

Droit - Economie - Sciences Sociales

Session :	Juin 2018
Année d'étude :	Troisième année de Licence Droit
Discipline :	<i>Anglais juridique</i>
Examen :	Second semestre (UEC2 7396)
Durée :	1h30
Titulaires du cours :	M. Dino MELONI, Mme Emilie PERCHE

Les documents et les appareils électroniques ne sont pas autorisés.

I. Complete the following sentences, adding between 10 and 25 words. Do not start a new sentence. (20 points)

1. In order for the Rule of Law to be...
2. Since the Human Fertilisation and Embryology Act 2008...
3. While in criminal law...
4. Provided it is in the interest of national security or public safety...
5. Unless a claim has a value...

II. Read the text. Answer each of the questions in your own words (approximately ten lines/100 words for each question). DO NOT QUOTE FROM THE TEXT. (30 points)

Videolinks in court trials undermine justice system, says report

Owen Bowcott, *The Guardian*, Monday 23 October 2017

Video-conferencing threatens defendants' rights and undermines trust in the justice system, according to a report on the government's drive towards so-called "trial by Skype".

Defendants in virtual court hearings find it difficult to hold confidential discussions with their lawyers, become disconnected from remote proceedings and may be disadvantaged during sentencing, the study by Transform Justice suggests.

The findings, which are disputed by the Ministry of Justice, come as the courts pursue a £1bn modernisation programme introducing online hearings for a few minor offences and extending use of videolinks. A vast programme of court closures around England and Wales has seen around 250 magistrates, county and crown courts closed in the past five years.

There are no immediate plans for trials without a defendant being present. Some remand, case management and sentencing hearings are already conducted via videolinks with police stations or prisons. The next stage of the programme will be remote hearings in which lawyers remain in their offices while speaking via videolinks to clients who are in prison and to a judge in court. (...)

Videolinks are intended to save money by doing away with the need to transport defendants to and from prison frequently. They will also allow lawyers to work more efficiently from their chambers or offices. (...)

A survey of around 300 court users – including magistrates, lawyers, probation officers and defendants – found 58% of respondents thought appearing on video made it more difficult for defendants to understand what was going on and to participate.

A large proportion, 70% of respondents, said it was difficult to recognise whether someone who was on video had a disability, while 74% believed that those who had no legal representation were disadvantaged by appearing on video.

"Virtual technology inevitably degrades the quality of human interaction," the report says. "Nuances may be undetected, misunderstandings may go unnoticed more easily. Empathy may be lost.

"Defence counsel may find it harder to support their clients effectively, and there are some indications that the technology may actually affect court outcomes."

The report quotes an unnamed magistrate who commented that defendants on videolinks "appear disengaged and remote. They often give a nonchalant, poor account of themselves and we are left to infer that they couldn't care less that they are disrespectful of the court".

The only recent government research on the outcomes for defendants appearing on videolinks in England and Wales, according to the report, found they were more likely to receive custodial sentences and less likely to be given community sentences.

Video hearings reduce defendants' respect for the criminal justice system, the report maintains. "When separated by a screen, defendants are more likely to shout or walk out of a hearing." It says they are also more likely to disconnect mentally.

Consultations between clients and their lawyers are supposed to be confidential but those conducted over videolinks are "frequently overheard by others" because booths in which they are held are inadequately soundproofed.

The right to a fair trial, guaranteed under article 6 of the European convention on human rights, could be put at risk if defendants do not understand the process or are not actively engaged, the report suggests.

It quotes one anonymous lawyer on a case where a judge declined to sentence by videolink. When the defendant finally came to court, the judge said he had been inclined to impose a 10-year term but "after having a chance to see the defendant and his clear intellectual deficits" he reduced it to eight years.

Penelope Gibbs, director of Transform Justice and a former magistrate, said: "Our report sounds a warning bell. If video justice disadvantages disabled people and risks undermining trust in the justice system, is it worth forging ahead with trial by Skype? It's not clear what the cash savings are and closing our courts will be irreversible.

Mike Hough, a former Home Office official and professor of criminology, said: "For most citizens, court appearances constitute rare and important moments of interaction with the power of the state. It could prove a costly mistake to penny-pinch¹ when orchestrating these moments."

A Ministry of Justice spokesperson said: "We are investing more than £1bn to transform and modernise our court system. We know video hearings reduce court time, improve public safety and save money for the taxpayer. Videolink technology is also being used to make the court process easier for thousands of vulnerable victims and witnesses."

1. What reform of criminal proceedings does the article focus on? How is it being justified? (10 pts)

2. What criticisms of this reform are found in the article? (10 pts)

3. Discuss the underlined sentences. (10 pts)

¹ To penny-pinch: to deprive of funds by petty economy

III. Choose one of the following topics and write an essay in approximately 250 words (+/- 10%). (50 points)

1. Divorce law in England and Wales is outdated and should be reformed. Discuss.

2. Ms. Naomi Williams is a communications director at the English Anti-Immigration League. Although there is no official policy, all the senior staff are white.

One day, a childhood friend of hers sells pictures to the press that she took in the late 80s. The pictures show that Naomi has a black mother.

Naomi then gets fired from her job. As she leaves the office, a member of the organisation screams racial insults at her and punches her in the face.

What legal proceedings could arise out of this situation? Justify your answer. What are their likely outcomes?

