there any difference between the operative part of annulment or suspension rulings in the context of Covid measures (maintenance of effects, balance of interests, etc.)?

9. Has your High Administrative Court submitted any preliminary questions? Why did you do so?

10. Have human rights associations had access to the courtroom of your High Administrative Court? As applicants or interveners? Has this access been assessed more flexibly than in normal circumstances?

Theme 3. The practical organization of the jurisdictional activity and the procedure during the Covid-19 crisis

A. Before the appeal

1. Has your High Administrative Court accepted methods of lodging appeals not provided for in the legislation (e.g. by e-mail) instead of by post?

2. Have the procedural deadlines been extended? If so, has this been done *ex officio*, under special Covid legislation, or has the situation been considered to be one of force majeure authorizing such an extension?

3. Has your court imposed the use of a written procedure? If so, has this been done in consultation with the parties?

B. During the procedure

4. If the legislation of your country provides only for the exchange of pleadings by post, has your Court accepted other means of exchanging pleadings not provided for by that legislation (e.g. by e-mail)?

5. Has your Court imposed the use of an exclusively electronic procedure?

6. Has there been a reduction in the number of councillors in the chambers in order to give more single-judge judgments (and thus increase the number of judgments)?

7. Have the usual notifications (by post) been replaced by other methods of notification?

8. Did the registry of your court remain accessible during the health crisis?

C. Hearing

9. Has there been any legislative or executive intervention to regulate the practical aspects of the hearings (wearing of masks, social distancing, Plexiglas, etc.) or has the Court dealt with these issues autonomously?

10. Were the hearings open to the public? Has the number of participants been limited (at the initiative of the court or on an exceptional legal or regulatory basis)?

11. Have hearings been replaced by remote hearings? Has the legality of such a modality been raised by the parties?

12. How did you guarantee the computer security for remote hearings? How were the practical aspects of these hearings settled (did you have to connect to a specific link, was it accessible to third parties, etc.)?

13. Have there been higher panel hearings to rule on Covid measures?