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on Families and Divorce Related Matters"

Authorized by
Asen Velinov, Esq.

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COVID and Lockdown Influences on Families and Divorce Related Matters: Practitioners' Perspectives from 28 Jurisdictions

Asen Velinov, Esq.*

Happy families are all alike; every unhappy family is unhappy in its own way – this held true during COVID times too.

The pandemic affected daily and professional routines globally. It left many without income, redefined work, complicated basic daily activities, disrupted existing dynamics, and put plans and travel on indefinite hold. The months of stress had immediate implications, but now that the pandemic is going through its hopefully final (yet drawn out and equally stressful) stages, the magnitude of its long-term economic, psychological and societal effects is also becoming obvious. Even if a return to “desired normalcy” is to happen, it will not do so simultaneously around the world.

COVID and the lockdowns and their effects disrupted and complicated the lives of families everywhere. What follows are insights from family and divorce lawyers in twenty-eight countries from all six permanently inhabited continents. We tried to figure out general, national, and regional trends, to look into additional factors and to see what other related changes occurred, such as introduction of virtual court proceedings.

The restrictions and lockdowns around the world kept many families physically closer for longer than ever, and others unable to reunite - with both involuntary separations and forced “overtime” together, sometimes escalating pre-existing conflicts and creating new ones. Beyond the immediate effects of the COVID restrictions - attitudes towards the restrictions themselves, and later toward vaccinations - also became points of friction. For many, daily stress levels were higher than before, and financial comfort levels lower.

Reports across jurisdictions vary - some indicate that COVID led to some divorces and expedited others (or as an often-mentioned unattributed quote goes: “My marriage had pre-existing conditions, and COVID killed it”), but it also delayed filings for practical or logistical reasons or caused some couples to cancel divorce plans altogether. There is also anecdotal evidence that lockdowns have brought some couples a new appreciation for each other.

The one overarching trend seems to be that in the context of everyday uncertainty and unpredictable timeline for a return to “normalcy,” people are less likely to initiate change – be it get married, divorced, or have children. Some U.S. data suggests that there may have been up to 339,000 fewer marriages and 190,000 fewer divorces in the United States during 2020 than expected, while also emphasizing a drop in birth rates.

Furthermore, COVID restrictions and limitations seem to have made the worst types of situations, like those involving domestic violence, even worse. Many jurisdictions report a rise in family violence, with some cases resulting in deaths. Options available to the victims very much vary, and the ones in economically worse off positions are most disadvantaged. One of the examples of how complex the processes at work are is that some countries report increased

* Asen Velinov is currently an international counsel at Co-Effort Law Firm, a consultant at Oriental Financial Channel, Shanghai Media Group, and a lecturer at Shanghai University of Finance and Economy and East China Normal University. Contact: asensv@yahoo.com | (0086) 15800501240

frequency and severity of domestic violence, while also reporting significant decreases in calls to helplines – likely indicating that the COVID related lack of privacy also means that many are unable to seek help. The UN has called domestic violence during COVID a “shadow epidemic.”

The lockdowns-related examples above don’t even address the direct COVID outcomes - hospitalizations and fatalities that have affected millions of families around the world.

Historical data shows that pandemics or catastrophic events have significant, and lasting, impact on family related processes: the Great Depression and the Great Recession reduced the US fertility rate, as did the recessions in Japan and the breakdown of the Soviet Union. Two decades ago, there was a significant increase in divorces filings in Hong Kong post SARS - 21% rise between 2002 and 2004.

When China first went into lockdown in the early days of the pandemic around January 19, 2020, there was a lot of uncertainty. It was also right before the Chinese New Year, when millions of people travel for family reunions or leisure. This period is often called the largest annual human migration. The sudden measures left hundreds of millions unable to travel at all, or unable to return to their usual cities of residence. Many were caught in transit too.

As the country settled into what was the perhaps the world’s most thorough and strict lockdown, there was at least one local government that saw a silver lining to it all – a widely circulated social media banner reminded families that because the one child policy is a thing of the past (replaced by a “two children per family” policy in 2016), spending time at home meant couples could “contribute” to the country by working on having another child. This best-case scenario did not materialize – recent numbers show a sharp drop in birth rates since the beginning of the pandemic. The once-in-a-decade China census results were just released, and it now seems that COVID worsened the trend of falling fertility rates. Perhaps there is truth to how the FT put it in an article from this March – “the *mental toll of being constantly cooped up, even — or especially — with a long-term partner, can be a powerful contraceptive.*”

Indeed, the BBC reports that at least one US study found that 40% of people surveyed (regardless of gender or age) reported a decline in their sex life during the pandemic – and results were similar in China. But this is by no means a global trend. In South Asia, for example, a survey reported no such decline and reports from Indonesia are that because of lack of access to birth control for up to 10 million people at least half a million extra babies might be born as a result of the pandemic. A government message asked “Dads, please control yourselves. You can have sex. You can get married. But don’t get pregnant.”

Thus, we have seen both significant, actual, already materialized and undesired drops in fertility rates in some countries, while the UN warns about millions of unintended pregnancies in 115 countries. There are differences even within Europe - a study found lower birth rates in Germany, France, and the UK, as well as people being likely to postpone having children for now, while countries such as the Netherlands, Norway, Denmark, and Finland are reporting little or no decline in births in December 2020 and January 2021.

In the lockdown days in China there was also a joke circulating that millions of cell phones have gone off the grid because, while stuck at home with their spouses, people had to turn off the backup phones they used to have affairs. It is not too much of a stretch to conclude that the pandemic also affected numerous extramarital affairs.

As soon as lockdown measures relaxed, in March and April of 2020 there were immediate reports of “unprecedented” numbers of divorce filings. Reports of increased domestic violence also gained attention, as well as inquiries for referrals to family lawyers, including by many expat couples.

COVID is however not the only factor, and it combines with a unique set of conditions in each country. In the case of China, it is noteworthy, for example, that divorce by mutual consent, without having to go to court only became possible in 2003 - when 1.3 million couples divorced, and the rates kept rising, peaking at 4.5 million in 2018, and only slightly decreasing in 2019 (to 4.15 million). Also, the area of law is dynamic - as of January 1, 2021, divorce filings by mutual agreement are subject to a 30-day cooling-off period, i.e., the couple must return 30 days after the initial filing for the process to go forward; any one of the spouses can unilaterally stop the process during the cool-off period, leaving the other one no other option but to initiate a court proceeding. China related developments are explored in more detail below. Recent reports indicate major drops in divorce rates due to the cooling off period requirement. To further counter the issue of an aging population and low birth rates China announced a new three children per family policy on June 1, 2021, met with a general lack of enthusiasm, at least on social media.

In the U.S. no dramatic spike in divorce filings seems to have happened thus far, but family law practitioners still predict it post-pandemic. Sales of online self-help divorce agreements rose by 34% during the pandemic months, and family lawyers surveyed in April and July of 2020 reported a 25% to 35% increase in requests to start divorce proceedings compared to the same time in 2019. It seems that 2020 divorces have been mostly uncomplicated and uncontested ones, perhaps because practical considerations might be a factor in delaying complex ones. The U.S. is reopening so the next few months will be interesting to keep track of.

However, as some societies now have a semblance of normalcy, others like India are currently going through even worse outbreaks than the initial one, and many around the world are unable to make reliable plans beyond the very short term. International borders remain largely closed international businesses and families continue to be affected.

Moreover, COVID also catalyzed technology related processes – and in many cases led to efficiency. Virtual court appearances in some countries made the process safer but also faster and cheaper. Many lawyers that were interviewed now hope that this will remain in place for the future. In many jurisdictions, however, the technology was not in place to make up for physical court closures, and also the most disadvantaged and affected financially are least likely to be able to take advantage of technological developments.

These are just a couple of the various outcomes and multiple interconnected and conflicting processes going on that affect family matters post and during the pandemic. What follows is the feedback and interview responses by family law practitioners from 28 jurisdictions. The highlights of each interview are below and the interviews are presented in their entirety in Appendix 2. The highlighted parts are subjective – they attracted the author’s attention or stood out among the responses received.

Family law attorneys from over 80 jurisdictions were approached, and responses were received from 28 jurisdictions. The answers were received between late February and mid-May 2021.

They are minimally edited and also provide an interesting glimpse into the practice of family law around the world. The interviewees were approached on the basis of their previous publications, previous cooperation with the author, and membership in family law related organization, so many have different practice focus within the area of family law. What follows is not a comprehensive study, but a fascinating glimpse at COVID influences on family matters and family law practice around the world.

The questions asked are below:

1. How has the past year affected your work in particular and family law issues in general - what are trends and common issues you have observed? In your jurisdiction - has COVID broken up families or brought them close together? Any Anecdotes - what have you seen or how have people's thoughts changed?
2. Have reports of domestic violence increased in frequency over the past year?
3. Has the pandemic made divorce a luxury for some in your jurisdiction?
4. If it is possible to wait it out (with no physical danger etc.) file now or wait? Can you start your divorce from home? What are the practical/ legal/ procedural considerations in your jurisdiction? Are courts backlogged/ are they hearing all matters?
5. Alternatives to court - binding mediation/ arbitration?
6. Custody and visitation issues to highlight if any
7. International related issues and considerations if any?
8. Non COVID related developments - legislative or otherwise specific to your jurisdiction you wish to highlight?
9. Effects of doing things online going forward - commoditization of divorce/ DIY divorces/ mediation? What parts of the practice do you foresee will stay virtual?
10. What are your expectations post pandemic on family dynamics, divorce and marriage rates? What should people be adding to their prenuptial agreements post-pandemic?
11. Any cultural specifics as to how people get married and the social acceptance of divorce - and the role those have played?

The simplest and shortest responses from lawyers approached illustrate the range of COVID effects around the world:

From Denmark: "I do not see many changes in my daily work as a family lawyer."

From Russia: "Would love to, but due to the amount of work these days, cannot."

From Hungary: "Would love to but snowed in under divorce filings!"

List of Jurisdictions:

1. Australia
2. Austria
3. Brazil
4. Bulgaria
5. China
6. Colombia
7. France
8. Georgia
9. Germany
10. India
11. Indonesia
12. Iran
13. Italy
14. Malaysia
15. Mexico
16. The Netherlands
17. Nigeria
18. Senegal
19. Slovak
20. Spain
21. Switzerland
22. Turkey
23. UAE
24. UK
25. Ukraine
26. USA (California)
27. USA (Louisiana)
28. Vietnam

List of Contributors:

1. **Australia** - Justin Dowd, Watts McCray, jdowd@wattsmccray.com.au
2. **Austria** - Dr. Alfred Kriegler, Dr. Alfred Kriegler Rechtsanwalt, kriegler@divorce.at
3. **Brazil** - Cláudio Antônio Klaus Júnior, juniorklaus8@gmail.com
4. **Bulgaria** - Nadia Rusinova, www.womeninforce.eu, nadiarusinova@yahoo.com
5. **China** - Honglin Tan, Shanghai AllBright Law Offices, tanhonglin@allbrightlaw.com
6. **Colombia** - Paula Camacho Henao, Brigard Urrutia, pcamacho@bu.com.co.
7. **France** - Delphine Eskenazi, Libra Avocats, deskenazi@libra-avocats.com
8. **Georgia** - Tamar Menteshashvili, SJTU, s1471789@sms.ed.ac.uk and Davit Kakoishvili, BGI Legal
9. **Germany** - Dr. Daniela Kreidler-Pleus, kanzlei@kreidler-pleus.de
10. **India** - Mohit Kaushik, Trinaya Legal, mohit@trinayalegal.com
11. **Indonesia** - Andika Gerroleon Andari, AGA Law Firm, andika@agalaw.id
12. **Iran** - Saeid Shabani, shabani_saeid@hotmail.com
13. **Italy** - Romualdo Richichi, Studio avv.prof. Emidia Zanetti Vitali, romualdo.richichi@gmail.com
14. **Malaysia** - Venice Lee, Ricky Tan & Co., venice@rickytan.com.my
15. **Mexico** - Hector de Avila, De Avila Law Firm, h.deavila@sbcglobal.net
16. **The Netherlands** - Magali van Maanen, De Boorder, mvanmaanen@deboorderadvocaten.com
17. **Nigeria** - Efe Etomi, Chief Rotimi Williams' Chambers, eoe@frawilliams.com
18. **Senegal** - Lamine Balde, SJTU, baldelamine912000@gmail.com
19. **Slovakia** - Daniela Jezova, Law Offices of Daniela Jezova, jezova@lawyer.com
20. **Spain** - Elena Zarraluqui, Elena Zarraluqui Abogados, elena@elenazarraluquiabogados.com
21. **Switzerland** - Lisa Locca, Locca Pion Ryser, locca@loccapionryser.ch
22. **Turkey** - Mert Yalçın, Yalçın & Toygar Law Office, myalcin@ytlaw.com
23. **UAE** - Dr. Hassan Elhais, Al Rowaad Advocates & Legal Consultants, info@alrowaad.ae
24. **UK** - Stuart Clark & James Netto, The International Family Law Group LLP, stuart.clark@iflg.uk.com, james.netto@iflg.uk.com
25. **Ukraine** - Iryna Moroz of AGA Partners, moroz@agalawyers.org & Oksana Voynarovska, voynarovska@vkp.ua, Daria-Oleksandra Zagorui, zagorui@vkp.ua - Vasil Kisil & Partners
26. **US (California)** - Mende Romania, Bartholomew & Wasznicky LLP, mende@divorcewithrespect.com
27. **US (Louisiana)** - Frank Tranchina, Tranchina and Mansfield, frankt@tmlawfirm.net
28. **Vietnam** - Nguyen Phuoc Bao Tri, JLPW Vinh An Legal, tri.nguyen@jlpwvinhan.legal

Australia - Justin Dowd, Watts McCray, jdowd@wattsmccray.com.au:

“Virtual hearings here to stay. Working remotely became a reality.”

There is anecdotal evidence of more people staying together, because of the near impossibility of re-housing, but measured against anecdotal evidence of couples who, when forced to stay together, without the release of work/ sport/ (other relationships?) It is too early to assess.

There appears to be convincing statistics to suggest that compulsory lockdowns and other restrictions have led to more frustration, anger, and violence in the home.

Divorce in Australia cannot be sought until the couple has been separated for more than 12 months, so we don't have any statistics yet of the effect of COVID.

Courts, after an initial settling in period, have coped well with the pandemic. Many courts are now routinely done by telephone or video conferencing.

Mediation and, increasingly, arbitration are important parts of the family law dispute resolution process in Australia. Court rules have been extended to encourage arbitration in financial matters and this is having a measurable and positive impact on the Courts' caseloads.

Many of the regular processes are likely to remain virtual; mediations/court appearances I believe will remain certain to occur virtually. I think there may be an increase in the divorce rate as soon as the pandemic is under control.

Click for full text: [Australia](#) (or refer to page 28)

Austria - Dr. Alfred Kriegler, Dr. Alfred Kriegler Rechtsanwalt, kriegler@divorce.at:

“Dip in divorces.”

Spouses were reluctant to divorce, and there was only a minor increase in reports of domestic violence.

Click for full text: [Austria](#) (or refer to page 30)

Brazil - Cláudio Antônio Klaus Júnior, juniorklaus8@gmail.com:

“Doesn’t seem that COVID brought families closer together.”

In the past year, there has been a big increase in the divorces nationwide. In Brazil, you can divorce through a judicial suit (in general this case is used if there is litigation or minors involved) or at a notary office (which is normally a lot faster). As an intern at a land registry office, I was able to observe an increase in the new processes either because of divorce or also because of death due to

COVID-19. Unfortunately, I cannot really say that COVID brought families close together. Happily, several institutions started to accept non-presential meetings as well as received digitally signed documents.

Official sources have announced that there were over 105 thousand reports of domestic violence in 2020, some states registered an increase of over 88%. We cannot say, for sure, if the violence was already there and nobody around to report it to the police and protection channels, but it seems to be a good thing that we are having these reports and public authorities have a more accurate view of what is happening.

Click for full text: [Brazil](#) (or refer to page 31)

Bulgaria - Nadia Rusinova, www.womeninforce.eu, nadiarusinova@yahoo.com:

“The lockdowns brought together the strong families and tore apart the weaker ones.”

The domestic violence cases are to this moment as twice as before, and in my practice the divorces are as well increasing. I would say the lockdowns worldwide brought together the strong families and tore apart the weaker ones. Yes, and not only the numbers, but as well the types of violence “evolved”. Online violence and harassment are much more widespread, and as well the mandatory homestay brought more physical violence. Divorce has never been a luxury in Bulgaria and the Netherlands, where I have my practice. On the contrary, many divorce lawyers due to the COVID restrictions mastered their virtual services, which made the consultations and family mediation much more accessible.

The courts were in some way backlogged in the first months, but up to date I believe the backlog particularly in family disputes is not significant. This is also remedied due to the fact that the procedures concerning children were handled with urgency in the majority of cases during the pandemic.

In my view the digital technologies in family disputes are invaluable and their use should be gradually increased. Naturally, there are issues that cannot be solved online and in general the human factor in child-related proceedings is crucial. However, online platforms for communication, legal advice or even filing divorce papers should be encouraged as additional tool to support the parents and ease the communication with their lawyers.

Click for full text: [Bulgaria](#) (or refer to page 33)

China - Honglin Tan, Partner, Shanghai AllBright Law Offices, tanhonglin@allbrightlaw.com:

“Many factors at work.”

Observed trends: Compared with the previous year, in 2020, the number of marriages continued to decline, and the number of divorces also decreased. According to preliminary statistics from the

Ministry of Civil Affairs, the number of marriages began to decline in 2014, and the number of marriage registrations has declined for seven consecutive years. In 2020, 8.131 million couples were registered for marriage with 1.142 million fewer than the previous year.

In recent years, the number of couples registered for divorce has been increasing. In 2016, 3.486 million couples registered for divorce at the civil affairs departments, and in 2019 4.047 million couples registered for divorce. However, in 2020, 3.733 million couples registered for divorce nationwide, which is a decrease compared with the previous year.

For couples who choose to divorce by agreement, the marriage registration department is still working during the pandemic. Both parties could also make an appointment to solve the issue, but the appointment quota was limited, and the registration needed a long time to make an appointment.

For couples who need to divorce through litigation, if there is no legal reason for divorce, it would be difficult for the court to determine separation because both parties have to live in the same space for a long time during the pandemic, and the time period required by the overall divorce through litigation might be extended during the pandemic.

During the pandemic, the marriage registration authority did not open online procedures for those couples who chose to divorce by agreement. They used the procedure of online appointment and offline processing, so they could not complete the divorce procedures at home.

Chinese courts have adopted a variety of online court hearings during the pandemic, so the progress of case trials is generally normal.

During the pandemic, overseas clients who choose to divorce by agreement in China may need to postpone the divorce because the Chinese marriage registration authority requires them to attend the divorce registration in person, which is unable to entrust others to process and there is no way of online processing.

As mentioned earlier, according to official statistics, the divorce rate decreased during the pandemic compared with the previous year, but it is still impossible to judge what trend the divorce rate will show after the pandemic.

Click for full text: [China](#) (or refer to page 35)

Colombia - Paula Camacho Henao, Director, Brigard Urrutia, pcamacho@bu.com.co:

“The sense of vulnerability forced many to rethink their situation and update their wills.”

In the wake of the pandemic and in the past year we have seen an increasing number of people seeking legal advice to grant or modify their wills. We believe it is due to the perceived vulnerability they might have on account of the global scenario, and the concern to ensure the welfare of their loved ones, particularly minors and the elderly. In the past year we have also seen an increase on divorces. Mandatory confinements, childcare, household care, and work from home

are factors that have impacted relationships and even taken them to an end. Nevertheless, we have also noticed that the pandemic brought some couples even closer together, since they are able to distribute house duties between them and spend more time with their families. Unfortunately, domestic violence cases have also increased in Colombia over the past year. We always encourage our clients and families in general to avoid physical confrontation and to report their perpetrator, in order to protect themselves and their children if they get caught in such a situation.

If the couple reaches an agreement, they can get divorced before a notary. If they do not, then any party can file a divorce lawsuit before a Colombian family court basing his or her claims on any of the grounds provided by law.

Due to COVID-19 our legal system was forced to hold virtual hearings and to accept electronic signatures for different documents, amongst other changes. Thus, we believe the pandemic will lead to the virtualization of several processes in Colombia, and that in the foreseeable future some judicial procedures and hearings will remain virtual. Nevertheless, there are some notarial procedures that have not been virtualized, such as granting a will or notarizing a signature. Even though the Colombian government is working on virtualizing more than 450 notary procedures that will include civil registrations, authentications and so on, this could be a lengthy process and may not include all notarial procedures.

Click for full text: [Colombia](#) (or refer to page 40)

France - Delphine Eskenazi, LIBRA Avocats, deskenazi@libra-avocats.com:

“Spike in domestic violence cases.”

The COVID-19 epidemic has created many issues regarding family law.

One recurrent issue has been visitation and access rights to children between separated parents.

In France, the reports of domestic violence across the country have jumped by more than 30% since the country went into lockdown on March 17th.

France already has one of the highest rates of domestic violence in Europe. Every year, an estimated 219,000 women, aged 18 to 75, face physical or sexual violence by current or former partners, but only 20% report it. According to official figures, one woman is killed by a partner or former partner every three days¹.

For this reason, I would still advise to file and start the process, rather than wait, since the delay of the French courts will not increase in the near future, even after the end of the COVID-19 crisis.

In regard to divorce proceedings, French courts have not used video/ remote hearings for the moment since the technological possibilities are not set up in France. As a consequence, many

¹ <https://www.euronews.com/2020/03/28/domestic-violence-cases-jump-30-during-lockdown-in-france>, accessed 3rd April 2020

hearings where the physical presence of the parties is required, have been postponed due to the parties' impossibility to travel.

As explained above, unfortunately, French courts have not used the online tools to maintain the judicial activity during this period.

Click for full text: [France](#) (or refer to page 43)

Georgia - Tamar Menteshashvili, SJTU, s1471789@sms.ed.ac.uk and Davit Kakoishvili, BGI Legal:

“No reports of major changes.”

Comparative analysis of the last 3 years of number of divorce cases shows that during the pandemic for the number of divorces decreased and no increase in family violence has been reported.

Click for full text: [Georgia](#) (or refer to page 47)

Germany - Dr. Daniela Kreidler-Pleus, Law Offices of Kreidler-Pleus, kanzlei@kreidler-pleus.de:

“Abundance of caution.”

Our general impression is that people are cautious and other issues have priority at the moment. Many people are threatened by job loss, have children to care for at home, and are generally burdened by the overall situation. People seem to be less concerned with planning their lives for the long term and rather live from day to day.

But we know from other German colleagues, for example the Berlin-Schöneberg District Court, was actually closed during the first lockdown, but all eight violence protection chambers were at capacity and continued to work.

Our current perception is that people hold off on relationship problems and divorces, postponing them until after the pandemic, when it will also be clearer how the financial situation will develop.

In the meantime, sufficient case law has accumulated to establish criteria for visitation during a pandemic. If one parent denies the other parent contact with the child by referring to mere health concerns, this is not sufficient. Nor is reference to curfew restrictions or pre-existing illness of the child or parent sufficient to deny contact. Therefore, an administrative fine may be imposed on the refusing parent.

As soon as the future becomes more predictable for people again, we expect an increase in the divorce rate but also in the number of marriages, as wedding ceremonies and parties will then also be permitted again.

Click for full text: [Germany](#) (or refer to page 48)

India - Mohit Kaushik, Trinaya Legal, mohit@trinayalegal.com:

“The pandemic gave rise to a new kind of inequality, as access to justice became dependable on access to technology.”

As per Times of India report title as “How the lockdown is cementing relationships and bringing families together” dated 14.05.2020²:

“Unlike past years, the onset of the global pandemic and the resultant lockdown, has given families across India and the world a new lease of familial bonding that was otherwise hard to come by. For the first time in a long time, many parents and kids—and even grandparents—are all under the same roof, round-the-clock. And this enforced togetherness can deepen relationships for years to come.

Within a few days of the lockdown in India, the National Commission of Women (NCW) noted a rise in the number of domestic violence complaints received via email. The NCW chairperson believes that the real figure is likely to be higher, since the bulk of complaints come from women who send their complaints by post, and might not be able to use the internet. Between the beginning of March and April 5th, the NCW received 310 grievances of domestic violence and 885 complaints for other forms of violence against women, many of which are domestic in nature—such as bigamy, polygamy, dowry deaths, and harassment for dowry.

“Over 18 lakh pleas were filed across courts in India during the coronavirus-induced lockdown between March and July, Supreme Court judge Justice D Y Chandrachud said on Saturday. He also said that virtual courts, which have been set up under “very very exceptional circumstances”, are not here stay and the physical courts would gradually start functioning once again.

However, the pandemic gave rise to a new kind of inequality, as access to justice became dependable on access to technology.

That on account of the covid-19 pandemic, the Courts i.e., Supreme Court of India and State High Courts from time to time issued elaborated Standard Operating Procedure (SOP) for e-filing, mentioning, listing and hearing of matters through video conferencing/tele-conferencing mode.

Click for full text: [India](#) (or refer to page 51)

Indonesia - Andika Gerroleon Andari, AGA Law Firm, andika@agalaw.id:

“300% spike in child marriages.”

² <https://timesofindia.indiatimes.com/life-style/spotlight/how-the-lockdown-is-cementing-relationships-and-bringing-families-together/articleshow/75731732.cms> accessed on 05.04.2021

Several local Indonesian media report an increase in the number of divorce cases filed with both the Religious and District Courts. CNN Indonesia in June 2020 covered an increase by threefold in the number of divorces at the Semarang Class 1A Religious Court, from 98 cases in May 2020 to 291 cases in June 2020. One of the plaintiffs interviewed by CNN Indonesia explained the reason for her divorce, namely that her husband had stopped giving living.³

Other coverage from West Java, detik.com reported an increase in the number of divorce cases at the Bandung Religious Court from 2,734 cases in May 2020 to 12,617 cases in June 2020 although then decreased slightly to 11,797 in July 2020. Detik.com reported a total of 55,876 divorce cases from January 2020 to August 2020 with the three most dominant factors: disputes and continuing fights (29,033 cases), economy (23,476 cases) and leaving one party (2,511 cases).⁴ An increase in the unemployment rate of 2.67% and the sluggishness of the local economy can be said to be one of the factors for the increase in divorce.⁵

However, there is a trend of child marriage in Indonesia during the pandemic that spike up to 300%. Directorate General of Religious Courts (Badilag) Supreme Court, in the last five years. He found that the rate of marriage dispensation has jumped sharply, especially in the last two years. In 2016 there were 6,488 dispensations granted; 2017 there were 11,819; 2018 there were 12,504; in 2019 there were 23,126; and in 2020 as many as 64,211.⁶

This surge in marriage dispensation was caused by various factors. First, the existence of regulations that became loopholes, after the amendment to the Law on Marriage Number 16 of 2019 which came into effect on October 15, 2019. This law contains issues regarding marriage dispensation or the right to marry even though they are not 19 years old. Article 7 paragraph 2 of Law Number 16 Year 2019 states that marriage dispensation is given for urgent reasons, forced, and must be strengthened by supporting evidence.

The exclusion of underage marriages with these “urgent conditions” is a gap in the law of marriage under 19 years of age. Another factor that causes the high rate of marriage dispensation is likely due to pandemic conditions, children unable to attend school face-to-face as well as family economic difficulties: this economic difficulty being one of the urgent reasons to marry off children.

Click for full text: [Indonesia](#) (or refer to page 57)

Iran - Saeid Shabani, shabani_saeid@hotmail.com:

³ CNNindonesia.com, <https://www.cnnindonesia.com/nasional/20200624103600-20-516800/perceraiannyaik-3-kali-lipat-selama-wabah-corona>, accessed 30 April 2021

⁴ Detik.com, <https://news.detik.com/berita-jawa-barat/d-5152007/angka-perceraiandijabar-capai-55876-kasus-melonjak-saat-psbb>, accessed 30 April 2021

⁵ Kompas.com, <https://www.kompas.com/tren/read/2020/12/19/180200765/refleksi-perekonomian-indonesia-2020-dan-harapan-pada-2021?page=all>, accessed 30 April 2021

⁶ Directorate General of Religious Courts (Badilag) Supreme Court, [https://badilag.mahkamahagung.go.id/perkara-diterima-dan-diputus-pada-tingkat-pertama](https://badilag.mahkamahagung.go.id/perkara-diterima-dan-diputus-pada-tingkat-pertama/data-perkara/perkara-diterima-dan-diputus-pada-tingkat-pertama), accessed 30 April 2021

“Significant increase in divorce filings, still a culturally and religiously complex area.”

Yes, the rate of divorce in Iran increased three times since 2019.

The jurisdiction in Iran influenced by the Islamic rules especially in the divorce cases.

According to Islam, divorce is Makruh for the families. But what is the meaning of Makruh? According to the religion, Makruh is an act that is not neither allowed nor prohibited in Islam. It means it has a reward from the god if you don't do it but if you do, there is no punishment from the god! In the other words, it is better to not do it but if you do, it is fine.

Regardless of pandemic situation, the divorce has a long procedure in Iran and sadly, the regulations in Iran are in favor of men and against the women.

“In Iran, we are not able to fill the online application for divorce because the judicial system in my country is very old and there is no new method of using technology in the legal services.

According to the Iranian law, after the divorce of the couple from each other, the priority of caring for the children until the age of 7, the girl and the boy will be the responsibility of the mother. After the age of 7, their children will be in the custody of the father.

I think after pandemic, the divorce rate will increase because in some cases I have seen than women decide to divorce, but because of the pandemic situation, they will not risk going to court and may also find difficulty in looking for employment during COVID. This may ultimately delay their decision in request for divorce.

Click for full text: [Iran](#) (or refer to page 60)

Italy - Romualdo Richichi_Studio avv. prof. Emilia Zanetti Vitali, romualdo.richichi@gmail.com

“COVID sped up the implementation of remote hearings.”

Somehow, paradoxically, the fact that we got rid of the need of being physically present in Court for many steps of family (and other) proceedings, while diminishing to a measure the immediacy of the judgement (which, anyway, was never the main strength of Italian proceedings), allowed some Courts to treat simple cases and proceedings related to the issue of orders by consent much more quickly than it was customary before the Coronavirus outbreak. Furthermore, even if it is not possible to start legal separation or divorce proceedings from home, it is possible to take all the relevant steps remotely, sending petitions, statements and attached evidence to the Courts by certified e-mail (please note that this possibility has not been developed as a remedy to the Coronavirus situation, because the so-called “telematic trial” has been working since 2007).

However, most problems have been solved when the government made clear that travel restrictions do not apply to people pursuing visiting rights. After the Coronavirus outbreak, obviously, many marriages have been postponed, due to the impossibility of holding ceremonies and parties, but

even if the number of married couples and of traditional families is steadily declining since the late sixties, I do not believe that the pandemic will have any lasting effect on this trend. While social acceptance of divorce (which was made legal in Italy fifty-one years ago), is nowadays complete and is not an issue, even in the most backward and conservative places of the Country.

Click for full text: [Italy](#) (or refer to page 63)

Malaysia - Venice Lee, Ricky Tan & Co., venice@rickytan.com.my:

“Being stuck at home together was the last straw for many marriages.”

During the past year, I have had many enquiries on divorce matters. The common issues that led them to filing divorce were financial constraints or domestic violence in the family.

That said, this COVID-19 pandemic does actually bring many families closer together. I have a personal friend who was busy with his work before the MCO. However, his relationship with his wife and children became stronger as they spent more time with each other. They cooked, watched movies, and chatted more than ever during the MCO.

I can only speak on this based on statistics and news report in Malaysia. According to a news portal, it reported that Bukit Aman’s Sexual, Women and Child Investigations Division analysis showed a 20% decrease in domestic violence cases.

It is often jokingly said that our routines may have stalled during the COVID-19 pandemic, but the desire to divorce certainly hasn’t. However, this is true to a certain extent in Malaysia because most divorces were filed on the basis of a “last straw.” The COVID-19 pandemic served as a real wake-up call for the spouses who started to rethink of ending their marriage.

This means that most spouses were already having issues with each other before the COVID-19 pandemic. However, now that they were being forced to stay at home with their partner day in, day out – the cracks in their relationships got bigger.

Click for full text: [Malaysia](#) (or refer to page 65)

Mexico - Hector de Avila, De Avila Law Firm, h.deavila@sbcglobal.net:

“Reports are down, but not the violence.”

Family law issues in Mexico remain the same as per legal regulations; however, procedures changed only to accommodate COVID restrictions. A common trend is that there will be a better use of technology in legal matters, but the government and many attorneys are still reluctant to embrace the changes.

COVID is just bringing family issues to the surface. Families in Mexico were broken before COVID, the pandemic just made them visible. Domestic violence incremented in Mexico during COVID; however, limited economic resources and the lack of government legal assistance reduced the chances to break the violence cycle. People in Mexico are reconsidering if the “traditional Mexican family” is still an option; increment in violence and dysfunctional family relations are changing the concept of family.

No, over the past year there were less reports of domestic violence due to the lack of assistance and mobility for the victims. The Mexican Government is using this reduction in reports as a political toll stating that violence and crimes are going down; however, the reports are down, not the violence.

In Mexico it is not possible to start divorce from home. Mexico is behind in the use of technology in the administration of justice, not for the lack of resources or technology but for the intricate and highly bureaucratic procedures.

Mediation is mandatory in Mexico for family matters, but the legal culture is lagging behind; parties and attorneys rarely reach agreements during mediation prior to the formal court process.

This made the international matters fall in a legal limbo for months, and many are still without being processed.

Mediation is feasible to do virtually, but unfortunately over 52% of the Mexican population do not have access to Internet or smart devices, and only 2 out of every 10 households in Mexico have access to Internet.

There is going to be a decrease in marriages and an increment in divorces. It will be fantastic that people in Mexico will use prenuptial agreements. The Mexican laws provide prenuptial agreements; however, big part of the population consider them a taboo or an offensive topic.

Click for full text: [Mexico](#) (or refer to page 69)

The Netherlands - Magali van Maanen, De Boorder, mvanmaanen@deboorderadvocaten.com:

“Some people finally had enough free time to divorce.”

Due to COVID, last year we had a dip in new cases coming in. On the other hand, people who had been contemplating a divorce for a longer period of time have found their way to our office. My guess is because they finally had time to address their problem; there was nothing else to do.

On a more personal work-level things certainly changed as everyone was working from home. On the one hand it increased efficiency, on the other hand it was more difficult to create a bond between co-workers.

Domestic violence cases did not increase in number in my practice, although according to the news this is the case.

It is certainly possible to start your divorce from home. The contacts between the clients and the lawyers can go through video conferencing and the lawyer can file the petition for divorce. The courts are indeed backlogged, but “new” divorce cases are not really taking longer than they used to. The first (and usually only) hearing is usually about 1 year after the petition is filed.

However, in The Netherlands 94% of divorces are settled out of court, for instance through mediation. The court then only handles the divorce administratively: the parties’ agreement is stamped, and the divorce is pronounced. There is no need to physically appear in court.

During the first wave, in April/May 2020, there were several cases in court concerning parents who refused to hand over their children saying it was a health risk. This was not considered a valid reason to keep the children away from the other parent. In the past few months there have not been any COVID related cases on custody cases in my practice, just the regular cases.

I prefer physical hearings over online ones. However, we now also have “hybrid” hearings which help me go to court and allow my client abroad to be present at the hearing online.

Click for full text: [The Netherlands](#) (or refer to page 84)

Nigeria - Efe Etomi, Chief Rotimi Williams' Chambers, eoe@frawilliams.com:

“Small families are coping worse than large ones.”

Whilst separations may have increased, divorces haven’t increased commensurately perhaps because our courts were shut for some time and are presently running at half strength with priority given to political matters. Then of course the most popular ground for divorce is the provision of the Matrimonial Causes Act to the effect that parties to the marriage have lived apart for a continuous period of at least two years immediately preceding the presentation of the petition and without objections from the respondents. There are, however, unconfirmed reports that divorce cases have skyrocketed recently in some places in Nigeria. For example, it was recently trending on social media that over 4,000 divorce cases had been filed in Abuja, the Federal Capital Territory, this year alone. On the other hand, the pandemic has presented immense bonding time for many families I know. First, some members are all together under one roof and find common things to do. In my family, for example, we work out together, play basketball and volleyball, take walks with the dogs, and play indoor games together. We are really taking this opportunity to enjoy ourselves and bond more. This has been a welcomed development.

There have been reports of domestic violence in relatively small families, partly because the frequent interaction becomes too boring, and they take out their frustrations on each other. This is less with larger family units where there are more choices of things to do and company to keep.

However, I must be quick to say that most cases are not officially reported. You can’t start divorces at home as there are minimal virtual hearings to assist any kind of home service.

Culture plays a strong role in family affairs generally in Africa and marriages are viewed as union between families. Thus, families mediate a lot in marriage feuds and in many cases have saved these marriages. Similarly, when differences amongst couples become irreconcilable, these cultural influences can help make separations less painful. This is not to say divorces are easily welcomed in Africa.

Click for full text: [Nigeria](#) (or refer to page 71)

Senegal - Lamine Balde, SJTU, baldelamine912000@gmail.com:

“The more recently married couples are faring worse.”

Divorce cases have increased sixfold. In the second quarter of April, May and June, measures to combat COVID-19 led to 30 divorce cases filed in Dakar. However, during the first quarter, the Ministry of Justice recorded only 5 filed cases.

COVID-19 has mostly affected young couples (5-6 years of marriage) but strengthened marital bonds in harmonious families.

The pandemic also motivated some couples to have children.

A study reveals that out of a total population of 1,056 women/girls in six countries surveyed, total domestic violence, both verbal and physical, increased from 40.63% before the COVID-19 crisis to 52.18% during the pandemic crisis: an increase of 12%. This data comes from a survey report on the impact of COVID-19 on violence against women and girls in Chad, Niger, Mali, Burkina Faso, Mauritania and Senegal, commissioned by Justice and Dignity for the Women of Sahel (JDWS).

At present, the judicial system cannot conduct online filings and hearings.

However, traditional marriages also exist, those linked to ethnic groups. In Senegal, marriage is very much a family affair. A boyfriend can propose to a girl, but the proposal lapses without her family's consent.

The boyfriend must approach the girl's family through her father or uncle. In Senegal, regardless of COVID-19, divorce is seen as a social risk because it can lead to single-parent families. Divorce is perceived as an abnormality, explaining the prevalence of remarriage in the country.

Click for full text: [Senegal](#) (or refer to page 73)

Slovakia - Daniela Jezova, Law Offices of Daniela Jezova, jezova@lawyer.com:

“Net positive effect for families.”

Preliminary data show that the pandemic and lockdown have reduced the number of marriages, but also divorces in Slovakia.

During the lockdown period, there was also a significant decrease in the number of divorced marriages, although in the second half of the year they increased. In the months of March to May 2020, the number of divorces decreased by 45 percent compared to the same period of 2019. On the contrary, in the months of July to September there was an increase in the number of divorces by 22 percent compared to the same period of 2019. Other months of 2020, 6,927 divorces were reported, which is 894 divorces (11 percent) less than in the same period in 2019 and 899 divorces (11 percent) less than in 2018.

From these data, it appears that the coronavirus pandemic and its associated limitations will have a rather positive effect on the stability of the marriage and the reduction of divorce rates.

The COVID-19 pandemic brought a significant increase in domestic violence. Not only is its intensity increasing, but so is its brutality.

A total of 1461 crimes were committed by "relatives" in domestic violence offenses in 2020. This represents a year-on-year increase of 55 cases.

Divorces or minor children cases are excluded from arbitration. In Slovakia, there is also not a binding mediation, all agreements in relation to minor children must be approved by court. Only the court might divorce a marriage.

The number of divorces will undoubtedly increase after the pandemic. In addition to the economy, COVID-19 will also affect families and interpersonal relationships. Stress, isolation, or submarine disease will certainly take its toll. The number of suicides and divorces are already growing in the world, although this has not yet manifested itself in Slovakia, it is certainly possible to expect an increase in divorces in the future.

Click for full text: [Slovakia](#) (or refer to page 76)

Spain - Elena Zarraluqui, Elena Zarraluqui Abogados, elena@elenazarraluquiabogados.com:

“Digital court proceedings didn’t catch on.”

However, once the Courts resumed their routines and people were able to leave their homes due to the lockdown ending, we witnessed an outburst in requests of people who were seeking legal advice. There’s been an increase not only in divorce petitions, but also in modifications of measures that had already been set, the establishment of measures for parents who haven’t married and, also, a lot of requests for disablement and inheritance cases.

Reports say that this past year domestic violence has had less deadly victims than it has left in the past, being 2020 the year with less victims since Spain has started officially registering these deaths back in 2003. However, there’s been an increase in violence against the women since the Covid-

19 and the measures that have kept people in lockdown have made many of these extreme situations worse.

Usually, the worst time in these delicate scenarios is when the victim tries to leave the house. Since in Spain we've been in a complete lockdown, being confined to our houses and with movement restrictions, victims haven't been able to move out or even file a report before the police, being subjected to the abuser for a longer time. Nonetheless, once the lockdown was over, victims have gone through with their respective reports.

It's been somewhat hectic since at first Courts wanted to set hearings via Zoom or Skype, but it didn't really work on family proceedings. For example, I've only had one hearing online. That's because in family law the hearings need to be more face to face and doing them online makes it lose some of its essence and effect. Thankfully, slowly but surely, things are getting back to normal.

I believe that the only thing that will persist online wise will be the meetings with clients, but the rest of our profession will maintain the previous status and work ethic.

Click for full text: [Spain](#) (or refer to page 80)

Switzerland - Lisa Locca, Locca Pion et Ryser, locca@loccapionryser.ch:

"Digitalization and no more lifelong alimony."

The Pandemic has forced all of us to be creative and flexible, and the main trend is the speeding up of digitalization in the workplace.

For families, as we are still in partial lockdown, it is too early to assess the impact of COVID, but it appears families have been brought closer together.

Have reports of domestic violence increased in frequency over the past year? Not to my knowledge but we are still in partial lockdown and all 2020 statistics have not been published yet.

Mediation is becoming more and more encouraged, and some states even make it binding, with excellent results.

Any creative "solutions" - clients figuring out complicated situations, courts making relevant processes easier - that you might have seen? When parents do not live in the same country (for example a parent in Switzerland and the other one in Italy, and the child based with his mother in Switzerland), lockdown and borders closed made it impossible to exercise the regular visitation right, but the calendar has been adjusted and the weekends « lost » during the lockdown were « given back » under the form of additional holiday days during the Summer. The Court ratified this pragmatic solution.

Non COVID related developments - legislative or otherwise specific to your jurisdiction you wish to highlight? The Swiss Supreme Court unified in February 2021 the methods of calculation of

alimony for the ex-spouse and for the children. It also modernized the approach and abandoned the « lifelong » alimony in favor of the primary care-giver, even if aged 45 or 50 upon the filing of the divorce petition, encouraging financial autonomy and resuming to work.

Effects of doing things online going forward - commoditization of divorce/DIY divorces/mediation? What parts of the practice do you foresee will stay virtual? Clients will search for information online and might use visiotools to choose their lawyer. In amicable divorces, with no minor children and no major assets to split, the divorce hearing, which is a formality of 15 minutes, might be replaced by a visiohearing.

Click for full text: [Switzerland](#) (or refer to page 86)

Turkey - Mert Yalcin, Yalçın & Toygar Law Office, myalcin@ytlaw.com:

“The worst neighbor you can have is a divorced woman (according to recent survey).”

In its report published in 2019 by the United Nations, the following statement is made: “The most dangerous place for Turkey, women are mostly murdered in their homes.” Pandemics may cause material and social losses for everyone all around the world. This situation causes people who do not have the skills to deal with stress and anxiety, anger control, conflict resolution and communication to resort to violence or to use more violence against family members - especially against women and children.

On the other hand, Women in our country are hesitating to go to the hospital even to get a battering report due to the risk of transmission of COVID-19.

However, since submissions requires “e-signatures,” they can only observe and read the documents, without submitting anything. This leads us to conclude that “starting divorce process while at home” is only possible if you (claimant) are represented by a lawyer whom you provided a valid Power of Attorney to.

In terms of COVID-19 and its effects on putting it to a wait or going forward; it should be stated that due to COVID-19 measures taken in the country, all legal proceedings were suspended between the 13th of March 2020 until the 15th of June 2020.

Women who have been previously married may not remarry until 300 days from the date of that marriage ending (To be able to determine whether she is pregnant from her previous marriage and if so, to determine the baby’s paternity. This condition may be met by simply obtaining a report of non-pregnancy from a health institution).

Turkish people are not into divorce and when they create a family, they want to keep it as far as it goes due to social pressure. Especially for women, being a divorced woman is a struggle to handle in many parts of Turkey. There is a recent questionnaire held about “with whom you do not want to become neighbors” with and divorced women are unfortunately one of the most frequently chosen options.

Click for full text: [Turkey](#) (or refer to page 88)

UAE Dubai - Dr. Hassan Elhais, Al Rowaad Advocates & Legal Consultants, info@alrowaad.ae:

“Both divorces and marriages were suspended for a time.”

During the Emirate-wide strict lockdown implemented in Dubai, the Courts in Dubai suspended divorce and marriages until alternate arrangements were introduced. The measures taken by the government to fight the pandemic spread affected family matters, among others, such as marriage, divorce, visitation, financial maintenance, travel ban, and estate planning. As restrictions were lifted gradually and the courts decided to implement remote working measures, marriages were allowed to be conducted virtually while ceremonial gathering with physical attendance was prohibited. Furthermore, with the easing of lockdown restrictions, the courts started conducting hearings through video conferencing. The number of family matters cases filed in the courts increased by approximately fifty percent as a result of the COVID-19 lockdown.

Due to the potential risk of transmission of the contagion, visitation orders were not functional and thus could not be enforced, keeping the child’s best interest in mind.

However, keeping the safety of the children in mind, non-custodian parents could have virtual contact with the children through video calling applications.

Prior to the amendments, the husband’s rights towards his wife demanded the wife’s willful obedience towards the husband, among other rights, however the recent amendment to Article 56 of the UAE Personal Status Law by virtue of Federal Decree-Law No. 5/2020 has taken a departure from the earlier position by completely repealing this provision and thereby leaving the wife free from this obligation. This is a progressive amendment and a big step towards protecting women’s rights and achieving gender equality.

Prenuptial agreements may not be valid in the UAE as there is no concept of Prenuptial agreement in the UAE. Instead, one may enter into a postnuptial agreement immediately after the marriage.

Generally, a postnuptial agreement may cover matters related to finance, wife’s allowance, property, and may not cover matters related to custody, maintenance for children, or matters that are against public policy.

Click for full text: [UAE Dubai](#) (or refer to page 97)

United Kingdom - Stuart Clark & James Netto, The International Family Law Group LLP, stuart.clark@iflg.uk.com, james.netto@iflg.uk.com:

“Remote is becoming routine.”

On the divorce side of our work there has been no large discernible change and at present it is difficult to identify any cogent trends. There has been no influx or tailing off of divorce cases. This might simply mean that there has been no effect of the pandemic on divorces. But I doubt it. The more likely explanation is that for every way in which the pandemic has broken up families, it has equally kept them together.

I have not seen any divorces which cite the pressure of lockdown directly.

Financial concerns have also played a part. People are understandably reluctant to take the financial plunge of a divorce in the context of national and global economic uncertainty.

As above, it is possible for spouses to start the divorce process from home. With or without lawyers, it is potentially possible to conduct the entirety of the divorce, including resolving issues regarding children and finances, without having to leave the house.

As I have said, much of the court process can be conducted remotely. Commencement of proceedings is online. Lodgment of documents is electronic either via an online portal or email. Procedural rules have been amended to permit electronic signatures to be applied to documents in lieu of wet signatures. Court hearings largely take place remotely. The procedural rules have adapted and so too have the judiciary and court staff.

But remote hearings soon became the norm following the implementation of the first national lockdown on 23 March 2020 and the subsequent social distancing guidance. Through necessity, further digital innovations have been embraced. The Courts adapted quickly to the circumstances of the pandemic, although they had a running start given the progress which had already been made prior to March 2020.

Global mobility has been a driving force behind the significant increase in the volume of international work. It remains to be seen whether there will be a retrenchment of this trend in light of the issues some have faced as a result of the pandemic. Restrictions on movement and the experiences of being stranded away from home owing to travel restrictions may impact negatively on the willingness of people to live as expats. We may see a reduction in international work.

Some judges have even been heard to say that having all parties on video is far more desirable than the previous arrangements whereby one parent appeared '*in person*', and the other appeared on a clunky video link arranged by the Court. In an age of Zoom and Teams, COVID-19 has been the kick our justice system needed to get into the 21st century.

Click for full text: [UK](#) (or refer to page 101)

Ukraine 1- Iryna Moroz, AGA Partners, moroz@agalawyers.org

“30 cent divorces”

I can vaguely feel that the number of divorce cases in our family law practice has grown since the beginning of the pandemic.

However, there is some interesting statistic data available in this regard in Ukraine. During 2020 the number of the marriages were 29% less than during 2019. At the same time, the number of divorces during 2019 year was 138,005 and for 2020 year this number equals 119,253. As you can see from these figures the pandemic has influenced more on the desire of the Ukrainians to enter the marriage than to dissolve it.

In Ukraine the divorce is rather cheap and affordable for most people. If the couple do not have children, then it can be done through the civil acts registry offices. The cost in such case is 8,5 UAH, which is 0.31 USD. If the parties have children – then it should be done through the court proceedings and the amount of court fees is 908 UAH, which is 32.75 USD.

I have provided above that the divorce can be achieved by two ways in Ukraine – through civil acts registry offices and in the court proceedings.

Another useful feature of the courts is that they started to actively use email communications with the parties. I know that it may sound strange in the 21st century, but even in 2019 90% of correspondence between the court and parties were made by regular mail.

I guess many people will adopt a more serious approach of choosing their life-time partner.

Click for full text: [Ukraine 1](#) (or refer to page 110)

Ukraine 2 - Oksana Voynarovska & Daria-Oleksandra Zagorui, Vasil Kisil & Partners
voynarovska@vkp.ua, zagorui@vkp.ua

“COVID has not changed family law issues significantly.”

So once again, there are no exact figures in this field. Nevertheless, in 2020 at least 3,000 cases of domestic or gender-based violence were registered as compared to roughly 1,500 in 2019; only half of them were transferred to the court.

Overall, Ukraine is one of few countries in which COVID has not changed family law issues significantly. Although the total number of marriages in 2019 was larger than in 2020, marriage figures were six times higher than divorce one in the past year (more than 100,000 and 10,000 respectively).

Thus, Ukraine does not observe the boom in marriages or divorces due to COVID and the quarantine measures in the past year.

Divorce and marriage rates in Ukraine are predicted to remain unchanged as is evident from the current situation.

Click for full text: [Ukraine 2](#) (or refer to page 114)

USA (California) - Mende Romaniak, Bartholomew & Wasznicky LLP,
mende@divorcewithrespect.com:

“Zoom court streamlined family law services”

COVID certainly left many with decreased income to litigate, so perhaps ultimately most people were just forced to resolve things outside of the Court system and without the assistance of attorneys they couldn't pay. Everything is via Zoom and is therefore much cheaper for clients as there is no travel time. I can work while waiting for Zoom Court so don't bill for all that time I would just be sitting in a Courtroom waiting and having to bill, and I can have a hearing that pre-COVID may have been a 3+ hour billable event in maybe a 15-30 minute time frame. It can cut costs tremendously.

Can you start your divorce from home? Yes, in California starting the divorce process takes 2-3 forms (depending on if you have kids or not). These are all available online. Some counties have e-filing systems as well so you can file online, others you can do so via mail, drop box, and in some Courts in person. Between the 7 different counties I currently have cases in, the rules regarding how to file documents, how hearings are proceeding (in person, via zoom, automatically, do you have to request to appear virtually, etc.), how trials are proceeding, etc. are all different. Additionally, in at least one county I work in the Court has left it up to the individual judges. In that county I have had cases during the pandemic in front of 5-6 different judges and each one has a different practice with how hearings/trials are being done, which are approved for virtual appearances, etc. It has been nothing short of a procedural nightmare. Parties here can stipulate to the use of a private judge to hear their trial.

Click for full text: [USA \(California\)](#) (or refer to page 117)

USA (Louisiana) - Frank Tranchina, Tranchina and Mansfield LLC, frankt@tmlawfirm.net:

“The lockdown and economic factors pushed already floundering marriages over the edge.”

For me, it was an adjustment. Three of the lawyers in our firm work from home. The Courts were closed, and all hearings were done by Zoom. It took a while for us to get up to speed on working remotely and on Zoom, but after a few months, we were able to master it and found that it was a more effective way of trying certain types of cases. In the beginning of the COVID-19 breakout, things were slow. People were not concerned about getting divorced but were more focused on getting through the pandemic and obtaining basic necessities for their family. I found that as a general rule, if the marriage was somewhat stable prior to the lockdown, it would survive. On the other hand, if the marriage was already floundering, then the lockdown and economic factors pushed both parties over the edge. It did appear that domestic violence and protective orders increased in frequency over the past year.

Our jurisdiction is fairly affluent, so once people were accustomed to the shutdown, and went back to work either remotely or otherwise, our case load picked up.

Our Courts were generally backlogged for a good while. They were not hearing all cases. They are prioritizing custody, domestic violence, support. The area that I specialize in, marital property, was for the most part pushed off until later in the year. We just started to return to a normal docket.

I did find that mediation picked up during the last year. I do both mediation/arbitration and work has certainly increased.

I have noticed that clients have been much more cooperative in attempting to settle their case due to the backlog in the Court. They are also more open to mediation and compromise. 9. 10. As of this time, our Courts are starting to open up slowly. They are allowing property cases to continue to be virtual, if both sides agree.

I don't see any major changes regarding family dynamics, post-COVID. I do see the divorce rates increasing still, but I am not sure if that is a result of the pandemic or simply a general trend.

Click for full text: [USA \(Louisiana\)](#) (or refer to page 120)

Vietnam - Nguyen Phuoc Bao Tri, JLPW Vinh An Legal, tri.nguyen@jlpwvinhan.legal:

"Not much of a spike in divorces but significant increases in domestic and sexual violence reports."

Vietnam had better control of COVID compared with its neighbor countries and in the region. Still, we practice social distance and wearing mask to prevent the worst scenario. So, Vietnam becomes more attractive to foreign investors and our legal work is much busier. There is more local married foreigner, and some are happy, but few entered into court arrangements for divorce. We don't see many broken up families due to COVID.

The Peace House Hotline (a shelter under the Central Vietnam Women's Union) and the Sunshine House Hotline (under UNFPA and KOICA in Quang Ninh province) have received twice as many calls for help in the past months compared to the same period of previous years. According to the report, the risk of physical abuse, sexual abuse, and child sexual abuse and exploitation have increased significantly.

Click for full text: [Vietnam](#) (or refer to page 121)

APPENDIX 1: List of Contributors

29. **Australia** - Justin Dowd, Watts McCray, jdowd@wattsmccray.com.au
 30. **Austria** - Dr. Alfred Kriegler, Dr. Alfred Kriegler Rechtsanwalt, kriegler@divorce.at
 31. **Brazil** - Cláudio Antônio Klaus Júnior, juniorklaus8@gmail.com
 32. **Bulgaria** - Nadia Rusinova, www.womeninforce.eu, nadiarusinova@yahoo.com
 33. **China** - Honglin Tan, Shanghai AllBright Law Offices, tanhonglin@allbrightlaw.com
 34. **Colombia** - Paula Camacho Henao, Brigard Urrutia, pcamacho@bu.com.co .
 35. **France** - Delphine Eskenazi, Libra Avocats, deskenazi@libra-avocats.com
 36. **Georgia** - Tamar Menteshashvili, SJTU, s1471789@sms.ed.ac.uk and Davit Kakoishvili, BGI Legal
 37. **Germany** - Dr. Daniela Kreidler-Pleus, kanzlei@kreidler-pleus.de
 38. **India** - Mohit Kaushik, Trinaya Legal, mohit@trinayalegal.com
 39. **Indonesia** - Andika Gerroleon Andari, AGA Law Firm, andika@agalaw.id
 40. **Iran** - Saeid Shabani, shabani_saeid@hotmail.com
 41. **Italy** - Romualdo Richichi, Studio avv.prof. Emidia Zanetti Vitali, romualdo.richichi@gmail.com
 42. **Malaysia** - Venice Lee, Ricky Tan & Co., venice@rickytan.com.my
 43. **Mexico** - Hector de Avila, De Avila Law Firm, h.deavila@sbcglobal.net
 44. **The Netherlands** - Magali van Maanen, De Boorder, mvanmaanen@deboorderadvocaten.com
 45. **Nigeria** - Efe Etomi, Chief Rotimi Williams' Chambers, eoefrwilliams.com
 46. **Senegal** - Lamine Balde, SJTU, baldelamine912000@gmail.com
 47. **Slovakia** - Daniela Jezova, Law Offices of Daniela Jezova, jezova@lawyer.com
 48. **Spain** - Elena Zarraluqui, Elena Zarraluqui Abogados, elenazarraluquiabogados.com
 49. **Switzerland** - Lisa Locca, Locca Pion Ryser, locca@loccapionryser.ch
 50. **Turkey** - Mert Yalçın, Yalçın & Toygar Law Office, myalcin@ytlaw.com
 51. **UAE** - Dr. Hassan Elhais, Al Rowaad Advocates & Legal Consultants, info@alrowaad.ae
 52. **UK** - Stuart Clark & James Netto, The International Family Law Group LLP, stuart.clark@iflg.uk.com, james.netto@iflg.uk.com
 53. **Ukraine** - Iryna Moroz of AGA Partners, moroz@agalawyers.org & Oksana Voynarovska, voynarovska@vkp.ua, Daria-Oleksandra Zagorui, zagorui@vkp.ua - Vasil Kisil & Partners
 54. **US (California)** - Mende Romaniak, Bartholomew & Wasznicky LLP, mende@divorcewithrespect.com
 55. **US (Louisiana)** - Frank Tranchina, Tranchina and Mansfield, frankt@tmlawfirm.net
 56. **Vietnam** - Nguyen Phuoc Bao Tri, JLPW Vinh An Legal, tri.nguyen@jlpwvinhan.legal
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Appendix 2: Full Texts of the Interviews in alphabetical order of jurisdiction name

Australia

By: Justin Dowd, Watts McCray, jdowd@wattsmccray.com.au

1. How has the past year affected your work in particular and family law issues in general - what are trends and common issues you have observed? In your jurisdiction - has COVID broken up families or brought them close together? Any Anecdotes - what have you seen or how have people's thoughts changed?

In Australia, the immediate impact of Covid was the lockdown, during which the Courts, public offices and the offices of private industry, including lawyers, shut down. Working remotely became a reality. All professionals and clients struggled to adapt to the new way of doing business.

We don't have any reliable statistics yet of the effect of covid on the breakdown of marriages. There is anecdotal evidence of both more people staying together, because of the near-impossibility of re-housing, but measured against anecdotal evidence of couples who, when forced to stay together, without the release of work/sport? (other relationships?). It is too early to assess.

2. Have reports of domestic violence increased in frequency over the past year? yes, there appears to be convincing statistics to suggest that compulsory lockdowns and other restrictions have led to more frustration, anger and violence in the home.
3. Has the pandemic made divorce a luxury for some in your jurisdiction?

Not so much a luxury but it is true that it has been harder for a lot of people, particularly those without a strong financial position, to be able to separate. Divorce in Australia cannot be sought until the couple has been separated for more than 12 months, so we don't have any statistics yet of the effect of covid.

4. If possible, to wait it out (with no physical danger etc.) file now or wait? Most people I think are sitting it out until the health concerns abate.

Can you start your divorce from home? Yes, but it is harder to prove and most would wait it out till there is a 12-month separation.

What are the practical/ legal/ procedural considerations in your jurisdiction? Are courts backlogged/ are they hearing all matters? Courts, after an initial settling in period, have coped well with the pandemic. Many courts are now routinely done by telephone or video conferencing. As the Courts, the practitioners and the parties have got used to this, the system has done remarkably well, given the restrictions that have applied.

5. Alternatives to court - binding mediation/ arbitration

Mediation and, increasingly, arbitration are important parts of the family law dispute resolution process in Australia. Court rules have been extended to encourage arbitration in financial matters and this is having a measurable and positive impact on the Courts' caseloads.

6. Custody and visitation issues to highlight if any

This was a real problem as lockdowns commenced and there were a lot of families who either found that the necessary travel/commute/handover became impossible. Also, as schools closed, it was often difficult for parents to make agreed arrangements for the children. These issues lessened as time went on and are not seen to be significant now.

7. International related issues and considerations if any?

Clearly with international travel next to impossible, international families have had to adapt. This has not been a legal issue, but a health/government issue, so ahs not impacted on the Courts. Ironically, the travel restrictions have meant that many parents were spared the worry that the other parent may seek to take the children overseas.

8. Any creative "solutions" - clients figuring out complicated situations, courts making relevant processes easier - that you might have seen?

Use of international video conferencing has risen and there has seemed to be a greater willingness to negotiate those cases.

9. Non COVID related developments - legislative or otherwise specific to your jurisdiction you wish to highlight?

The widening of the use of arbitration, following amendments to Court Rules has had an increasingly positive impact on the Australian family law system.

10. Effects of doing things online going forward - commoditization of divorce/ DYI divorces/ mediation? What parts of the practice do you foresee will stay virtual?

Many of the regular processes are likely to remain virtual; mediations/court appearances I believe will remain certain to occur virtually.

11. What are your expectations post pandemic on family dynamics, divorce and marriage rates?

I think there may be an increase in the divorce rate immediately the pandemic is under control.

12. What should people be adding to their prenuptial agreements post-pandemic?

I don't believe this will change.

13. Any cultural specifics as to how people get married and the social acceptance of divorce - and the role those have played?

No.

Austria

by Dr. Alfred Kriegler, Dr. Alfred Kriegler Rechtsanwalt, kriegler@divorce.at

1. How has the past year affected your work in particular and family law issues in general - what are trends and common issues you have observed? In your jurisdiction - has COVID broken up families or brought them close together? Any Anecdotes - what have you seen or how have people's thoughts changed?

Spouses were reluctant to divorce.

2. Have reports of domestic violence increased in frequency over the past year?

Only a little.

3. Has the pandemic made divorce a luxury for some in your jurisdiction?

No.

4. If possible, to wait it out (with no physical danger etc.) file now or wait? Can you start your divorce from home? What are the practical/legal/procedural considerations in your jurisdiction? Are courts backlogged/ are they hearing all matters?

Spouses wait it out, but begin to file from now. You can file with a lawyer electronically or without by post in hardcopy.

Courts work, however due to security health measures, but slower (fewer court rooms available,...). Courts hear all matters.

5. Alternatives to court - binding mediation/ arbitration?

Not in Austria.

6. Custody and visitation issues to highlight if any.

At the beginning of Covid it was unclear if visitation rights can continue. Now this is clear: contacts have to continue!

7. International related issues and considerations if any?

No; work as usual, but sometimes slower.

8. Any creative “solutions” - clients figuring out complicated situations, courts making relevant processes easier - that you might have seen?

Witnesses and parties can be heard by zoom; occurs very rarely.

9. Non COVID related developments - legislative or otherwise specific to your jurisdiction you wish to highlight?

Refer to answer 8.

10. Effects of doing things online going forward - commoditization of divorce/ DIY divorces/ mediation? What parts of the practice do you foresee will stay virtual?

We will go back. Family matters will be dealt in person again.

11. What are your expectations post pandemic on family dynamics, divorce and marriage rates? What should people be adding to their prenuptial agreements post-pandemic?

Some people will catch up with divorces, other will stay together due to economically hard times.

12. Any cultural specifics as to how people get married and the social acceptance of divorce - and the role those have played?

People marry statal, but like to marry too in church, often only for the show.

Divorce is fully accepted.

Brazil

By Cláudio Antônio Klaus Júnior, juniorklaus8@gmail.com

1. How has the past year affected your work in particular and family law issues in general - what are trends and common issues you have observed? In your jurisdiction - has COVID broken up families or brought them close together? Any Anecdotes - what have you seen or how have people's thoughts changed?

In the past year, there has been a big increase in the divorces nationwide. In Brazil, you can divorce through a judicial suit (in general this case is used if there is litigation or minors involved) or at a notary office (which is normally a lot faster). As an intern at a land registry office, I was able to observe an increase in the new processes either because of divorce or also because of death due to COVID-19. Unfortunately, I can not really say that COVID brought families close together. Happily, several institutions started to accept non-presential meetings as well as received digitally signed documents.

2. Has the pandemic made divorce a luxury for some in your jurisdiction?

Yes, in a couple of ways. Unfortunately not everyone has access to a lawyer and there is not a great tradition of pro bono in the region I live. Low income families would access lawyers through the university's law clinic, and because of the COVID the clinic was not able to take in as many cases as it did in previous years, thus turning divorce a luxury for several people. Another way it became a luxury is that, during the lockdown, you couldn't go physically to an office and only those with access to the internet seemed to be able to do it, but that did not last long.

3. If possible to wait it out (with no physical danger etc.) file now or wait? Can you start your divorce from home? What are the practical/legal/procedural considerations in your jurisdiction. Are courts backlogged/ are they hearing all matters?

Luckily in the state of Santa Catarina lawyers have been able to file lawsuits electronically for a couple of years now, the notary offices have been accepting that too. From what I understand, you can get the status of divorce already and if there is a need to litigate regarding real estate, bills or child custody you can do that later in the process.

4. Alternatives to court - binding mediation/ arbitration?

It would depend on the situation. In case there was a minor involved, you would need to solve that in court but the subjects related to real estate, for example, could be done through a deal that is later registered within the notary office and forwarded to a land registry office, without the need of it going through a court.

5. Custody and visitation issues to highlight if any?

There have been several issues regarding that. We see some usual cases, for example, mother's that are now pregnant and already have children with shared custody are trying to make deals where the child does not visit the other genitor until after the baby is born due to pregnancy risks. Other litigations rise when one of the parents is in the medical field or some other "front line" occupation and the other, thinking about the risks involved, tries to reach an agreement for the safety of the child and its own.

6. International related issues and considerations if any?

Well, there hasn't been the possibility of travelling a lot, several country borders are closed to Brazilians but I did see, for several times, flights for family reunion and also some exceptions for other close relationships.

7. Any creative "solutions" - clients figuring out complicated situations, courts making relevant processes easier - that you might have seen?

Not that I have personally experienced or witnessed.

8. Non COVID related developments - legislative or otherwise specific to your jurisdiction you wish to highlight?

Brazil, last year, had several new laws enacted, several emergency access to credit programs regulated by law; legislation regulating the combat of food waste and donating food surpluses for human consumption; the law creating the National Register of Convicts for Rape; regulations to the use of telemedicine; a new law to the public bidding process and several others.

9. Effects of doing things online going forward - commoditization of divorce/ DYI divorces/ mediation? What parts of the practice do you foresee will stay virtual?

Well, there have been a couple of startups that grew during this time that are helping people to get divorced, I am not very familiar with their process and how it complies with the lawyer's ethical code. I see that a lot of what has developed in this virtual manner will move on like that, I think that one of the main things is that employers noticed that, for many jobs, there is no need to be there in person, thus, I foresee a lot of remote jobs. There were some regulations to working from home and there are some recent developments.

10. What are your expectations post pandemic on family dynamics, divorce and marriage rates? What should people be adding to their prenuptial agreements post-pandemic?

We are all thinking about the new dynamics to get to know people, social gatherings and other ways people will meet, for a while I believe we will have low marriage rates. While prenuptial agreements are not mandatory for most matrimonial regimes, some choices have a mandatory prenuptial. Mandatory or voluntary, it is always a good idea to include clauses regarding the previously acquired real estate as well as family holdings and other businesses of both parties.

11. Any cultural specifics as to how people get married and the social acceptance of divorce - and the role those have played?

I would say that twenty years ago, due to the great influence of church and other aspects, divorce was not acceptable, but there has been a big shift as people started to see several aspects of divorce as a means to get out of abusive relationships, domestic violence and other such aspects. There has been a big social shift and people are not getting married legally, most are just living together, as unmarried couples in a steady union. The process is relatively easy and if the parties don't have real estate or minors, they may be legally divorced in less than a week!

Bulgaria

By Nadia Rusinova, www.womeninforce.eu, nadiarusinova@yahoo.com

1. How has the past year affected your work in particular and family law issues in general - what are trends and common issues you have observed? In your jurisdiction - has COVID broken up families or brought them close together? Any Anecdotes - what have you seen or how have people's thoughts changed?

The COVID era had serious implications on the familial relationships, and this is inevitable – we faced completely new setting and everyone naturally deals with it in own way. The domestic violence cases are to this moment as twice as before, and in my practice the divorces are as well increasing. I would say the lockdowns worldwide brought together the strong families and tore apart the weaker ones.

2. Have reports of domestic violence increased in frequency over the past year?

Yes, and not only the numbers, but as well the types of violence “evolved”. Online violence and harassment are much more widespread, and as well the mandatory homestay brought more physical violence.

3. Has the pandemic made divorce a luxury for some in your jurisdiction?

The divorce has never been a luxury in Bulgaria and the Netherlands, where I have my practice. On the contrary, many divorce lawyers due to the COVID restrictions mastered their virtual services, which made the consultations and family mediation much more accessible.

4. If possible to wait it out (with no physical danger etc.) file now or wait? Can you start your divorce from home? What are the practical/legal/procedural considerations in your jurisdiction. Are courts backlogged/ are they hearing all matters?

Yes, you can in any way prepare the divorce papers remotely, and this became the reality even in countries where the online legal services are not really popular. However, at some places it is not possible to file online and you still need to attend physical hearing due to the existing legislation. The courts were in some way backlogged in the first months, but up to date I believe the backlog particularly in family disputes is not significant. This is also remedied due to the fact that the procedures concerning children were handled with urgency in the majority of cases during the pandemic.

5. Alternatives to court - binding mediation/ arbitration?

Family mediation is always great alternative, and it can be done purely online. I regret that it is not as popular as it should be (especially in Bulgaria) as it has high potential to avoid heavy and lengthy court proceedings with unclear result.

6. Custody and visitation issues to highlight if any?

The border restrictions have put the transnational families in difficult situation. Taking into account that the execution of visitation rights in cross border context will always be assessed from the perspective of the best interest of the child, the courts took different approaches when deciding on this issue and this creates some inconsistencies in the case law. However, many jurisdictions (like the UK) succeeded to give clear guidance and to create crisis rules, which is example of a good practice in family law cases.

7. Any creative “solutions” - clients figuring out complicated situations, courts making relevant processes easier - that you might have seen? In my view the digital technologies in family disputes are invaluable and their use should be gradually increased. Naturally, there are issues that cannot be solved online and in general the human factor in child-related proceedings is crucial. However, online platforms for communication, legal advice or even filing divorce papers should be encouraged as additional tool to support the parents and ease the communication with their lawyers.

8. *Effects of doing things online going forward - commoditization of divorce/ DIY divorces/ mediation? What parts of the practice do you foresee will stay virtual?*

In any case, physical meetings in the divorce lawyer's office is already rare experience. Many of us are running remotely the practice, but we always keep in mind that sometimes difficult situations, combined with domestic violence or child abduction, might require purely human participation and involvement. The family lawyers should keep the balance and automate the administrative part, but at the same time be available to conduct personal meeting for supporting the client in the best possible way.

China

By Honglin Tan, Shanghai AllBright Law Offices, tanhonglin@allbrightlaw.com

1. How has the previous year affected your work and family law issues? What trends and common issues you have observed? In your jurisdiction, has COVID broken up families or brought them closer together? Did you hear any anecdotes? What have you observed or how have people changed their minds?

(1) The outbreak of the pandemic does have an impact on daily work and life, but the overall impact is not serious, which might lead to a surge or slump in divorce cases. The relevant impacts are specifically reflected in the following:

The offline litigation process of the court has strict restrictions, such as booking in advance when filing cases; when in court, the spectators shall be allowed to enter the court with the consent of the presiding judge.

1) The number of online court hearings is increasing. During the pandemic, courts could organize all parties to perform online litigation procedures such as filing cases, holding court sessions and serving legal documents through an online litigation service platform.

2) In terms of daily life, in general, people spent more time with their families.

(2) Observed trends: Compared with the previous year, in 2020, the number of marriages continued to decline, and the number of divorces also decreased.

According to preliminary statistics from the Ministry of Civil Affairs, the number of marriages began to decline in 2014, and the number of marriage registrations has declined for seven

consecutive years. In 2020, 8.131 million couples were registered for marriage with 1.142 million fewer than the previous year.

In recent years, the number of couples registered for divorce has been increasing. In 2016, 3.486 million couples registered for divorce at the civil affairs departments, and in 2019, 4.047 million couples registered for divorce. However, in 2020, 3.733 million couples registered for divorce nationwide, which is a decrease compared with the previous year.

(3) During the outbreak of the coronavirus (COVID-19) pandemic, marital disputes reflected a trend of polarization. During the special period of the pandemic, some clients in divorce disputes that were originally caused by busy work and lack of communications withdrew their cases and reached compromises under the mediation of the presiding judge since the lockdown forced the couples to stay at home and know each other better. On the contrary, some couples had to stay at home for a long period of time with a lack of compromising space, which might lead to a worsening family conflict, even domestic violence.

2. Have reports of domestic violence increased over the past year?

At present, there is no authoritative statistical report on domestic violence in China in 2020.

3. Has the pandemic made divorce a luxury for someone in your jurisdiction?

Objectively speaking, during the pandemic, the time required for divorce procedure became longer, but the difficulty did not make divorce impossible.

For couples who choose to divorce by agreement, the marriage registration department is still working during the pandemic. Both parties could also make an appointment to solve the issue, but the appointment quota was limited, and the registration needed a long time to make an appointment.

For couples who need to divorce through litigation, if there is no legal reason for divorce, it would be difficult for the court to determine separation because both parties have to live in the same space for a long time during the pandemic, and the time period required by the overall divorce through litigation might be extended during the pandemic.

4. If possible, can you start your divorce from home? What are the practical/ legal/ procedural considerations in your jurisdiction? Are courts backlogged/ are they hearing all issues?

During the pandemic, the marriage registration authority did not open online procedures for those couples who chose to divorce by agreement. They used the procedure of online appointment and offline processing, so they could not complete the divorce procedures at home. In the case of divorce through litigation, the parties may, under the organization of the court, rely on online litigation platforms like China Mobile Micro-Court, litigation service websites, and 12368 litigation service hotlines to carry out online litigation activities such as filing cases, mediation, evidence exchange, trial, sentencing, and serving documents.

Chinese courts have adopted a variety of online court hearings during the pandemic, so the progress of case trials is generally normal.

5. Alternatives to court-binding mediation/ arbitration?

At present, there are only two ways of divorce in China, which include divorce by agreement with the marriage registration authority and divorce through litigation by the people's court.

There are no other private ways of divorce with legal-binding effects.

6. Are there any guardianship or visitation issues?

Due to the influence of pandemic and other factors, the right of visiting cannot be exercised, and one party requested to change the parenting relationship because the other party was infected with coronavirus.

On the issue of exercising the right of visiting, the court tends to think that the two parties should proceed from the situation of benefiting their children's physical and mental health and pandemic prevention and control, understand each other, negotiate amicably, reduce the number of visits, and try to avoid visiting in person. If the party who needs to visit lives in a serious pandemic area or has a greater risk of infection, they should temporarily suspend visiting and wait until the pandemic risk is eliminated; You can also use voice, video, internet and other flexible ways to visit, and all parties should pay attention to self-protection when visiting.

On the issue of changing the parenting relationship, the court will take the principle of maximizing the interests of children and meet the conditions stipulated by law. Infection with coronavirus doesn't mean losing the ability to support, but it is one of the considerations to determine the ownership of children's custody. If the infected party can entrust others to take good care of their children and ensure that their life and study are not obviously affected, the request of the other party will not be supported; If one party is seriously ill or affected by the pandemic, which leads to difficulties in life and makes it difficult to guarantee the basic living needs of the children, the court will make a judgment after comprehensively considering the wishes of the children and other factors.

7. Is there any international-related issues or considerations?

Affected by the pandemic, the foreign parties who shall attend the trial in China are unable to enter the country, so the court had to suspend the trial or adopt an online trial. The online trial has become a major way for the court to ensure the normal operation of trials during the pandemic. During the pandemic, overseas clients who choose to divorce by agreement in China may need to postpone the divorce because the Chinese marriage registration authority requires them to attend the divorce registration in person, which is unable to entrust others to process and there is no way of online processing. As a result, the time period required for the clients to divorce might be extended.

8. Is there any creative ‘solutions’ - clients figuring out complicated situations, courts simplifying relevant procedures - that you might have seen?

During the pandemic, a court in Xiamen held a foreign-related divorce dispute through an online video link and pronounced the judgment in court.

Affected by the COVID-19 pandemic, both parties to a divorce case who should have appeared in court at the same time are inconvenient to participate in the lawsuit internationally. The court adjusted the litigation mode in time and held court sessions online to protect the litigation rights and interests of both parties. After the case was accepted, the official learned that the man was an American, had settled in the United States for a long time, did not live in China at present, and was unable to enter the country during the pandemic. After many inquiries, the man was successfully contacted and served with the complaint, the notice of responding to the lawsuit, the notice of giving evidence and the court summons by telephone recording and e-mail. After obtaining the consent of both parties, the court tried the case alone by means of an online trial.

During the trial, both the original defendant gave evidence and cross-examined, and the judge tried to find out the facts. Both of them agreed to divorce, and jointly confirmed that they had no children, no common property and no common debts. The court pronounced a judgment in court, allowing both parties to divorce. In the online trial, the judge suggested that he entrust his relatives living in China to receive the judgment, considering that the man now lives in the United States, and it is not easy to send it across the country. The man then entrusted his aunt to receive it in court.

9. Non-covid-related developments - legislative or otherwise specific to your jurisdiction you wish to highlight?

On January 1, 2021, the Civil Code of the People's Republic of China came into force. The marriage and family section undertook several amendments concerning divorce. Some of the amendments are popular:

(1) increase the cooling-off period of divorce. Article 1077 of the Civil Code stipulates: "If either party is unwilling to divorce within 30 days from the date when the marriage registration authority receives the application for divorce registration, it may withdraw the application for divorce registration from the marriage registration authority. Within thirty days after the expiration of the time limit prescribed in the preceding paragraph, both parties shall apply to the marriage registration authority in person to issue a divorce certificate; If you do not apply, it shall be deemed as withdrawing the application for divorce registration." In fact, the regulation of divorce cooling-off period only applies to divorce by agreement, and the purpose of setting it is mainly to prevent impulsive divorce. However, the initiative of divorce is still in the hands of both husband and wife, and it still depends on both husband and wife whether to withdraw their divorce application during the cooling-off period and whether to apply for divorce after the cooling-off period expires. If both husband and wife fail to reach a consensus on divorce matters, they cannot go through the divorce registration formalities in the civil affairs department, and the divorcing party can also choose to request the court to dissolve the relationship between husband and wife through litigation, so there is no restriction on the freedom of divorce.

(2) If the divorce is not allowed to be separated for one year, it shall be sentenced to separation. Article 1079 of the Civil Code stipulates: "After the people's court has ruled that divorce is not allowed, one party who has been separated for one year will sue the divorce court again."

Before the implementation of this article, it has always been a difficult point for the court to confirm the starting point of separation time. After the implementation of this article, the starting point of separation time has been made clear, which gives the court a clearer and more objective standard to determine whether the marriage relationship between the two parties should be dissolved, which is helpful to solve the problem of repeatedly suing for divorce, but it is of positive significance to the parties.

(3) Strengthen the protection of the rights and interests of full-time wives and cancel the preconditions of the compensation system for housework. Article 1088 of the Civil Code stipulates that "if one of husband and wife bears more obligations due to raising children, caring for the elderly, assisting the other in work, etc., they shall have the right to request compensation from the other party at the time of divorce, and the other party shall give compensation. The specific measures shall be agreed upon by both parties; If the agreement fails, it shall be decided by the people's court."

Compared with the compensation system for housework stipulated in the repealed Marriage Law, this article takes "separate property system agreed in writing" as the precondition and is revised to mean that regardless of whether the husband and wife implement legal property system or separate property system after marriage, the household contributor can claim economic compensation for divorce. However, the standard of compensation in this article is not clear, so the determination of compensation amount in judicial practice requires the court to comprehensively determine the time of living together after marriage, the specific contribution of the woman in housework, the man's personal economic income and the local general living standard.

(4) Improve the divorce compensation system. Article 1091 of the Civil Code adds "other major faults". This is based on the four statutory faults stipulated in Article 46 of the Marriage Law, adding an all-inclusive clause, in which judges can grasp the divorce situations caused by other major faults, which broadens the divorce situations caused by various serious faults in real life and provides broader protection for the rights and interests of vulnerable parties.

10. Effects of online processing - commoditization of divorce/divorce disputes/ mediation? Which part of the practice do you think will stay virtual?

In China, the application of online service in divorce procedure is mainly reflected in online appointment in agreed divorce, and online litigation activities such as online filing, mediation, evidence exchange, court hearing, sentencing, and delivery, etc. With the development of Internet technology and people's acceptance of Internet technology, it is hoped that divorce procedures can be handled online in the future.

11. After the pandemic, what are your expectations upon family dynamics, divorce and marriage rates? What should people add to their prenuptial agreements?

As mentioned earlier, according to official statistics, the divorce rate decreased during the pandemic compared with the previous year, but it is still impossible to judge what trend the divorce rate will show after the pandemic. However, as far as the marriage rate is concerned, the probability will increase in a short time after the pandemic. On the one hand, the sudden outbreak of the pandemic forced the planned marriage to be shelved, and the shelved marriage will be put on the agenda one after another after the pandemic eased. On the other hand, the pandemic also made people realize how important the companionship and care between partners is when life and death are in danger. However, considering that the marriage rate in China has been declining continuously for several years before the outbreak of the pandemic, it is still impossible to judge whether the marriage rate will resume the trend of continuous decline for a long time after that.

12. Any cultural details concerning how people get married, society's acceptance against divorce, and the role people play in divorce?

At present, there is no de facto marriage in China. To conclude a marriage relationship, both men and women must register their marriage with the marriage registration authority. Even if they have married or lived together, they can only be regarded as cohabitation, not husband and wife.

In the contemporary marriage relationship, especially in the first-tier cities, divorce is regarded as a life attitude that will no longer be settled. After realizing the irreconcilable contradictions between the two parties in their marriage life, people are more inclined to choose to separate, settle down and start a new life than to torture each other, and everyone will show respect and understanding for other people's choice of divorce.

Colombia

By Paula Camacho Henao, Brigard Urrutia, pcamacho@bu.com.co

1. How has the past year affected your work in particular and family law issues in general - what are trends and common issues you have observed? In your jurisdiction - has COVID broken up families or brought them close together? Any Anecdotes - what have you seen or how have people's thoughts changed 2. Have reports of domestic violence increased in frequency over the past year?

In the wake of the pandemic and in the past year we have seen an increasing number of people seeking legal advice to grant or modify their wills. We believe it is due to the perceived vulnerability they might have on account of the global scenario, and the concern to ensure the welfare of their loved ones, particularly minors and the elderly.

In the past year we have also seen an increase on divorces. Mandatory confinements, childcare, household care and work from home are factors that have impacted relationships and even taken them to an end. Nevertheless, we have also noticed that the pandemic brought some couples even closer together, since they are able to distribute house duties between them and spend more time with their families.

Unfortunately, domestic violence cases have also increased in Colombia over the past year. We always encourage our clients and families in general to avoid physical confrontation and to report their perpetrator, in order to protect themselves and their children if they get caught in such a situation.

2. Has the pandemic made divorce a luxury for some in your jurisdiction?

In Colombia since 2005 divorces by mutual agreement can be carried out before a notary public through the signature of a public deed. This means that any couple with a registered marriage in Colombia can get divorced through an expedite course as long as they both agree to do so and are represented by a lawyer in the procedure.

In Colombia, couples that can't afford to pay for the notarial services and for an attorney can also reach out to different pro bono entities that provide them with legal advice and get a discounted fee in the notary. As a firm and since we are committed to our community, we have a strong bond with several pro bono organizations. Thus, we have and will continue advising couples that do not have the resources to afford a divorce before a notary public.

3. If possible to wait it out (with no physical danger etc.) file now or wait? Can you start your divorce from home? What are the practical/legal/procedural considerations in your jurisdiction. Are courts backlogged/ are they hearing all matters?

In Colombia for couples to get divorced they must be represented by an attorney throughout the process. Thus, they only have to grant a power of attorney to their lawyer and notarize the divorce agreement, so in principle they could start their divorce at home as long as they have proper advice. The duration of the process before a notary public depends on whether the couple has underaged children. If this is the case, the divorce agreement must be sent to the Colombian Family Protection Authority, which has two weeks to make sure its content respects the minor's rights. Afterwards, the attorney can sign the divorce public deed on behalf of both partners.

If one of the parties does not want to get a divorce, the other one has to initiate a judicial process before a Colombian family court, alleging one of the grounds provided by Colombian law. There are nine allowed grounds, amongst which we may find alcoholism, drug abuse or domestic violence. Courts are usually congested and thus this judicial process can take from 6 months to even 3 years.

4. Alternatives to court - binding mediation/ arbitration?

As mentioned above, Colombia allows for mutual agreement divorces to be carried out before a notary public, as long as the couple is represented by an attorney. If one of the parties does not want to get a divorce and the other one would not like to start a judicial proceeding just yet, either can approach any institution that provides conciliation services. In Colombia we have both paid and free conciliation services. If the couple reaches an agreement, they can get divorced before a notary. If they do not, then any party can file a divorce lawsuit before a Colombian family court basing his or her claims on any of the grounds provided by law.

5. Custody and visitation issues to highlight if any 7. International related issues and considerations if any?

We have had clients that have been separated from their children due to the pandemic and therefore visitation agreements have been modified accordingly. We have also seen cases where the parents have shared custody of the children, and suddenly one of them moves abroad and will not let the other parent see or talk to the minors. Thus, the latter can initiate an international regulation of visitations or restitution process through the Hague Convention, if the country where the children are now located is a part of it. The duration of the process will depend on the countries involved, but it is a way through which the parent that has a right to visitations can establish a relationship with his or her children when international matters are involved.

6. Any creative “solutions” - clients figuring out complicated situations, courts making relevant processes easier - that you might have seen?

We have not witnessed any creative “solutions” coming from courts that make relevant processes easier. We have been part of negotiations between parents that live on other sides of the world and they come to agreements regarding their children’s custody and visitations, always bearing in mind their kid’s wellbeing.

7. Non COVID related developments - legislative or otherwise specific to your jurisdiction you wish to highlight?

A recent bill suggests that there will be new legislation aiming at the elimination of causal grounds for divorce, with the objective of making this process simpler and less time consuming for couples. Its approval would mean that any party of a marriage can file for divorce before a court without specifying a causal ground, since these often do not adjust to the couple’s current situation. Another draft bill worth mentioning will focus on creating a public registry for unpaid child support debtors (REDAM) in order to sanction individuals who have such debts. Furthermore, another important draft bill intends to create a shared parental leave of 22 weeks after childbirth. Currently, mothers are entitled to 18 weeks maternity leave and fathers to 8 working days. If this bill is approved, parents can distribute the leave between them, so fathers can be more involved in the upbringing of their newborns and the couple can exercise co-responsibility.

8. Effects of doing things online going forward - commoditization of divorce/ DIY divorces/ mediation? What parts of the practice do you foresee will stay virtual?

Due to COVID-19 our legal system was forced to hold virtual hearings and to accept electronic signatures for different documents, amongst other changes. Thus, we believe the pandemic will lead to the virtualization of several processes in Colombia, and that in the foreseeable future some judicial procedures and hearings will remain virtual.

Nevertheless, there are some notarial procedures that have not been virtualized, such as granting a will or notarizing a signature. Even though the Colombian government is working on virtualizing more than 450 notary procedures that will include civil registrations, authentications and so on, this could be a lengthy process, and may not include all notarial procedures.

9. What are your expectations post pandemic on family dynamics, divorce and marriage rates? What should people be adding to their prenuptial agreements post-pandemic?

We believe post-pandemic family dynamics will continue to be the same, and that members will be able to spend more time together since work from home is here to stay. It is possible that divorce rates decrease since couples are able to go back to their social life and get out of their household more often. Nevertheless, we do not foresee that the pandemic had an effect on the content of prenuptial agreements, since the protection and exclusion of some assets from a couple's community property partnership is a need that each party has to assess depending on their backgrounds and family dynamics, that are not necessarily linked to the pandemic.

10. Any cultural specifics as to how people get married and the social acceptance of divorce - and the role those have played?

In Colombia weddings were usually celebrated with great social gatherings of family and friends, but due to COVID and social distancing, we do believe perception of marriage has changed since festivities have been reduced and been held privately or even virtually. With regards to divorce, we believe social perception might have also changed, since couples that have been married for a while experienced what living in confinement with their partner is, and may have a different approach to separation than before. Furthermore, couples have shifted to more private lifestyles without the exposure they were subject to before, making the decision to get a divorce about family union and less about social acceptance. However, Colombian society is still mainly catholic and thus a portion of the community continues to label divorce as reprehensible.

France

By Delphine Eskenazi, Libra Avocats, deskenazi@libra-avocats.com

1. How has the past year affected your work in particular and family law issues in general - what are trends and common issues you have observed? In your jurisdiction - has COVID broken up families or brought them close together? Any Anecdotes - what have you seen or how have people's thoughts changed ?

The COVID-19 epidemic has created many issues with regard to family law.

One recurrent issue has been visitation and access rights to children between separated parents. Many parents have used the Covid-19 epidemic as an excuse to prevent the other parent from seeing his or her child(ren) in accordance with the applicable parents' agreement or court orders. Sometimes, the ground can be considered as legitimate, when for instance the parent's occupation is to work in a hospital. Should that prevent though this parent from seeing his or her children during the entire duration of the epidemic? What limits do you set? Is it really in the child's best interest to prevent him or her from contact with the other parent for many weeks or even months? Other practical considerations have also undermined the possibility for parents to see their children in a normal fashion, especially when the other parent lives in a different region.

While France has accepted the exercise of visitation and access rights as grounds for travel during the lockdown (which must be listed explicitly in the affidavit that one needs to carry currently for each journey), it is certain that travelling through France for this reason may prove to be extremely challenging.

When the distances are large, it may trigger the risk of arrest and potential payment of a fine.

Finally, at the end of the spectrum, other situations have arisen where the grounds are much less legitimate, and the epidemic is only being used as an excuse to prevent the other parent from exercising his or her regular and normal access rights.

The difficulty is that French courts were completely closed during the first lockdown and will deal only with urgent cases. While the French courts are now open again, the dockets are overcrowded and the delays have been very important.

Depending on the circumstances, it is not certain that the limitation of a parent's normal access rights will be considered as a ground of emergency.

Even if the courts eventually allow such applications, the situation is so unique and complex, that for the moment, family practitioners do not have any predictability as to whether the courts will accept the epidemic as a legitimate ground to limit the other parent's access and visitation rights.

As family practitioners, we must inform our clients that not following the normal rules will create certain risks and to avoid these risks, as always, amicable solutions should always be favoured.

2. Have reports of domestic violence increased in frequency over the past year?

In France, the reports of domestic violence across the country have jumped by more than 30% since the country went into lockdown on March 17th.

Being confined at home with abusive partners is thought to have increased the risk to victims.

France already has one of the highest rates of domestic violence in Europe. Every year, an estimated 219,000 women, aged 18 to 75, face physical or sexual violence by current or former partners, but only 20% report it. According to official figures, one woman is killed by a partner or former partner every three days⁷.

3. Has the pandemic made divorce a luxury for some in your jurisdiction?

The overall economic situation of the French population has suffered, like all populations worldwide.

⁷ <https://www.euronews.com/2020/03/28/domestic-violence-cases-jump-30-during-lockdown-in-france>, accessed 3rd April 2020

This being said, justice is free in France and the costs of access to justice, compared to other jurisdictions, is much less significant. For this reason, I am not certain that we can say that the pandemic has made divorce a luxury in France.

4. If possible, to wait it out (with no physical danger etc.) file now or wait? Can you start your divorce from home? What are the practical/legal/procedural considerations in your jurisdiction? Are courts backlogged/ are they hearing all matters?

The French courts are definitely backlogged. In Paris for instance, the date to obtain a first hearing after the filing of the initial divorce summons can be between 4 to 6 months. The delay also impacts the appeal level and the delays for appeal cases may be easily between 1 to 2 years.

This being said, this situation of delays pre-existed the pandemic situation, even it has definitely worsened.

For this reason, I would still advise to file and start the process, rather than wait, since the delay of the French courts will not increase in the near future, even after the end of the COVID crisis.

5. Alternatives to court - binding mediation/ arbitration?

Mediation

The current uncertainty should encourage parties, even more than before, to reach mutually agreed solutions.

With this objective in mind, the Paris Bar has actually set up during this period a very efficient network of family mediators, available immediately and willing to work through visio-conference, to try to untangle such family law issues during this unique period.

Arbitration

Arbitration, while possible to resolve financial issues during a divorce, is not used very frequently for now in France.

6. Custody and visitation issues to highlight if any?

See answer to question 1 above.

7. International related issues and considerations if any?

Aside from the issues discussed above as regards visitation rights, the COVID has created many practical issues for international family law practitioners in France.

As regards divorce proceedings, French courts have not used video/ remote hearings for the moment since the technological possibilities are not set up in France. As a consequence, many

hearings where the physical presence of the parties is required, have been postponed due to the parties' impossibility to travel.

Other important documents for the instance for the transfer of property following the divorce or pre-and post-nuptial agreements must be signed before a French Notaire in the presence of the parties. The signing of such documents has also been very difficult to organize in the current COVID circumstances.

8. Any creative “solutions” - clients figuring out complicated situations, courts making relevant processes easier - that you might have seen?

Unfortunately, I do not have create solutions to share on this, quite the opposite!

9. Non COVID related developments - legislative or otherwise specific to your jurisdiction you wish to highlight?

A very important reform of the divorce proceedings has been enacted and is in force in France since 1st January 2021. This reform will have a significant impact as regards the issues of lis alibi pendens in international family cases.

The change is the following: the starting date of a French divorce case will be the date of service and no longer the date of filing of the divorce petition: this stems from the combined application of the new Article 1108 of the French Procedural Code and Article 16 (b) of the Brussels IIbis Regulation:

- Article 1108 will state after 1st January 2021 that “the Family Affairs Judge will be seized once the divorce summons is lodged with the Court” (it used to be the filing of a divorce petition)
- In France, a divorce summons (“assignation”) (unlike a divorce petition “requête”) has to be served to the defendant before it can be lodged with the Court (French procedural rules, applicable in all civil matters);
- As a consequence, under the Brussels IIbis Regulation (and also under the Maintenance Regulation and the Matrimonial Property Regime Regulation), to determine the date of seising of the French courts, it is no longer possible to refer to Article 16 (a) (article 9 (a) under the Maintenance Regulation, and 14 (a) under the Matrimonial Property Regime Regulation) and one must refer to Article 16 (b) (Article 9 (b) and 14 (b) under the other Regulations):

“A court shall be deemed to be seised (b) if the document has to be served before being lodged with the court, at the time when it is received by the authority responsible for service, provided that the applicant has not subsequently failed to take the steps he was required to take to have the document lodged with the court”

- The difficulty is that there is an uncertainty as to the “authority responsible for service”: Will it be the French bailiff in France sending the documents to the Central Authority? The Central Authority in the country where the documents must be served?

There is no clear answer on this for the moment, practitioners have asked for clarification from the French government in an international context.

10. Effects of doing things online going forward - commoditization of divorce/ DYI divorces/ mediation? What parts of the practice do you foresee will stay virtual?

As explained above, unfortunately, French courts have not used the online tools to maintain the judicial activity during this period.

The online tools have been used though for meetings with clients or negotiations meetings. My sense is that these tools will continue to be used in the future, since they are very convenient, especially when the clients do not live nearby.

11. What are your expectations post pandemic on family dynamics, divorce and marriage rates? What should people be adding to their prenuptial agreements post-pandemic?

A lot of people have postponed their wedding plans for practical reasons so I assume the marriage rate will increase post pandemic. As regards the divorce rate, I am not sure that there will be a significant increase but we will see...

12. Any cultural specifics as to how people get married and the social acceptance of divorce - and the role those have played?

I don't really have an answer to this.

Georgia

By Tamar Menteshashvili, SJTU, s1471789@sms.ed.ac.uk and Davit Kakoishvili, BGI Legal

1. How has the past year affected your work in particular and family law issues in general - what are trends and common issues you have observed? In your jurisdiction - has COVID broken up families or brought them close together? Any Anecdotes - what have you seen or how have people's thoughts changed.

Comparative analysis of last 3 years of number of divorce cases shows that during pandemic for the first 6 months of the year the number of divorces actually decreased:
<https://imedinews.ge/ge/sazogadoeba/189061/ra-gavlena-iqonia-pandemiam-saqartveloshi-ganqortsinebis-machvenebelze-detalurad>

2. Have reports of domestic violence increased in frequency over the past year?

According to the official data reported to the public, it hasn't increased. Its 2020 April data point though:

https://idfi.ge/ge/the_impact_of_new_coronavirus_pandemic_on_domestic_violence_and_violence_against_women

3. If possible to wait it out (with no physical danger etc.) file now or wait? Can you start your divorce from home? What are the practical/ legal/ procedural considerations in your jurisdiction. Are courts backlogged/ are they hearing all matters?

You need to go to court. The court will conduct hearings and will arrange the official divorce of the couple.

4. Alternatives to court - binding mediation/ arbitration?

Mediation is allowed.

Germany

By Dr. Daniela Kreidler-Pleus, kanzlei@kreidler-pleus.de

1. How has the past year affected your work in particular and family law issues in general - what are trends and common issues you have observed? In your jurisdiction - has COVID broken up families or brought them close together? Any Anecdotes - what have you seen or how have people's thoughts changed.

Our general impression is that people are cautious and other issues have priority at the moment. Many people are threatened by job loss, have children to care for at home and are generally burdened by the overall situation. People seem to be less concerned with planning their lives for the long term and rather live from day to day.

During the first lockdown in Germany in spring 2020, the courts were closed. Only urgent cases were still being processed. During this period, it was also quite quiet in our office.

There was a backlog at the courts, which led to delays in proceedings. In the summer months it is always difficult to schedule joint appointments between the parties, the lawyers and the court due to the vacation season. This resulted in a lot of work in fall 2020 in terms of ongoing mandates. There were many new mandates in the summer and in fall 2020. However, no wave of divorces can be derived from this yet.

Starting November 2020, Germany had a second lockdown. However, the courts remained open this time and negotiations still took place, so our work can also continue as normal.

2. Have reports of domestic violence increased in frequency over the past year?

Since we generally do not handle violence protection cases in our office, we cannot speak from our own experience.

But we know from other German colleagues that f. e. the Berlin-Schöneberg District Court was actually closed in the first lockdown, but all eight violence protection chambers were at capacity and continued to work.

3. Has the pandemic made divorce a luxury for some in your jurisdiction?

A divorce and everything else that usually goes along with it, such as property settlement, maintenance payments or separate households, is associated with costs. Currently, many people have lost their jobs or are threatened with job loss and receive lower wages in short- term work. Our current perception is that people hold off on relationship problems and divorces, postponing them until after the pandemic, when it will also be clearer how the financial situation will develop.

4. If possible to wait it out (with no physical danger etc.) file now or wait? Can you start your divorce from home? What are the practical/ legal/ procedural considerations in your jurisdiction. Are courts backlogged/ are they hearing all matters?

In Germany, divorce can currently be filed as normal and there are no significant delays at court. The pandemic has no effect on the procedural requirements for divorce. The petition for divorce can be filed from home, but the divorce decree can be issued only after the court has heard the parties in person.

At present court hearings are conducted in compliance with hygiene measures. Masks are compulsory, there is ventilation, and there are glass panes between each person.

We also have a case where the divorce hearing will now take place online. In individual cases, this is an option if the divorce is not contentious and the parties have agreed on all points in advance.

5. Alternatives to court - binding mediation/arbitration?

Divorce is not possible out of court in Germany. Only a court may declare the divorce. All other disputed issues between the spouses can be settled out of court - also in mediation. The agreement can then be recorded by the court to be binding.

6. Custody and visitation issues to highlight if any.

In the meantime, sufficient case law has accumulated to establish criteria for visitation during a pandemic. If one parent denies the other parent contact with the child by referring to mere health concerns, this is not sufficient. Nor is reference to curfew restrictions or pre-existing illness of the child or parent sufficient to deny contact. Therefore, an administrative fine may be imposed on the refusing parent.

Contact may be denied because of voluntary quarantine, if there are sufficient grounds for such quarantine, because of punitive, officially ordered quarantine of the child or parent, or because of a corona disease of the child or parent. However, this is a case-by-case jurisdiction, which can be well-founded otherwise.

Contact rules continue to apply during the pandemic and are not restricted by government regulations.

Since many parents currently work from home, many parents are trying out a more equal division of care. It is possible that the model of equal alternating care will therefore become more common in Germany after the pandemic.

7. International related issues and considerations if any?

None

8. Any creative solutions - clients figuring out complicated situations, courts making relevant processes easier - that you might have seen?

In Germany, we are still at the beginning of the digitization of the legal system. The pandemic could be an accelerating factor for this. In legally simple cases of divorce, for example, the hearing can be conducted online.

9. Non COVID related developments - legislative or otherwise specific to your jurisdiction you wish to highlight?

None

10. Effects of doing things online going forward - commoditization of divorce/DIY divorces/mediation? What parts of the practice do you foresee will stay virtual?

No efforts are ongoing in Germany in this regard. However, the pandemic has shown that meetings can take place perfectly online. Nevertheless, we mustn't forget that our clients are in an exceptionally emotional situation in which personal contact will remain important.

11. What are your expectations post-pandemic on family dynamics, divorce and marriage rates? What should people be adding to their prenuptial agreements post-pandemic?

As soon as the future becomes more predictable for people again, we expect an increase in the divorce rate but also in the number of marriages, as wedding ceremonies and parties will then also be permitted again.

German family law is also compatible with the current situation; no explicit changes are necessary. Therefore, there are no implications for prenuptial-agreements post-pandemic.

12. Any cultural specifics as to how people get married and the social acceptance of divorce - and the role those have played?

In Germany, people usually get married with a party to which family and friends are invited. Due to the pandemic, such a celebration is currently not allowed. Weddings have therefore been postponed in general.

Nothing has changed in terms of divorces.

India

by Mohit Kaushik, Trinaya Legal, mohit@trinayalegal.com

1. How has the past year affected your work in particular and family law issues in general - what are trends and common issues you have observed? In your jurisdiction - has COVID broken up families or brought them close together? Any Anecdotes - what have you seen or how have people's thoughts changed.

That the International Family Day observed every year on May 15 was different for everyone in the year 2020. As per Times of India report title as “How the lockdown is cementing relationships and bringing families together” dated 14.05.2020⁸:

“Unlike past years, the onset of the global pandemic and the resultant lockdown, has given families across India and the world a new lease of familial bonding that was otherwise hard to come by. For the first time in a long time, many parents and kids—and even grandparents—are all under the same roof, round-the-clock. And this enforced togetherness can deepen relationships for years to come. According to Brad Wilcox, a professor of sociology and director of the National Marriage Project at the University of Virginia, people and families when faced with a global crisis, and especially one of this scale, tend to respond by orienting themselves in a less self-centred way and in a more family-centric way.... In the ‘Make Space for Life’ survey conducted by Godrej Interio, it was found that 56.7% of the respondents rated their work-life balance as terrible. But the lockdown has slowly changed that, with more and more people making use of the time to improve their relationships with not just immediate family, but also re-establishing bonds with other relatives. Whether is it huddling together on the couch to binge watch their favourite shows or gathering around the dining table for all three meals, families have definitely seemed to benefit from all the extra time.....”

2. Have reports of domestic violence increased in frequency over the past year?

That as per India Development Review (IDR) News report titled as “The link between lockdown, COVID-19, and domestic violence” authored by Arjun Kumar, Balwant Singh Mehta, Simi Mehta dated 17.03.2020⁹. “According to the World Health Organization, one in every three women across

⁸ <https://timesofindia.indiatimes.com/life-style/spotlight/how-the-lockdown-is-cementing-relationships-and-bringing-families-together/articleshow/75731732.cms> accessed on 05.04.2021

⁹ https://idronline.org/the-link-between-lockdown-covid-19-and-domestic-violence/?gclid=CjwKCAjwx6WDBhBQEiwA_dP8rYEHgw0UWKy0bl0vVLgtqpOkp_TN5ful715rV7btW_u_4pcLaacwfhoCvawQAvD_BwE accessed on 05.04.2021

the globe experience physical and/or sexual violence in their lifetime; and at least 30 percent of all women in relationships have experienced physical and/or sexual violence by their partners.

According to the Crime in India Report 2018, published by the National Crime Research Bureau (NCRB), a crime is recorded against women in India every 1.7 minutes and a woman is subjected to domestic violence every 4.4 minutes. It also topped the categories of violence against women according to the report. As per the data, 89,097 cases related to crimes against women were registered across India in 2018, higher than the 86,001 cases registered in 2017.

The National Family Health Survey (NFHS-4), 2015-16 highlighted that 30 percent of women in India between the ages of 15-49 have experienced physical violence. The report suggests that among married women experiencing physical, sexual, or emotional abuse, an alarming 83 percent list their husbands as the main perpetrators, followed by abuse from their husbands' mothers (56 percent), fathers (33 percent), and siblings (27 percent).

These statistics don't capture the data on violence against women in its entirety. This is primarily due to the prevalence of orthodox social norms and the stigma that is placed on survivors of sexual or domestic violence, resulting in cases being grossly underreported. Women also feel unsafe while approaching the police, because they worry that if their partners are arrested, they may face worse abuse once they are released, and in the interim, might face harassment from their in-laws or others.

Across the world, countries including China, the United States, the United Kingdom, Brazil, Tunisia, France, Australia, and others have reported cases of increased domestic violence and intimate partner violence. India, infamous for gender-based violence (and ranked the fourth worst country for gender equality, according to public perception), is showing similar trends. Within a few days of the lockdown in India, the National Commission of Women (NCW) noted a rise in the number of domestic violence complaints received via email. The NCW chairperson believes that the real figure is likely to be higher, since the bulk of complaints come from women who send their complaints by post, and might not be able to use the internet. Between the beginning of March and April 5th, the NCW received 310 grievances of domestic violence and 885 complaints for other forms of violence against women, many of which are domestic in nature—such as bigamy, polygamy, dowry deaths, and harassment for dowry.

The number of cases reported are most likely not proportional to the actual rise in domestic violence. This is because people locked in with their abusers may not be able to get access to a mobile phone, nor the space and time to call for help. Most avenues to seek help or to physically remove themselves from their situations are impaired.

Being trapped in a space with violent or manipulative individuals could lead to increased rates and intensity of threats, physical, sexual, and psychological abuse, humiliation, intimidation, and controlling behaviour. The ability to isolate a person from family and friends, monitor their movements, and restrict access to financial resources, employment opportunities, education, or medical care is heightened by a lockdown. These behaviours often have lasting effects on people, and can significantly affect mental health and well-being.”

That as per the Logical Indian report titled as “Domestic Violence During Lockdown: Dealing With The 'Shadow Pandemic” authored by Gayatri Gupta dated 24.09.2020¹⁰ –

“A UN report has recently analysed the impact of COVID-19 on women, urging nation-states to include prevention of violence against women and girls as a part of their COVID-19 action plan. With a sharp increase in domestic violence cases across the world, Phumzile Mlambo-Ngcuka, Executive Director of UN Women, has termed this increase in violence as a "shadow pandemic".

In India, the number of domestic violence complaints received by the National Commission for Women has doubled from 123 distress calls to 239 domestic violence complaints, from March 23, 2020, to April 16, 2020.

.....

In response to a recent spike in the frequency and intensity of domestic violence complaints, the National Commission for Women has launched a special WhatsApp helpline number: +91 7217735372, which will act as an exclusive helpline for domestic violence complaints during the period of lockdown. This will be in addition to the emails, online complaints links, and helpline numbers (Women Helpline (All India) Women in Distress -1091; Women Helpline Domestic Abuse- 181; Police- 100) which are already functioning.

The Ministry of Health and Family Welfare has also collaborated with the National Institute of Mental Health and Neurosciences to provide psychological support to women facing domestic violence through the helpline number: 080–4611007. Moreover, helpline number 112 is also available as an emergency response support system to provide immediate rescue and support to women in distress.”

3. If possible to wait it out (with no physical danger etc.) file now or wait? Can you start your divorce from home? What are the practical/ legal/ procedural considerations in your jurisdiction. Are courts backlogged/ are they hearing all matters?

That the Courts (Supreme Court of India and State High Courts) issued elaborated Standard Operating Procedure (SOP) for e-filing, mentioning, listing and hearing of matters through video conferencing/tele-conferencing mode¹¹.

That as per The New Indian Express Report titled as “Over 18 lakh pleas filed in courts across India during lockdown: Justice Chandrachud” dated 25.07.2020¹² –

“Over 18 lakh pleas were filed across courts in India during the coronavirus-induced lockdown between March and July, Supreme Court judge Justice D Y Chandrachud said on Saturday. He also said that virtual courts, which have been set up under "very very exceptional circumstances", are not here stay and the physical courts would gradually start functioning once again.

¹⁰ <https://thelogicalindian.com/gender/domestic-violence-during-lockdown-23944> accessed on 05.04.2021

¹¹ https://main.sci.gov.in/pdf/LU/04072020_153040.pdf accessed on 05.04.2021

¹² <https://www.newindianexpress.com/nation/2020/jul/25/over-18-lakh-pleas-filed-in-courts-across-india-during-lockdown-justice-chandrachud-2174680.html> accessed on 05.04.2021

"During the period of lockdown between March 24 and July 24, as many as 18,03,327 cases were registered across the country, of which 7,90,112 have been disposed of," Justice Chandrachud said. "During this period, the district courts in Maharashtra saw 2,22,431 cases, of which 61,986 have been disposed of despite functioning under the shadow of a serious pandemic," he added. According to him, the virtual courts have prevented justice from getting locked down even during this period of crisis.

"Virtual courts were introduced to prevent justice being locked down during the period of crisis. But you can never replace the open court hearing. These are intended to be special measures set up under very very exceptional circumstances and gradually we will go back to physical court hearings," he said.

"But before we go to regular hearings, we have to be guided by the public health experts," he added."

That as per the Logical Indian report titled as "Domestic Violence During Lockdown: Dealing with The 'Shadow Pandemic'" authored by Gayatri Gupta dated 24.09.2020¹³ –

"The Delhi High Court, while listening to a plea seeking protection of victims of domestic violence and child abuse, has directed the concerned authorities to consider appointing temporary protection officers, till regular appointments are made, to address the shadow pandemic.

The Jammu & Kashmir High Court has directed all courts in Ladakh and J&K to treat cases of domestic violence as 'urgent', and has suggested the government to designate certain pharmacies or grocery stores as safe spaces for women, increase the availability of tele/online legal and counselling services, and conduct awareness campaigns increasing the publicity of steps being taken by the government."

That as per Hindustan Times report titled as "Supreme Court did not close even for a day during lockdown: CJI Bobde" authored by Abraham Thomas dated 26.11.2020¹⁴ –

"Chief Justice of India (CJI) SA Bobde on Thursday said that the Supreme Court did not shut down even for a single day during the lockdown period, underscoring the resilience shown by the judiciary in preserving the vibrancy of the Constitution through the pandemic.

"During the lockdown, the Supreme Court did not lock down even for a day as a huge percentage of matters involved fundamental rights of citizens, particularly old persons and victims of domestic violence," CJI Bobde said on the occasion of the 71st Constitution Day.

Speaking at two different occasions commemorating the event – one organised by the Supreme Court of India and the other by the Supreme Court Bar Association (SCBA), the CJI recalled the

¹³ <https://thelogicalindian.com/gender/domestic-violence-during-lockdown-23944> accessed on 05.04.2021

¹⁴ <https://www.hindustantimes.com/india-news/supreme-court-did-not-close-even-for-a-day-during-lockdown-cji-bobde/story-z9YEUwyfHzEuj7EoIIHmQN.html> accessed on 05.04.2021

alarming situation created by the Covid-19 pandemic as the courts for the first time encountered a “sudden shock and interruption” that threatened access to justice.

.....

Speaking at SCBA event, the CJI said, “The biggest and the highest challenge the courts faced was delivery of unhampered justice in the midst of lockdown as it gives a sense of security and well-being to citizens...Closing physical hearing in courts was the first step, as otherwise the disease would have spread like wildfire.”

The CJI said the top court took suo moto note of the concerns of migrant workers, woefully inadequate treatment given to dying Covid patients, unaffordable cost of treatment in hospitals, and dead bodies not being cremated due to fear of the virus. “Our judiciary fared better than judiciaries of other countries,” remarked CJI Bobde, adding that during lockdown, the top court disposed of 14,849 cases, high courts about 1.5 lakh cases, and district courts close to 4.5 lakh cases.

However, the pandemic gave rise to a new kind of inequality, as access to justice became dependable on access to technology.

Lawyers and litigants in subordinate courts could not access justice on this count, CJI pointed out as he urged government’s help to remedy this technological gap even though it involved a huge cost.”

4. Alternatives to court - binding mediation/ arbitration?

That the Section 89 of the Code of Civil Procedure (CPC) gives power to the Court to refer the dispute for mediation or arbitration as it allows for amicable, peaceful and mutual settlement between parties without intervention of the court. Further in Afcons Infrastructure Ltd. and Anr. V. Cherian Varkey Construction Co. Pvt. Ltd. and Ors. (2010) 8 SCC 24, the Supreme Court laid down guidelines pertaining to the kind of cases that would be eligible for Alternative Dispute Resolution.

5. Custody and visitation issues to highlight if any?

In India Child custody is governed by the Guardian and Wards Act, 1890 and Section 26 of Hindu Marriage Act, 1955 for most of the religions. The only exception being Christians who are governed by the Indian Divorce Act 1869 and the Guardians and Wards Act 1890. For obtaining child custody a petition for child custody or declaration for the appointment of a natural or legal guardian of a minor child has to be filed and with the filing of the petition by the parent/third party seeking child custody in a family court having jurisdiction, the process of granting the custody starts in a Court. However, Jurisdiction of Family Court for minor children is non-existent when these children are foreign citizens and not ordinarily residing within the jurisdiction of the Family Court, Ref: Lahari Sakhamuri v. Sobhan Kodali, (2019) 7 SCC 311.¹⁵

¹⁵ <https://www.helplinelaw.com/family-law/CCUR/child-custody-what-is-unlawful-custody-and-remedies-for-such-unlawful->

In a landmark Judgment of N. Nirmala v Nelson Jeyakumar (JT 1999 (5) SC 223), the Supreme Court of India, held that depriving a mother of visiting rights was not justified. This helps in cases where the father being the natural guardian tries to deprive the mother basic visitation rights. Therefore, it is of paramount importance for Indian Courts to examine the cases that come to it and return the child, if there has been an unlawful removal of child from the contact of the aggrieved parent.¹⁶

6. International related issues and considerations if any?

While dealing with a case of custody of a child removed by a parent from another country to India in contravention of the orders of the court where the parties had set up their matrimonial home, the Hon'ble Supreme Court has held that a child can seek refuge under the parens patriae jurisdiction of the Courts in India. Further, the Apex Court has noted that India is not yet a signatory to the Hague Convention of 1980 on "Civil Aspects of International Child Abduction", and Courts in India must consider the question on merits bearing the welfare of the child as of paramount importance.¹⁷

For unlawful Custody the aggrieved parent can file a Writ petition of Habeas Corpus in the Court having appropriate jurisdiction of the area, where the minor child has been shifted. A writ of habeas corpus is proper if proved that the incarceration of a minor child by a parent is illegal and without any authority under the law, The landmark judgment to understand Unlawful Custody in such circumstances is Ref: Arathi Bandi Vs. Bandi Jagadrakshak Rao & Others, AIR 2014 SC 918 where the child was born to the Indian Origin parents in America and the custody of the child was granted to the mother by an American court with visitation rights to the father. However, the mother in insolence of the order brought the child to India. The husband filed a Habeas Corpus Writ Petition in the High Court and the matter finally reached the Supreme Court of India, who held that the mother cannot gain advantage from the wrongful act. Therefore, it upheld the order passed by the High Court in a Habeas Corpus Writ Petition filed under Article 226 of the Constitution to return the child to America. It was also held by the Supreme Court of India, that the courts in other countries should warrant no wrong doer takes advantage of his wrong doing.¹⁸

7. Any creative "solutions" - clients figuring out complicated situations, courts making relevant processes easier - that you might have seen?

[custody.html#:~:text=India%20is%20a%20not%20signatory.jurisdiction%20of%20the%20Indian%20Courts.&text=On%20the%20other%20hand%2C%20countries,that%20the%20child%20be%20returned](#) accessed on 05.04.2021

¹⁶ <https://www.helplinelaw.com/family-law/CCUR/child-custody-what-is-unlawful-custody-and-remedies-for-such-unlawful-custody.html#:~:text=India%20is%20a%20not%20signatory.jurisdiction%20of%20the%20Indian%20Courts.&text=On%20the%20other%20hand%2C%20countries,that%20the%20child%20be%20returned> accessed on 05.04.2021

¹⁷ <http://www.fortunalegal.in/child-custody-laws-in-india.html> accessed on 05.04.2021

¹⁸ <https://www.helplinelaw.com/family-law/CCUR/child-custody-what-is-unlawful-custody-and-remedies-for-such-unlawful-custody.html#:~:text=India%20is%20a%20not%20signatory.jurisdiction%20of%20the%20Indian%20Courts.&text=On%20the%20other%20hand%2C%20countries,that%20the%20child%20be%20returned> accessed on 05.04.2021

That on account of the covid-19 pandemic, the Courts i.e. Supreme Court of India and State High Courts from time to time issued elaborated Standard Operating Procedure (SOP) for e-filing, mentioning, listing and hearing of matters through video conferencing/tele-conferencing mode.

8. What are your expectations post pandemic on family dynamics, divorce and marriage rates? What should people be adding to their prenuptial agreements post-pandemic?

Research:

That as per sections 10, 23 and 28 of the Indian Contract Act, 1872, the prenuptial agreements are not valid in India as it is against the public policy and are also a restraint to legal rights.

Indonesia

By Andika Gerroleon Andari, AGA Law Firm, andika@agalaw.id

1. How has the past year affected your work in particular and family law issues in general - what are trends and common issues you have observed? In your jurisdiction - has COVID broken up families or brought them close together? Any Anecdotes - what have you seen or how have people's thoughts changed

Several local Indonesian media reported an increase in the number of divorce cases filed with both the Religious and District Courts. CNN Indonesia in June 2020 covered a threefold increase in the number of divorces at the Semarang Class 1A Religious Court, from 98 cases in May 2020 to 291 cases in June 2020. One of the plaintiffs interviewed by CNN Indonesia explained the reason for her divorce, namely that her husband had stopped giving living.¹⁹

Other coverage from West Java, detik.com reported an increase in the number of divorce cases at the Bandung Religious Court from 2,734 cases in May 2020 to 12,617 cases in June 2020 although then decreased slightly to 11,797 in July 2020. Detik.com reported a total of 55,876 divorce cases from January 2020 to August 2020 with the three most dominant factors: disputes and continuing fights (29,033 cases), economy (23,476 cases) and leaving one party (2,511 cases).²⁰ An increase in the unemployment rate of 2.67% and the sluggishness of the local economy can be said to be one of the factors for the increase in divorce.²¹

However, there is trend of child marriage in Indonesia during pandemic that spike up to 300%. Directorate General of Religious Courts (Badilag) Supreme Court, in the last five years. He found that the rate of marriage dispensation has jumped sharply, especially in the last two years. In 2016

¹⁹ CNNindonesia.com, <https://www.cnnindonesia.com/nasional/20200624103600-20-516800/perceraiannya-naik-3-kali-lipat-selama-wabah-corona>, accessed 30 April 2021

²⁰ Detik.com, <https://news.detik.com/berita-jawa-barat/d-5152007/angka-perceraiannya-di-jabar-capai-55876-kasus-melonjak-saat-psbb>, accessed 30 April 2021

²¹ Kompas.com, <https://www.kompas.com/tren/read/2020/12/19/180200765/refleksi-perekonomian-indonesia-2020-dan-harapan-pada-2021?page=all>, accessed 30 April 2021

there were 6,488 dispensations granted; 2017 there were 11,819; 2018 there were 12,504; in 2019 there were 23,126; and in 2020 as many as 64,211.²²

This surge in marriage dispensation was caused by various factors. Firstly, the existence of regulations that became loopholes, after the amendment to the Law on Marriage Number 16 of 2019 which came into effect on October 15, 2019. This law contains issues regarding marriage dispensation or the right to marry even though they are not yet 19 years old. Article 7 paragraph 2 of Law Number 16 Year 2019 states that marriage dispensation is given for urgent reasons, forced, and must be strengthened by supporting evidence.

The exclusion of underage marriages with these “urgent conditions” is a gap in the law of marriage under 19 years of age. Another factor that causes the high rate of marriage dispensation is likely due to pandemic conditions, children unable to attend school face-to-face as well as family economic difficulties. This economic difficulty is one of the urgent reasons to marry off children.

2. Have reports of domestic violence increased in frequency over the past year?

Komnas Perempuan (Comission for Women) noted that 34% of Service Institutions working with Komnas Perempuan stated that there was an increase in case complaints during the pandemic. Data on direct complaints to Komnas Perempuan also experienced a drastic increase of 60% from 1,413 cases in 2019 to 2,389 cases in 2020.²³

3. Has the pandemic made divorce a luxury for some in your jurisdiction?

The difference in divorce costs depends on the location of the Religious and General Courts. In the capital area, the Special IA Class Religious Court in South Jakarta only increased the divorce fee in January 2021. Divorce lawsuit (divorce lawsuit from wife to husband) from IDR 861,000 to IDR 1,040,000 while divorce talak (divorce suit from husband to wife) from Rp1,061,000 to Rp1,290,000.²⁴ For the South Jakarta District Court, the fee for divorce lawsuit is IDR 1,340,000 in March 2019 and there is no change.²⁵

4. If possible to wait it out (with no physical danger etc.) file now or wait? Can you start your divorce from home? What are the practical/legal/procedural considerations in your jurisdiction. Are courts backlogged / are they hearing all matters?

Divorce hearings in Indonesia can be conducted online via the e-court application. At the beginning of the pandemic period, restrictions on community activities including office closures were implemented in several regions in Indonesia. Parties wishing to file a divorce suit are directed

²² Directorate General of Religious Courts (Badilag) Supreme Court, <https://badilag.mahkamahagung.go.id/perkara-diterima-dan-diputus-pada-tingkat-pertama/data-perkara/perkara-diterima-dan-diputus-pada-tingkat-pertama>, accessed 30 April 2021

²³ Komnas Perempuan, <https://komnasperempuan.go.id/siaran-pers-detail/catahu-2020-komnas-perempuan-lembar-fakta-dan-poin-kunci-5-maret-2021>, accessed 1 Mei 2021

²⁴ Religious Court South Jakarta, <https://www.pa-jakartaselatan.go.id/layanan-publik/prosedur-pengajuan-dan-biaya-perkara-5.html>, accessed 1 Mei 2021

²⁵ Religious Court South Jakarta, <http://www.pn-jakartaselatan.go.id/foto/BIAYA%20PANJAR.pdf>, accessed 1 Mei 2021

to proceed through an e-court application. After the new normality era in May 2021, filing divorce cases directly to the court can again be made.²⁶

5. Alternatives to court - binding mediation / arbitration?

Indonesia is in development of alternatives to courts. However it still in discussion on the House.

6. Custody and visitation issues to highlight if any?

There is mutual decision and order from Court to alter the way of visitation into online meeting via zoom or other canals with no specific time period. However, it is not ruled and/or regulated by Court Decision officially by Government or Court.

7. International related issues and considerations if any?

None.

8. Any creative “solutions” - clients figuring out complicated situations, courts making relevant processes easier - that you might have seen?

E-court and Sidang Mandiri (Independent Court or Self-attending Court) basically a court process via internet with documents submission with e-docs and e-signature with judge decision is a notification via special system in web basis. However, it is compulsory for applicants to attend the first session of the court to decide main matter of the case, verifying originality of documents, and intention of applicants before it proceed to next step (online court process).

9. Non COVID related developments - legislative or otherwise specific to your jurisdiction you wish to highlight?

None.

10. Effects of doing things online going forward - commoditization of divorce/DIY divorces/mediation? What parts of the practice do you foresee will stay virtual?

In my opinion, the online court system through e-court can be continued after the pandemic.

11. What are your expectations post pandemic on family dynamics, divorce and marriage rates? What should people be adding to their prenuptial agreements post-pandemic?

Attention to the separation of husband-wife assets needs attention. One of the sources in the CNN Indonesia article explained the reasons for the divorce, namely:²⁷

²⁶ Kumparan.com, <https://kumparan.com/kumparannews/gugatan-cerai-di-bandung-melonjak-sejak-new-normal-1tgbUOsLHix/full>, accessed 1 Mei 2021

²⁷ Cnnindonesia.com, <https://www.cnnindonesia.com/nasional/20200624103600-20-516800/percerai-an-di-semarang-naik-3-kali-lipat-selama-wabah-corona>, accessed 1 Mei 2021

"Never given a living [husband], had a debt in the bank that he refused to pay. The vehicle in my name was sold to pay off a debt at a state bank,"

To avoid cases of selling goods on behalf of the wife, a prenuptial agreement regarding the separation of assets needs to be made.

12. Any cultural specifics as to how people get married and the social acceptance of divorce - and the role those have played?

Indonesia is an archipelago country with 447 tribes. The drive of Indonesian people to get married based on social acceptance in particular acceptance of custom that handed down by its own ancestors is still exist. For instance, there is a huge sentiment that Javanese shall not marry with Padangnese or Sundanese. However, the younger generation in Indonesia are getting progressive and generally accept the idea of multiracial marriage.

Based on our personal experiences as well. In the process of divorce during court process there is an argument from the applicant stated that "incompatibility of personality due different custom and habit". The different of custom and habit cited previously, mainly driven by its core value as the way of living in the part of growing up in particular custom of tribes.

Iran

By Saeid Shabani, shabani_saeid@hotmail.com

1. How has the past year affected your work in particular and family law issues in general - what are trends and common issues you have observed? In your jurisdiction - has COVID broken up families or brought them close together? Any Anecdotes - what have you seen or how have people's thoughts changed?

The covid-19 doubled the family's issue in Iran. In the past years, Iran faced with the economic drop and increased the financial issue in the Iranian families. The consequence of the financial crises, Cause the Increase of divorce rate in Iran. The beginning of pandemic in Iran brought new problems to the families and more couples applied for divorce.

2. Have reports of domestic violence increased in frequency over the past year?

Yes, the rate of divorce in Iran increased three times since 2019.

3. Has the pandemic made divorce a luxury for some in your jurisdiction?

The jurisdiction in Iran influenced by the Islamic rules especially in the divorce cases.

According to Islam, divorce is Makruh for the families. But, what is the meaning of Makruh? According to the religion, Makruh is an act that is not neither allowed nor prohibited in Islam. it

means, it has a reward from the god if you don't do it but if you do it doesn't have a punishment from the god! In the other words, it is better to not do it but if you do, it still is fine.

Therefore, according to the Islam, the divorce is a Makruh act and the judges should not order the divorce quickly as other acts.

Regardless of pandemic situation, the divorce has a long procedural in Iran and sadly, the regulations in Iran is in favour of men and against the women.

4. If possible to wait it out (with no physical danger etc.) file now or wait? Can you start your divorce from home? What are the practical/ legal/ procedural considerations in your jurisdiction. Are courts backlogged/ are they hearing all matters?

As I explained in the previous answer, the divorce has long procedural rules in Iran. In some cases, it takes 2 or three years to obtain a divorce certificate! The reason for such a long procedures is that:

- 1) Divorce is Mukruh in Iran.
- 2) Divorce is under the men's will.
- 3) The judges are forced to make it longer than normal to obey the religion rules in order to keep the formation of family and decrees the divorce rate.

So far, the judges always try to ignore the facts to not issue the divorce order. In the hearing session, unfortunately, the women do not enjoy the same right as men to be able to talk about her life and ask for the divorce. However, women can deliver their message to the judge but it does not have a power and men voice.

In the Iran, we are not able to fill the online application for divorce because the judicial system in my country is very old and there is no new method of using technology in the legal services.

5. Alternatives to court - binding mediation / arbitration?

Well, In the Iran the divorce cases first should submit to the court and then the court can refer the case to the mediators for amicable resolution. But the mediators do not have a power to make a decision and the final decision is up to the judge. In many cases, the judge rejecting the decision of mediators without any reason, however the report of mediators are fair!

Second, the divorce cases can't refer to arbitration center as other countries. As I explained in above, after the submission of the case to the court judge can refer it to the mediators or arbitrators to solve the problem but again the final decision will be made by the judge.

The Iranian judicial system does not have a separate law for mediation and in some context, the meaning of arbitrators and mediators are confused.

6. Custody and visitation issues to highlight if any?

The custody in Iran can be review in two periods:

- A. before divorce

As a general principle, before divorce the parents should undertake the custody of their children unless they can't fulfill their responsibility.

- B. after divorce

According to the Iranian law, After the divorce of the couple from each other, the priority of caring for the children until the age of 7, the girl and the boy will be the responsibility of the mother. After the age of 7, their children will be in the custody of the father. If the parents have a problem with each other over custody of the children, the court will decide legally on the custody of the child.

7. International related issues and considerations if any?

The Iranian family law is one of the most controversial issues of the country in the mirror of international law. The custody of the children, the divorce right which is under the control of men, the right of men in preventing women from traveling abroad, the right of men in preventing women from working, the right of men for divorce of the girl is not virgin, are some controversial subject that the western countries blame Iran for violation of human right.

8. Non COVID related developments - legislative or otherwise specific to your jurisdiction you wish to highlight?

Family law in Iran can be divide in two periods.

- before 1979
- after 1979

Before the Islamic revolution in 1979, the family law in Iran was one of the most modern law in the world. Women enjoyed the same rights as men and in some cases; the women had more right than men! But after the Islamic revaluation in Iran and impact of Islamic rules in the family law the previous rules were abolish from the law and the men got more power in the family law compare to the women. In the previous law, the heritage had to divide between the men and women equally but after the revolution, the share of the women is half of the men. In the previous law, the virginity was not any reason for divorce but after the revaluation, men received the right to divorce her wife if she is not virgin.

In the recent year, less men are using their divorce right of the girl is not virgin and they think this is an unfair to the girl's life when she is single. The protest of the people against the unfair regulations and support of the people from women's right made a significant change in the Iranian law and we hope to accelerate this change in the future.

9. What are your expectations post pandemic on family dynamics, divorce and marriage rates? What should people be adding to their prenuptial agreements post-pandemic?

I think after covid, people will learn more lessons from being together for a long time and try to change their lifestyle if they face with another pandemic. I think after pandemic, the divorce rate will be increase because in some cases I have seen than the women decided to divorce but in the pandemic situation they won't risk to go to the court and also difficulty of finding a job during the covid, delayed their decision in request for the divorce.

10. Any cultural specifics as to how people get married and the social acceptance of divorce - and the role those have played?

In the Islamic countries, as a general principle the marriage for many people was a blank choice. The parents decide and the son or daughter had to follow them. However they had a right to accept or reject but the bank marriage was a dominate culture in the society. During the pandemic, more young people had to date online and probably decide to marriage. So far, online date and marriage is going to be accepted in the society as families think this is one of the best way for young people to know each other.

Italy

By Romualdo Richichi, Studio avv. prof. Emidia Zanetti Vitali, romualdo.richichi@gmail.com

1. The practical consequences of the pandemic on family law issues in Italy have been quite deep, with regard to the way according to which family judicial proceedings work: after a period, in the spring, when almost every activity of the Courts has been paralyzed, first the Courts themselves and then the law provided the concerned people with very effective tools to address the difficulties stemming from the impossibility of holding Court hearings in which the personal presence of the parties and their counsels was formerly required.

On the one hand, therefore, in proceedings of agreed legal separation and divorce by consent, the parties have been dispensed from appearing, personally, in Court, to confirm their decision to enter in a legal separation or to divorce, as was mandatory until now, under Italian law; while, on the other hand, in litigation proceedings, the most important hearings (like the first one, when the Judge must decide on provisional orders, concerning the support for the financially weaker party and the provisions, concerning the children), are held in streaming, while the exchange of written statements has taken the place of other hearings, which, even when held physically, with the personal participation of the counsels, used to be little more than formalities, due to the still prevailing importance, given by Italian civil procedure, to extensive written statements, which render almost superfluous the actual oral discussion of any aspect of a case.

Somehow paradoxically, therefore, the fact that we got rid of the need of being physically present in Court for many steps of family (and other) proceedings, while diminishing to a measure the immediacy of the judgement (which, anyway, was never the main strength of Italian proceedings),

allowed some Courts to be able to treat simple cases and proceedings related to the issue of orders by consent much more quickly than it was customary before the Coronavirus outbreak.

Concerning the less “procedural” aspects, it seems that, according to statistics, the public health situation is causing a rise in legal separation cases, but, according to my personal experience, this seems to be not completely true, because, in my view, all the situations in which the Coronavirus contributed to the decision of breaking up, were already compromised before the outbreak of the pandemic, which, therefore, was only an aggravating factor of a pre-existent crisis.

2. I have no reason to say that the pandemic caused an increase of domestic violence cases, but this is not my main practice area.

3. The pandemic had no impact on the cost of divorce in Italy: it, therefore, can be ruled out that the present health situation has made “divorce a luxury for some”.

4. As I have stated before, after a pause in the months of the spring lockdown of 2020, the Courts are functioning again, and in place like Milan (where I am based), most of the backlog related problems have been solved. However, when saying so, I refer only to the Coronavirus related backlog and not to the general pre-existing backlog, which remains a very serious structural problem of the Italian judicial system: even if some Courts, especially in the Northern regions, are managing to treat cases much more swiftly than before, therefore, the duration of even simple proceedings in other Courts can still be unbelievably protracted with no relation whatsoever with the pandemic.

Furthermore, even if it is not possible to start legal separation or divorce proceedings from home, it is possible to take all the relevant steps remotely, sending petitions, statements and attached evidence to the Courts by certified e-mail (please note that this possibility has not been developed as a remedy to the Coronavirus situation, because the so-called “telematic trial” is working since 2007).

5. It is possible to enter in a legal separation or to divorce without starting a Court proceeding by reaching the relevant agreement after an “assisted mediation” proceeding which is entrusted to the attorneys of the parties and subject to the control of the public prosecutor office, when children are concerned. Furthermore, childless couples are entitled to enter in a legal separation or to divorce without the need of being assisted by lawyers, by submitting a form to the office of the city administration, charged of keeping the marriage registries.

6. During the spring lockdown, the actual implementation of visiting rights caused many difficulties, especially between “conflictual” couples, because the movement restrictions were often called upon as an excuse to prevent the other parent from seeing the children. Furthermore, provided that Lombardy (i.e. the region where Milan is located) was one of the places more affected by the pandemic in the spring of 2020, many parents moved to nearby Switzerland (where many Milanese people own holiday houses), bringing with them the children and keeping them there even in the period which they were supposed to spend with the other parent, who was unable to cross the border due to the travel restrictions.

However, most problems have been solved when the government made clear that travel restrictions do not apply to people pursuing visiting rights.

8. Before the law started giving provision in order to make possible dispensing with the personal presence of the parties in Court hearings (especially with regard to the need, for the spouses, to confirm their consent in agreed legal separation and divorce by consent), many territorial Courts took steps to that effect, even if the lawfulness of this kind of measures could not be taken for granted: anyway, initiatives as such were of real help in moving forward.

9. I have no Covid unrelated development to report, with the possible exception of the inclusion, in the Italian new government lead by Mr Draghi programme, of a general reform of the civil procedure, in order to quicken the treatment of cases, which, as I already pointed out (see above point n.4), is presently still very slow.

10. In my opinion, it is very likely that many formalities, which, as I have stated before (see above point n.1), formerly required the physical presence in Court hearings, could be substituted for good by the remote exchange of written notes.

11. While I have no specific expectation on the consequences of the pandemic on family dynamics, I am unable to answer on the question concerning prenuptial agreements, because, under Italian law, they are almost completely unlawful.

12. After the Coronavirus outbreak, obviously, many marriages have been postponed, due to the impossibility of holding ceremonies and parties, but, even if the number of married couples and of traditional families is steadily declining since the late sixties, I do not believe that the pandemic will have any lasting effect on this trend, while social acceptance of divorce (which was made legal, in Italy, fifty-one years ago), is nowadays complete and is not an issue, even in the most backward and conservative places of the Country.

Malaysia

By Venice Lee, Ricky Tan & Co., venice@rickytan.com.my

1. How has the past year affected your work in particular and family law issues in general - what are trends and common issues you have observed? In your jurisdiction - has COVID broken up families or brought them close together? Any Anecdotes - what have you seen or how have people's thoughts changed?

To curb the Covid-19 pandemic in Malaysia, on 16th March 2020, the Malaysian Government announced the Movement Control Order ("MCO") which began on 18th March 2020.

During the MCO, non-essential services were not allowed to operate and schools were ordered to close. Being confined at home for a long period can take a psychological toll on anyone, especially spouses. Spouses had new stressful issues such as sudden unemployment, adapting the new norm by working from home, childcare and the ambiguity surrounding the length of MCO.

Also, I must say that the financial scars of the Covid-19 pandemic ran deep. The burden and stress that the Covid-19 pandemic is putting on everyone's lives is huge.

These factors would inevitably put spouses in a bad mood and it would be very easy for hard feelings and arguments to develop.

During the past year, I have had many enquiries on divorce matters. The common issues that led them to filing divorce were financial constraints or domestic violence in the family.

That said, this Covid-19 pandemic does actually bring family closer together. I have a personal friend who was busy with his works before the MCO. However, his relationship with his wife and children became stronger as they spent more time with each other. They cooked, watched movies and chatted more than ever during the MCO.

There are people around the world who are losing family members and friends, along with their livelihoods. We should learn to appreciate what we have before it's gone.

2. Have reports of domestic violence increased in frequency over the past year?

I can only speak on this based on statistics and news report in Malaysia. According to a news portal, it reported that Bukit Aman's Sexual, Women and Child Investigations Division analysis actually showed a 20 per cent decrease in domestic violence cases.

According to ACP Siti Kamsiah Hassan who is the principal assistant director of Sexual, Women and Child Investigations Division, it recorded 261 cases of domestic abuse within three months before the MCO. However, there were only 205 reported cases within three months after the MCO.
<https://www.malaymail.com/news/malaysia/2020/08/25/bukit-amans-cases-of-domestic-violence-against-women-dropped-during-mco-but/1896773>

3. Has the pandemic made divorce a luxury for some in your jurisdiction?

It is oft jokingly said that our routines may have stalled during the Covid-19 pandemic, but the desire to divorce certainly hasn't. However, this is true to a certain extent in Malaysia because most divorce were filed on the basis of a "last straw". The Covid-19 pandemic actually served as a real wake-up call for the spouses who are starting to rethink if they should end their marriage.

This means that most spouses were already having issues with each other before the Covid-19 pandemic. However, now that they were being forced to stay at home with their partner day in, day out – the cracks in their relationships are getting bigger.

4. If possible, to wait it out (with no physical danger etc.) file now or wait? Can you start your divorce from home? What are the practical/legal/procedural considerations in your jurisdiction. Are courts backlogged/ are they hearing all matters?

For non-Muslim in Malaysia, dissolution of a marriage can be made by way of single petition or joint petition subject to the governing statute under Law Reform (Marriage and Divorce) Act 1976.

Dissolution of a marriage by way of joint petition is out of the mutual consent of the parties. Hence, this means that the spouses would have agreed on the arrangement of custody of their children, maintenance of wife, education fees to children and distribution of matrimonial properties.

On the other hand, dissolution of a marriage by way of single petition will be rather complicated and the process will be longer than joint petition. Under the law, parties are required to attend conciliation before filing cause papers in the Court for single petition.

It is possible but not advisable to file joint petition from home as there are legal terminologies that the parties will need to comprehend and understand.

In Malaysia, we face practical considerations such as getting clients to attend office to sign the papers due to the MCO. Besides, as the Courts for family division were ordered to close, the Hearing date will be scheduled to a much later date. Until the Hearing date, parties would still have to face each other. Besides, the Courts are also facing backlog of cases. Hence, if there were no physical dangers posed to any party, it is advisable for parties to wait. Alternatively, parties can choose to stay separately to avoid unnecessary arguments.

5. Alternatives to court - binding mediation/ arbitration?

Parties can always go for mediation before an independent mediator or marriage counselling sessions. I find that these alternatives are very useful in getting the spouses share their problems and those problems can be solved with the help of an independent third party.

6. Custody and visitation issues to highlight if any?

In a joint petition, there are not many issues on custody of children and visitation. Usually, the spouses would agree on the custody of children depending on their time and ability to care and control their children. In relation to visitation issues, unless parties are in bad terms, they would usually agree on term of visitation whereby either party is allowed to meet the children on a certain day subject to appointment and availability. For single petition, it is governed under the Law Reform (Marriage and Divorce) Act 1976 and at the discretion of the Court for the best interest of the children.

7. International related issues and considerations if any?

There is an increasing number of cases involving international marriage due to the globalization of marriage and family life. It concerns the suddenly disappear of the spouse and/or unable to locate as the spouse has returned to the origin country. In such case, there might be a need to update the current traditional governing law so that it is able to cope with the issues on international marriage.

8. Any creative “solutions” - clients figuring out complicated situations, courts making relevant processes easier - that you might have seen?

The divorce in Malaysia is rather an old school one, which is dissolution by an order of Court. The cases could be as simple in joint petition but could be as complication in single petition, on case-to-case basis. The bright side is our law in Malaysia is clear enough to govern most of the situations.

9. Non COVID related developments - legislative or otherwise specific to your jurisdiction you wish to highlight?

During the pandemic, our judicial has gazetted a notification of conferment of jurisdiction to Sessions Court Judge to decide on the matters under the Law Reform (Marriage and Divorce) Act 1976, with effect from 1 July 2020. This might be due to the backlogging and/or floodgate of divorce cases during the pandemic.

10. Effects of doing things online going forward - commoditization of divorce/ DIY divorces/ mediation? What parts of the practice do you foresee will stay virtual?

Malaysia practises a traditional judiciary system for dissolution of marriage. Unlike Taiwan, a divorce can be filed in the Department of Civil Affairs. Malaysia has not delegated its sole power for dissolution of marriage as it is the authority established under the Law Reform (Marriage and Divorce) Act 1976. This is differentiated with the US system where mediation might be a better way to dissolve marriage with lower cost. However, we can say that this is a way to control the floodgate of divorce cases but it is unlikely to adopt similar system in Taiwan or the US system in Malaysia unless the legislative decided to delegate such decisive powers to a government body. The compulsory counselling sessions for single petition should be maintained or should counselling sessions become a requirement for filing of a petition.

11. What are your expectations post pandemic on family dynamics, divorce and marriage rates? What should people be adding to their prenuptial agreements post-pandemic?

The real source of increase number of divorce cases is unknown, could be the financial stress everyone faces during the pandemic. The practice of prenuptial agreements is rare in Malaysia which I opine that this is a good practice to adopt. However, prior to this, there is indeed a need for the Government and/or legislative to foresee the issues might be caused when there is a breach of the agreement. Also, we must be guided that the basic principles of an agreement, the enforcement of such agreement, free consent or any duress or fraud, this could, conversely lead to floodgate of cases.

12. Any cultural specifics as to how people get married and the social acceptance of divorce - and the role those have played?

The maturity of younger generations has developed faster due to the educations and the influences of social media. It is the concern in many countries that lesser marriage but more divorce. People realizes the importance of their rights and the practice of gender equality in the society. Of course, we should not overlook that happiness is the core of marriages.

Mexico

By Hector de Avila, De Avila Law Firm, h.deavila@sbcglobal.net

1. How has the past year affected your work in particular and family law issues in general - what are trends and common issues you have observed? In your jurisdiction - has COVID broken up families or brought them close together? Any Anecdotes - what have you seen or how have people's thoughts changed?

During the past year all my work became from being 100% in person and with traditional meetings and interactions to being 100% virtual and using technology for meetings and communications.

Family law issues in Mexico remain the same as per legal regulations; however, procedures changed only to accommodate COVID restrictions. A common trend is that there will be a better use of technology in legal matters, but the government and many attorneys are still reluctant to embrace the changes.

COVID is just bringing family issues to the surface. Families in Mexico were broken before COVID, the pandemic just made them visible. Domestic violence incremented in Mexico during COVID; however, limited economic resources and the lack of government legal assistance reduced the chances to break the violence cycle. People in Mexico is reconsidering if the “traditional Mexican family” is still an option: increment in violence and dysfunctional family relations are changing the concept of family.

2. Have reports of domestic violence increased in frequency over the past year?

No, over the past year there were less reports of domestic violence due to the lack of assistance and mobility for the victims. The Mexican Government is using this reduction in reports as a political toll stating that violence and crimes are going down; however, the reports are down, not the violence.

3. Has the pandemic made divorce a luxury for some in your jurisdiction?

Yes, Mexico lost millions of jobs and the income of the Mexican families was reduced making extremely difficult to afford a divorce.

4. If possible, to wait it out (with no physical danger etc.) file now or wait? Can you start your divorce from home? What are the practical/legal/procedural considerations in your jurisdiction? Are courts backlogged/ are they hearing all matters?

It is possible to wait if there is no danger, the courts are only taking urgent matters in many states.

In Mexico it is not possible to start divorce from home. Mexico is behind in the use of technology in the administration of justice, not for the lack of resources or technology but for the intricate and highly bureaucratic procedures.

Courts in Mexico are very backlogged, COVID make worse the already inefficient court system.

1) Alternatives to court - binding mediation/ arbitration?

Mediation is mandatory in Mexico for family matters, but the legal culture is behind; parties and attorneys rarely reach agreements during mediation prior to the formal court process.

2) Custody and visitation issues to highlight if any.

Custody and visitation are a big problem during the pandemic in Mexico. Custody & visitation agreements in Mexico rarely consider force majeure clauses and mitigation. Attorneys in Mexico are more concerned in “winning” more rights to their clients than foreseen future issues at the time of the drafting and negotiating of the agreements.

5. International related issues and considerations if any?

The Mexican Ministry of Foreign Affairs closed for several months and is still being closed under intermittent basis depending of COVID levels in the country. The Ministry handles all the international family related issues. This made the international matters to fall in a legal limbo for months, and many are still without being processed.

6. Any creative “solutions” - clients figuring out complicated situations, courts making relevant processes easier - that you might have seen?

No, the Mexican processes are very complex and can be changed only by legislation. The current administration minimized the impact of COVID and is failing in providing legislative changes to accommodate the current needs.

7. Non COVID related developments - legislative or otherwise specific to your jurisdiction you wish to highlight?

There is a huge push from Mexican civilians and activists to make the system easier for the victims; however, I don't believe that there will be any substantial change during the current administration.

8. Effects of doing things online going forward - commoditization of divorce/ DIY divorces/ mediation? What parts of the practice do you foresee will stay virtual?

Mediation is feasible to do it virtually; unfortunately, over 52 % of the Mexican population do not have access to Internet or smart devices, and only 2 of each 10 poor households in Mexico have access to Internet.

9. What are your expectations post pandemic on family dynamics, divorce and marriage rates? What should people be adding to their prenuptial agreements post-pandemic?

There is going to be a decrease in marriages and an increment in divorces. It will be fantastic that people in Mexico will use prenuptial agreements. The Mexican laws provide prenuptial agreements; however, big part of the population consider them a taboo or an offensive topic.

10. Any cultural specifics as to how people get married and the social acceptance of divorce - and the role those have played?

Younger generations consider that marriage is not necessary to keep a solid relationship, and divorce has been well accepted in Mexico since the 80's. I expect a considerable decrease in marriages and an increment in divorces post pandemic.

Nigeria

By Efe Etomi, Chief Rotimi Williams' Chambers, eoefrwilliams.com

1. How has the past year affected your work in particular and family law issues in general - what are trends and common issues you have observed? In your jurisdiction - has COVID broken up families or brought them close together? Any Anecdotes - what have you seen or how have people's thoughts changed?

Covid has changed work habits in Nigeria as more and more companies and individuals now work from home. Meetings and conferences are almost totally online now as new strains of the virus ensures that pandemic is still raging. Many offices have also either cut wages or laid off different categories of staff. On the family front it has been a mixed bag.

Whilst separations may have increased, divorces haven't increased commensurately perhaps because our courts were shut for some time and are presently running at half strength with priority given to political matters. Just as well since it leaves the door open for reconciliation.

Then of course the most popular ground for divorce is the provision of the Matrimonial Causes Act to the effect that parties to the marriage have lived apart for a continuous period of at least two years immediately preceding the presentation of the petition and without objections from the respondents. There are however unconfirmed reports that divorces cases have skyrocketed in recent in some places in Nigeria. For example, it recently trended on social media that over 4000 divorce cases have been filed in Abuja, the Federal Capital Territory, this year alone. On the other hand, the pandemic has represented a super bonding time for many families I know. First most members are almost all together under one roof and find common things to do. In my family for example, we workout together, play basketball and volleyball, take walks with the dogs and play indoor games together. We are really taking this opportunity to enjoy ourselves and bond more. This has been a welcome development.

2. Have reports of domestic violence increased in frequency over the past year?

Again, there are mixed results here. There have been reports of domestic violence in relatively small families, partly because the frequent interaction becomes too boring, and they take out their frustrations on each other. This is less with larger family units where there are more choices of things to do and company to keep.

However, I must be quick to say that most cases are not officially reported

3. Has the pandemic made divorce a luxury for some in your jurisdiction?

This appears to be the case. In any case most of our courts are running at half strength and hardly give divorce cases priority.

4. If possible, to wait it out (with no physical danger etc.) file now or wait? Can you start your divorce from home? What are the practical/legal/procedural considerations in your jurisdiction? Are courts backlogged/ are they hearing all matters?

As mentioned above, our courts are backlogged and give very little priority to divorce cases. You can't start divorces at home as there are minimal Virtual hearings to assist any kind of home service. However there some States like Lagos that have Family Courts established under the Family Division of the High Courts and devote their time to family law related matters including divorce, custody, maintenance etc. This has been the case pre-pandemic but the pandemic has seen a huge rise in domestic violence especially against women and children. As President of the African Women Lawyers Association (Nigeria) we spend a lot of our time and resources to grapple with this problem. Procedurally, divorces are conducted under the Matrimonial Causes Rules which were made decades ago. Fast track Procedural steps like frontloading are not available for matrimonial cases. Coupled with the fact that most courts do not have the facilities for virtual hearings, it is impossible to conduct cases without physical appearance in court.

5. Effects of doing things online going forward - commoditization of divorce/ DIY divorces/ mediation? What parts of the practice do you foresee will stay virtual?

Ans: I believe that when Virtual hearings become a part of our life, it will influence a lot in the area of mediation in divorce matters.

6. What are your expectations post pandemic on family dynamics, divorce and marriage rates? What should people be adding to their prenuptial agreements post-pandemic?

Ans: Prenuptial agreements are not common in this jurisdiction but one thing that is certain is that young couples will opt for more flexible arrangements regarding their marriages in an attempt to limit areas of friction in their relationships. There is no doubt that divorce rate is increasing, this may encourage parties to enter prenuptial agreements.

7. Any cultural specifics as to how people get married and the social acceptance of divorce - and the role those have played?

Ans: Culture plays a strong role in family affairs generally in Africa and marriages are viewed as union between families. Thus, families mediate a lot in marriage feuds and in many cases have saved these marriages. Similarly, when differences amongst couples become irreconcilable, these cultural influences can help make separations less painful. This is not to say divorces are easily welcomed in Africa.

Senegal

By Lamine Balde, SJTU, baldelamine912000@gmail.com

1. How has the past year affected your work in particular and family law issues in general - what are trends and common issues you have observed? In your jurisdiction - has COVID broken up families or brought them close together? Any Anecdotes - what have you seen or how have people's thoughts changed?

Covid-19 has negatively impacted families with drops in income, job losses, non-renewed fixed-term contracts, difficulties in finding a job or paying rent, school closures, domestic violence, etc. Covid-19 has also broken up families in Senegal. It has infected households in Dakar, the most affected city, and divorce cases have increased sixfold. In the second quarter of April, May and June, measures to combat Covid-19 led to 30 divorce cases filed in Dakar. While during the first quarter, the Ministry of Justice recorded only 5 filed cases.

Covid-19 has mostly affected young couples (5-6 years of marriage) but strengthened marital bonds in harmonious families.

The pandemic also motivated some couples to have children.

2. Have reports of domestic violence increased in frequency over the past year?

Covid-19 increased violence against intimate partners due to restrictions, especially on movement, leading to increased exposure to violent partners. It has exacerbated pre-existing vulnerabilities in households, mainly in countries with limited government capacity. In turn, the high strain on households along with economic stresses led to greater violence. A study reveals that out of a total population of 1056 women/girls in six countries surveyed, total domestic violence, both verbal and physical, increased from 40.63% before the Covid-19 crisis to 52.18% during the pandemic crisis, an increase of 12%. These data come from a survey report on the impact of Covid-19 on violence against women and girls in Chad, Niger, Mali, Burkina Faso, Mauritania and Senegal, commissioned by Justice and Dignity for the Women of Sahel (JDWS).

3. Has the pandemic made divorce a luxury for some in your jurisdiction?

In Senegal, divorce is not valid until granted by a court. Under Covid-19, the mere act of granting a divorce has become a luxury that few citizens can afford. The health crisis lengthens divorce procedures and thus postpones the date of physical separation. This new phenomenon, which has appeared elsewhere, spread in Senegal.

4. If possible, to wait it out (with no physical danger etc.) file now or wait? Can you start your divorce from home? What are the practical/legal/procedural considerations in your jurisdiction? Are courts backlogged/ are they hearing all matters?

In Senegal, divorce is the severance of the marital bond granted by a judge. A divorce settled by both spouses or their families with no judicial intervention is invalid; the spouses are still married under the law. At present, the judicial system cannot conduct online filings and hearings. Hence, there are no online procedures for divorce. Besides, due to restrictions and difficulties of holding hearings, courts and tribunals only dealt with urgent cases and those with strict time limits, such as those relating to detention. Public prosecutors and judges were especially alert to children at risk and cases of domestic violence.

5. Alternatives to court - binding mediation/ arbitration?

In Senegal, Covid-19 highlighted the limits of the judicial system, which seemed crippled. Divorce proceedings were difficult to initiate. The only alternative was to encourage mediation to settle disputes between parties. Mediation is a common practice in family and divorce matters. The mediator helps parents and family members find appropriate, lasting, participatory, and constructive solutions. In 2019, during the second quarter, i.e. April, May, June 2019, the Educational and Protective Action in Open Environment (Aemo) conducted 18 family mediations. In 2020, while the second quarter was not yet over, the Aemo was at 30 mediations.

6. Custody and visitation issues to highlight if any?

In Senegal, the justice system is biased towards women, who are more likely to obtain child custody and alimony payments. Visiting rights are subject to a relative consensus in Senegal and have not been greatly affected by Covid-19.

7. International related issues and considerations if any?

The measures imposed against Covid-19 in 2020 led to significant economic, financial, social, cultural, environmental, political, educational and health-related impacts.

A twofold crisis in supply (drop in production) and demand (drop in consumption), particularly of services, resulted in companies shutting down totally or partially, raising fears of essential goods shortages, while at the same time sanitary containment measures were taken, affecting people. On the macro level, declining economic growth and stimulus packages led to record levels of public debt worldwide.

Financial markets began falling on the 24th of February 2020 following a surge in Covid-19 cases outside mainland China.

Citizen, business, and public events are canceled, rescheduled, or postponed.

Confinement had psychological consequences on consumers, social life, and the environment with the return of wildlife to the city, the decrease in CO2 emissions...

On April 15, 2020, the International Monetary Fund renamed the Covid-19 crisis the "Great Lockdown", referring to the Great Depression and the Great Recession. The crisis's scale prompted many political, economic, and academic players to consider how to reinvent the society post-lockdown.

8. Any creative "solutions" - clients figuring out complicated situations, courts making relevant processes easier - that you might have seen?

Covid-19 has brought Senegalese courts to a standstill with courtrooms closed, judges confined, and laws rearranged. Proceedings were suspended and cases piled up due to the absence of innovative methods of proceedings. Legal actions often take months or even years, and Covid-19 has further lengthened these delays.

9. Non COVID related developments - legislative or otherwise specific to your jurisdiction you wish to highlight?

To the best of my knowledge and information, the legislative activity has been particularly weighted towards laws related to the Covid-19 health crisis.

10. Effects of doing things online going forward - commoditization of divorce/ DIY divorces/ mediation? What parts of the practice do you foresee will stay virtual?

Senegalese courts and tribunals have responded to Covid-19 by delaying or suspending proceedings. While some courts have used technological solutions to mitigate delays, Senegalese courts and tribunals opted to postpone proceedings.

11. What are your expectations post pandemic on family dynamics, divorce and marriage rates? What should people be adding to their prenuptial agreements post-pandemic?

I guess the pandemic only revealed what was probably pre-existing. If all the family is "trapped" in a house, issues such as money, children, task allocation... are catalysts of conflicts that can lead to volatile situations (violence). Moreover, mental health-related issues can be worsened, and the sense of isolation if you eventually realize that you are in an unhappy union can hasten a separation (divorce). After Covid-19 and all related restrictions, divorce rates will decrease since we will gradually return to normality. Marriages will increase as all planned marriages will be combined with those postponed due to uncertainty and safety regulations. I believe people do not have to add extra to their pre-nuptial agreements after the pandemic and just because of the pandemic.

12. Any cultural specifics as to how people get married and the social acceptance of divorce - and the role those have played?

Senegal is a culturally diverse country steeped in customs and traditions. The country is home to several ethnic groups, and each has its customs. Most people get married religiously, i.e., at the mosque or church, followed by a civil ceremony at the town hall. However, traditional marriages also exist, those linked to ethnic groups. In Senegal, marriage is very much a family affair. A boyfriend can propose to a girl, but the proposal lapses without her family's consent. The boyfriend

must approach the girl's family through his father or uncle. In Senegal, regardless of Covid-19, divorce is seen as a social risk because it can lead to single-parent families. Divorce is perceived as an abnormality, explaining the prevalence of remarriage in the country.

Slovakia

By Daniela Jezova, Law Offices of Daniela Jezova, jezova@lawyer.com

1. How has the past year affected your work in particular and family law issues in general - what are trends and common issues you have observed? In your jurisdiction - has COVID broken up families or brought them close together? Any Anecdotes - what have you seen or how have people's thoughts changed?

Preliminary data show that the pandemic and lockdown have reduced the number of marriages, but also divorces in Slovakia.

During the first ten months of 2020 (for which data are currently available), 21,689 marriages were reported. Compared to the same period of 2019, it is 5,032 marriages (19 percent) less, and compared to 2018, it is 6,417 marriages (23 percent) less. It is likely that some marriages have been postponed until the coronavirus situation improves and large weddings can be held again. In any case, reducing marriage is not good news, because marriage is the very institution that helps to overcome difficult life situations, such as social and other difficulties during a pandemic.

During the lockdown period, there was also a significant decrease in the number of divorced marriages, although in the second half of the year they increased. In the months of March to May 2020, the number of divorces decreased by 45 percent compared to the same period of 2019. On the contrary, in the months of July to September there was an increase in the number of divorces by 22 percent compared to the same period of 2019. Other months of 2020, 6,927 divorces were reported, which is 894 divorces (11 percent) less than in the same period in 2019 and 899 divorces (11 percent) less than in 2018.

Deferred divorce proceedings will end for the most part this year, so it can be expected that in 2021 the number of divorces will increase compared to last year (provided that the courts will hear).

In order to assess the question of how the pandemic affects divorce rates, it is important to look in particular at another indicator, namely the number of divorce petitions filed. In the past, there have been repeated views that lockdown will help increase divorce rates, as forced spending of a lot of time together will deepen disagreements between spouses.

Preliminary data on the number of filed divorce petitions in Slovakia, collected by the Ministry of Justice of the Slovak Republic, show that in March to May 2020, 28 percent fewer divorce petitions were reported than in the same period in 2019. In June and July, a slight increase, and a slight decrease in August to October, compared to the same periods in previous years. A total of 9,025 divorce petitions were reported in the first ten months of 2020, a decrease of 10 percent from 2019

and 11 percent from 2018, respectively. From these data, it appears that the coronavirus pandemic and its associated limitations will have a rather positive effect on the stability of the marriage and the reduction of divorce rates.

2. Have reports of domestic violence increased in frequency over the past year?

The COVID-19 pandemic brought a significant increase in domestic violence. Not only is its intensity increasing, but so is its brutality.

A total of 1461 crimes were committed by "relatives" in domestic violence offenses in 2020. This represents a year-on-year increase of 55 cases.

In the case of the crime of torture of a close person and a trusted person, 477 criminal offenses were detected in 2020, which is 72 cases more than in 2019.

Police officers are increasingly using the institute of expelling a suspect from domestic abuse. While in 2018 the number of reports was 844, in 2019 it was 892 and in 2020 to 1045 reports from the common dwelling. It must be borne in mind that serious cases of domestic violence often end in the police with a motion to indict, with the rate in the basic facts of the crime starting at three to eight years.

3. Has the pandemic made divorce a luxury for some in your jurisdiction?

If one of the parties is in an unfavourable property relationship, the court may apply for an exemption from court fees and for a state legal help.

The Act on the Provision of Legal Aid to Persons in Material Need gives the possibility for persons in material need to request free legal aid. The only competent authority is the Legal Aid Center, which receives and assesses applications. The condition is that the applicants' income does not exceed 1.4 times the subsistence level.

4. If possible, to wait it out (with no physical danger etc.) file now or wait? Can you start your divorce from home? What are the practical/legal/procedural considerations in your jurisdiction? Are courts backlogged/ are they hearing all matters?

Divorce proceedings begin on application to the competent court. Application can be filled on paper to the registrar of the court or electronically signed by electronical signature by the data box of Slovak republic. Electronical filling documents is obligatory for legal practitioners, private persons might still file via post office.

In Covid situation in Slovakia there are not heard all cases. Only criminal cases and cases where minor child is involved are heard at the courts.

5. Alternatives to court - binding mediation/ arbitration?

Divorces or minor children cases are excluded from arbitration. In Slovakia there is also not a binding mediation, all agreements in relation to minor child has to be approved by court. Only the court might divorce a marriage.

Family relationships. Mediation here offers a sensitive solution to the conflicts we may encounter in every family. In the case of divorce and seriously disrupted family relationships, where the interests of children in particular need to be taken into account, mediation is perhaps the last option for maintaining good (or at least satisfactory) family relationships. This mediation agreement as an outcome of the mediation procedure has to be approved by the court, otherwise is not enforceable in Slovakia.

6. Custody and visitation issues to highlight if any?

Pursuant to the RESOLUTION OF THE GOVERNMENT OF THE SLOVAK REPUBLIC no. 77 of 5 February 2021, it follows that the restriction on freedom of movement and residence by the ban on going out of 8 February 2021 from 05.00 am until 01.00 does not cover the journey of a child to and from a childcare facility under the age of three, the journey of the child and his or her accompanying person to a parent or person who has the right to have contact with the child and the return journey, the journey of the parent, another entitled person and the child's journey made in connection with a court decision on contact of a parent (or other entitled person) with the child, alternating personal care or travel the child by agreement of the parents and the way back.

7. International related issues and considerations if any?

Pursuant to the Decree of the Public Health Office of the Slovak Republic, which prescribes measures in the event of a threat of public health to quarantine obligations of persons after entering the territory of the Slovak Republic no. 41 applies to persons who enter the territory of the Slovak Republic due to a valid court decision in the matter of performing alternate care of parents for a minor child, or the right of contact with a minor child, whereas persons thus entering the territory of the Slovak Republic are obliged to prove a valid court decision when entering the territory of the Slovak Republic, or parental agreement and inform the Ministry of Labor, Social Affairs and Family of the Slovak Republic (Center for international legal protection of children and youth) on the intention to enter the territory of the Slovak Republic. For these reasons, insulation in a home environment or quarantine accommodation is not required.

8. Any creative “solutions” - clients figuring out complicated situations, courts making relevant processes easier - that you might have seen?

We are the first to unequivocally recommend representation by a lawyer.

In the case of divorce, if the person files for divorce himself without legal representation, we recommend that the following conditions be observed.

The first condition of divorce is a correctly written petition for divorce. It is sent to the court in a childless marriage in two copies.

The second condition for a quick divorce is to file an application with the correct administrative district court. If you had incorrectly filed for divorce in another court, then this district court would transfer it to the competent court in accordance with the law, but you would lose at least 3 months.

The third condition for a quick divorce is the attachment of all the annexes to the divorce application and the divorce application itself in the required number. Attach the proposal and attachments in three copies in your case.

If the spouses have children, writing a child agreement will speed up the divorce.

9. Effects of doing things online going forward - commoditization of divorce/ DIY divorces/ mediation? What parts of the practice do you foresee will stay virtual?

Court hearings in Slovakia are being held even under this situation by person. You need to be present or appoint a legal representative.

10. What are your expectations post pandemic on family dynamics, divorce and marriage rates? What should people be adding to their prenuptial agreements post-pandemic?

The number of divorces will undoubtedly increase after the pandemic. In addition to the economy, COVID-19 will also affect families and interpersonal relationships. Stress, isolation or submarine disease will certainly take its toll. The number of suicides and divorces is already growing in the world, although this has not yet manifested itself in Slovakia, it is certainly possible to expect an increase in divorces in the future.

It is clear that the decrease in the number of divorces at the time of the lockdown is related to the restriction of the activity of the courts deciding on divorce. This decline was partially completed in the second half of the year. Deferred divorce proceedings will end for the most part this year, so it can be expected that in 2021 the number of divorces will increase compared to last year.

Please note that prenuptial agreement is not valid nor recognized in Slovakia. In Slovakia there are some options how to determine the special conditions in the event of the break-up of spouses, but Slovakia has unique system in this.

11. Any cultural specifics as to how people get married and the social acceptance of divorce - and the role those have played?

Marriage is a legal and social institution that forms the legislative basis for the family. In Slovakia, marriage is defined by Act no. 36/2005 Coll. on the Family and on Amendments to Certain Laws as follows: "Marriage is a union of a man and a woman. The society comprehensively protects and promotes its good." In the traditional sense, the basic function of marriage is to establish a family.

According to Slovak law, marriage can be concluded in two forms:

Civil (civil) marriage is a declaration of marriage before a state authority. Marriage in any suitable place may be authorized by the registry office to which the administrative district of that place belongs.

Church marriage is a declaration of marriage before the authority of a registered church or religious society. The marriage takes place in a place designated by the regulations of the church or religious society for religious ceremonies or religious acts.

Spain

By Elena Zarraluqui, Elena Zarraluqui Abogados, elenazarraluquiabogados.com

1. How has the past year affected your work in particular and family law issues in general - what are trends and common issues you have observed? In your jurisdiction - has COVID broken up families or brought them close together? Any Anecdotes - what have you seen or how have people's thoughts changed?

The big issue in Spain is that Courts were closed since mid-March up until June, when they resumed their activity and regular working hours. During these months, all legal related matters were put on hold and the Courts would only accept urgent petitions, carrying out the hearings telematically.

However, once the Courts resumed their routines and people were able to leave their homes due to the end of the lockdown, we witnessed an outburst in the requests of people who were seeking legal advice. There's been an increase not only in divorce petitions, but also in modifications of measures that had already been set, the establishment of measures for parents who haven't married and, also, a lot of request of disablement and inheritance cases.

I feel like in Spain, Covid-19 has broken up families as well as brought them close together. It really has depended on where the couple was standing at before the lockdown. A lot of couples whose relationship was crumbling down have broken up but also a lot of them have found each other again, strengthening their relationship. Both ends are perfectly plausible, being that couples and families in general are not used to staying together in the same space for such a long period of time. And, on top of that, we would need to add the stress and anxiety caused by the global situation. I would say that people are way more exasperated, they are feeling more nervous and impatient, and that's a common factor to all of our clients. However, if I had to say what's been more frequent, I'd said that more families have been broken up by Covid than otherwise.

Reports say that, as it is logic, divorces dropped dramatically during the lockdown months, being a 42% less than during the same time slot in 2019. However, during the third trimester of 2020, divorces rose 16% compared to the same period in 2019. Experts in Spain foresee a, yet again, dramatic increase in the following months of 2021.

2. Have reports of domestic violence increased in frequency over the past year?

Reports say that this past year domestic violence has had less deadly victims than it has left in the past, being 2020 the year with less victims since Spain has started officially registering these deaths back in 2003. However, there's been an increase in violence against the women since the Covid-

19 and the measures that have kept people in lockdown have made many of these extreme situations worse.

Usually, the worst time in these delicate scenarios is when the victim tries to leave the house. Since in Spain we've been in a complete lockdown, being confined to our houses and with movement restrictions, victims haven't been able to move out or even file a report before the police, being subjected to the abuser for a longer time. Nonetheless, once the lockdown was over, victims have gone through with their respective reports.

3. Has the pandemic made divorce a luxury for some in your jurisdiction?

The answer to this question is clearly yes. People are trying to stay together for a longer period of time because of the huge economic crisis that's coming ahead as a result of Covid-19. A consequence of this is that many couples cannot afford a divorce and face the expenses that come with it, for example, paying two separate households.

4. If possible, to wait it out (with no physical danger etc.) file now or wait? Can you start your divorce from home? What are the practical/legal/procedural considerations in your jurisdiction? Are courts backlogged/ are they hearing all matters?

The fact of waiting or not waiting depends on each case, so to answer that we would need to take a closer look to the case at hand and the strategy to follow. Each marriage has completely different circumstances around it, which makes every divorce different. What people need to bear in mind right now is that Courts are taking longer to see the cases and set a date for the hearings. Also, family proceedings, if not by mutual agreement, tend to go on for quite some time.

It's true that a lot of couples have started preparing their divorces from home, especially during the lockdown, as in they started gathering documents or information they would need to face a proceeding such as a divorce. I've maintained countless reunions via Skype or other telematic devices throughout the lockdown. Also, there's a lot of people how have been searching on the internet, reaching a point where they've even filled in forms to get a divorce. As you can imagine, this is a disaster.

Due to last year's lockdown, Courts are a little backlogged and judges, even though they are hearing all matters, since they were closed for such a long time, matters have been accumulating. Also, as some of the Courts personnel have been working from home, slowing down the Courts processing.

On a different note, we need to remember that if just one person who needs to attend the Court has tested positive in Covid-19 in the previous 10 days or has been in direct contact with someone who has, the hearing has to be postponed. As you can imagine, this happens pretty often.

It's been somewhat hectic since at first Courts wanted to set hearings via Zoom or Skype, but it didn't really work on family proceedings. For example, I've only had one hearing online. That's because in family law the hearings need to be more face to face and doing them online makes it lose some of its essence and effect. Thankfully, slowly but surely, things are getting back to normal.

5. Alternatives to court - binding mediation/ arbitration?

Arbitration is rarely used in matters of family law although I really believe on it. Regarding mediation, even though I'm not a mediator, it's a good and valid alternative that on some occasions can work in our area.

6. Custody and visitation issues to highlight if any?

The big issue during the pandemic has been and is still being in relation to the visitation regimen that divorce parents already have set. At first, it was a little confusing since there wasn't any unification throughout the whole Spanish territory in relation to parents being able to visit their children or not. Even though the Spanish Government set some restrictions in order to prevent people from moving from one place to another, they also set some exceptions, including the possibility for divorce parents to visit their kids and maintain the visitation regime.

However, there's been a lot of people who haven't felt comfortable with the constant bustle that comes with the exchanges and the visitations in such a delicate sanitary situation. That's why the Courts created a specific proceeding to regulate these situations, which has been working very steadily and efficiently.

Regarding custody, I feel like over the past years there's been a steady increase in petitions for joint guardianship, peaking said increase right now. This has a logic explanation. The implementation of teleworking or working at home has been fervently sought by many companies to keep their business afloat. This is the reason why many parents have realized that, by working from home, they are more than capable to balance their work life with their house life and the care of their children.

But these joint guardianship petitions are not limited to divorces only, as they are also being very frequent in modification of the measures that had been set by the time of the divorce. A lot of parents who kept the sole guardianship have realized they need more time for themselves, and a lot of parents who only had the visitation regime, have felt like that's not enough time to enjoy with their children.

7. International related issues and considerations if any?

There's been some issues, although not too many, regarding the visitation regime of parents who live in different countries and whose countries borders have been shut down. The Spanish Jurisdiction has created a few Covid-19 related proceedings to deal with these scenarios in a fast way, in order to reorganize the visitation regime as well as the vacations that parents who live abroad weren't able to enjoy at the time with their children.

8. Any creative "solutions" - clients figuring out complicated situations, courts making relevant processes easier - that you might have seen?

At the beginning of the lockdown, many companies and businesses adopted what in Spain we call ERTE, which stands for Temporary Employment Regulation File. It's a labor flexibility measure that enables the company to reduce or suspend employment contracts due to the lack of activity.

This measure has affected countless Spaniards and, therefore, has affected their income. The Courts started allowing people affected by the "ERTES" petition for a modification of measures, decreasing the alimony or child support they were supposed to be paying.

At first, this solution made every sense, but it has given some people the possibility to take advantage of it to benefit themselves and not doing it for legitimate reasons.

9. Non COVID related developments - legislative or otherwise specific to your jurisdiction you wish to highlight?

In my opinion, legislation regarding Family Law has come to a standstill and needs a huge modification that allows it to be applied and adapted to the society's needs. The legislation in the common territory of Spain is certainly outdated and it needs an urgent modernization. For example, we need a new legislation that foresees a new regulation regarding the assignation of the use of the common house where the family has set its residence.

10. Effects of doing things online going forward - commoditization of divorce/ DIY divorces/ mediation? What parts of the practice do you foresee will stay virtual?

I believe that the only thing that will persist online wise will be the meetings with clients, but the rest of our profession will maintain the previous status and work ethic. Regarding the DIY divorces and similar options, I firmly oppose to them, since they always have a bad outcome because of the lack of legal advice received. It's always a better option to have an expert on the matter advice you, rather than doing it yourself.

11. What are your expectations post pandemic on family dynamics, divorce and marriage rates? What should people be adding to their prenuptial agreements post-pandemic?

Reports indicate that during this past year in Spain there's been a decrease in weddings and an increase in divorces, with a belief that divorce rates will continue to grow.

Regarding prenuptial agreements, in Spain there's only regulation regarding the economic regime the marriage wants to live by and the alimony it may be paid by one of the parties to the other in the event a divorce takes place. Nevertheless, we need to be aware that any subject regarding minors is a matter of Public Order and will be taken into consideration as a precedent to the case.

In spite of it not being a figure commonly used in Spain, I'm a firm believer in preventive law and in the need to pact the future effects of the breakdown of the marriage.

12. Any cultural specifics as to how people get married and the social acceptance of divorce - and the role those have played?

Seeing as divorces are common and frequent in Spain, being one of the top five countries in the European Union with more divorces per year, divorces are not seen as something exceptional or out of the ordinary.

What people would need to keep in mind when they're going to get married, is setting an economic regime that works for both of them and is satisfactory to both parties. This shouldn't be a decision taken lightly, not only because of the consequences by the time of the divorce, but also because of the way the family economy is going to work.

Also, many couples only think - if they even do - of the consequences that a breakup would have economic wise, but there are a lot of factors that need to be taken into account, such as custody, the house, visitation regimen and holidays, etc.

The Netherlands

By Magali van Maanen, De Boorder Advocaten, mvanmaanen@deboorderadvocaten.com:

1. How has the past year affected your work in particular and family law issues in general - what are trends and common issues you have observed? In your jurisdiction - has COVID broken up families or brought them close together? Any Anecdotes - what have you seen or how have people's thoughts changed?

Due to COVID, last year we had a dip in new cases coming in. On the other hand, people who had been contemplating a divorce for a longer period of time, have found their way to our office. My guess is because they finally had time to address their problem; there was nothing else to do.

On a more personal work-level things certainly changed as everyone was working from home. On the one hand it increased efficiency, on the other hand it was more difficult to create a bond between co-workers.

2. Have reports of domestic violence increased in frequency over the past year?

Not in my practice, although according to the news this is the case.

3. Has the pandemic made divorce a luxury for some in your jurisdiction?

No, to be honest things haven't really changed, except that we have less personal contact than before.

4. If possible, to wait it out (with no physical danger etc.) file now or wait? Can you start your divorce from home? What are the practical/legal/procedural considerations in your jurisdiction? Are courts backlogged/ are they hearing all matters?

It is certainly possible to start your divorce from home. The contacts between the clients and the lawyers can go through video conferencing and the lawyer can file the petition for divorce. The

courts are indeed backlogged, but “new” divorce cases are not really taking longer than they used to. The first (and usually only) hearing is mostly about 1 year after the petition is filed.

5. Alternatives to court - binding mediation/ arbitration?

There are no “procedural” alternatives to court. Courts always have to pronounce the divorce. However in The Netherlands 94% of divorces are settled out of court, for instance through mediation. The court then only handles the divorce administratively: the parties’ agreement is stamped and the divorce is pronounced. There is no need to physically appear in court.

6. Custody and visitation issues to highlight if any?

During the first wave, in April/May 2020, there were several cases in court concerning parents who refused to hand over their children saying it was a health risk. This was not considered a valid reason to keep the children away from the other parent. In the past few months there have not been any COVID related cases on custody cases in my practice, just the regular cases.

7. International related issues and considerations if any?

Obviously this is an issue as parents and children are restricted in travelling. Within driving distance, parents are making the effort. But for instance a client of mine from the US hasn’t seen his children for over a year now.

8. Any creative “solutions” - clients figuring out complicated situations, courts making relevant processes easier - that you might have seen?

I prefer physical hearings over online ones. However we now also have “hybrid” hearings which help me to go to the court and my client abroad to be present at the hearing online.

9. Effects of doing things online going forward - commoditization of divorce/ DIY divorces/ mediation? What parts of the practice do you foresee will stay virtual?

Many client meetings can be done online. I also foresee much more people working from home in the future. However, there are a lot of meetings, such as mediations where I have both parties at my table at the same time, which I prefer to do in person. It will be interesting to see if in a few years’ time everything will be back to the way it was because people prefer to work at the office and not mix home and business, or whether people will stay working at home, at least a few days a week.

10. What are your expectations post pandemic on family dynamics, divorce and marriage rates? What should people be adding to their prenuptial agreements post-pandemic?

I have not seen an increase or a drop, nor do I really expect one. People will always separate, pandemic or not. Maybe the pandemic put things into perspective quicker than they might have done. I refuse to believe however that if there was no pandemic, people would have stayed together or vice versa.

11. Any cultural specifics as to how people get married and the social acceptance of divorce - and the role those have played?

Not that I can think of.

Switzerland

By Lisa Locca, Locca Pion Ryser, locca@loccapionryser.ch

1. How has the past year affected your work in particular and family law issues in general - what are trends and common issues you have observed? In your jurisdiction - has COVID broken up families or brought them close together? Any Anecdotes - what have you seen or how have people's thoughts changed?

The Pandemic has forced all of us to be creative and flexible, and the main trend is the speeding up of digitalisation of the work place. There is however a difference in Switzerland between law firms and the Courts, at least in Geneva: unfortunately, Swiss justice is very behind in the digitalisation process and the first lockdown in March stopped the work of the Courts: hearings were cancelled (except for emergencies), there was no possibility to hold visiohearings, briefs could not be filed electronically and still had to be delivered physically, by hand or by mail, to the clerk's office. During the second partial lockdown in October, the hearings resumed with all sanitary precautions (plexiglas, mask, limited persons in the courtroom) and the rythm of hearings resumed almost back to normal, but the delays suffered during the first lockdown will take months, if not years, to be caught up.

In the firms, on the contrary, except during the first lockdown of March where the daily activity was impacted, lawyers adjusted quickly to the new routine and visiomeetings are now used daily, with many benefits in terms of improved communication with the clients and efficiency in crossboarder litigation where setting up a visiomeeting with many participants from different jurisdictions proved easier than finding a suitable common date for all of them to travel to the same physical meeting room.

For families, as we are still in partial lockdown, it is a too early to assess the impact of COVID, but it appears families have been brought closer together.

2. Have reports of domestic violence increased in frequency over the past year?

Not to my knowledge but we are still in partial lockdown and all 2020 statistics have not been published yet.

3. Has the pandemic made divorce a luxury for some in your jurisdiction?

No, and the divorce petitions filed in 2021 are handled at the same pace as before the pandemic. Clearly, it is the petitions filed from March to May 2020, during the first lockdown, that suffer backlog.

4. If possible to wait it out (with no physical danger etc.) file now or wait?

File now.

Can you start your divorce from home? No, there is no electronical filing of claims in Switzerland, the petition must be filed in writing and either sent or delivered to the clerk's office.

What are the practical/ legal/ procedural considerations in your jurisdiction. Are courts backlogged yes for the petition filed during the first lockdown (March-May 2020)

Are they hearing all matters? Yes

5. Alternatives to court - binding mediation/ arbitration?

Mediation is becoming more and more encouraged and some states even make it binding, with excellent results.

6. Custody and visitation issues to highlight if any?

During the first lockdown, there were many practical questions to be solved with regards visitation right, in particular in alternate 1 week/1 week, for fear of transmission of the virus. Families have then been pragmatic and found a safe and suitable way to maintain the visitation rights.

7. International related issues and considerations if any?

A lot of flexibility and creativity was necessary to maintain visitation right during lockdown in situations where divorced parents and the children did not live in the same jurisdiction.

8. Any creative "solutions" - clients figuring out complicated situations, courts making relevant processes easier - that you might have seen?

When parents do not live in the same country (for example a parent in Switzerland and the other one in Italy, and the child based with his mother in Switzerland), lockdown and borders closed made it impossible to exercise the regular visitation right, but the calendar has been adjusted and the weekends « lost » during the lockdown were « given back » under the form of additional holiday days during the Summer. The Court ratified this pragmatic solution.

9. Non COVID related developments - legislative or otherwise specific to your jurisdiction you wish to highlight?

The Swiss Supreme Court unified in February 2021 the methods of calculation of alimony for the ex-spouse and for the children. It also modernized the approach and abandoned the « lifelong »

alimony in favour of the primary care-giver, even if aged 45 or 50 upon the filing of the divorce petition, encouraging financial autonomy and resuming to work.

10. Effects of doing things online going forward - commoditization of divorce/ DYI divorces/ mediation? What parts of the practice do you foresee will stay virtual?

Clients will search for information online and might use visiotools to choose their lawyer. In amicable divorces, with no minor children and no major assets to split, the divorce hearing, which is a formality that takes about 15 minutes, might be replaced by a visiohearing.

Turkey

By Mert Yalçın, Yalçın & Toygar Law Office, myalcin@ytlaw.com

1. How has the past year affected your work in particular and family law issues in general - what are trends and common issues you have observed? In your jurisdiction - has COVID broken up families or brought them close together? Any Anecdotes - what have you seen or how have people's thoughts changed?

Ongoing Covid-19 pandemic has caused many adverse effects in all fields of life: social, economic, psychological, physical, etc. The mandatory changes/measures that we are experiencing negatively affected the relationships between family members, business partners, tenants and their landlords, employees and employers. The most-observed problem regarding Covid-19 effects is inability to complete duties (payments, deliveries, etc.), mostly in commercial law and labor law.

In terms of family law; while people across the world have to live under lockdown and isolation due to coronavirus pandemic may have 2 different effects: If the couple is deeply connected, they become even closer, however, if the couple is distanced from each other, lost their love and attraction towards each other, or they have unresolved issues from the past, they may experience various disputes during these hard times.

Besides the difficulty of being have to live together 24/7, in my opinion, economic problems also have an importance impact on divorces since the small business owners having to shutter their businesses and people being laid off or having to take unpaid leave which causes the thought of incompetency.

2. Have reports of domestic violence increased in frequency over the past year?

Women are often exposed to physical, psychological, social and economic consequences of violence and violence itself; causing the women's quality of life to decline to a large extent and violence against women is increasing day by day in our country and we see many murder and injury news on the TVs. Women and children are subjected to violence "in the family" more, which is considered as the most protected place. In its report published in 2019 by the United Nations, the following statement is made: "The most dangerous place for the Turkey, women are mostly murdered in their homes. Pandemics may cause material and social losses for everyone all around

the world. This situation causes people who do not have the skills to deal with stress and anxiety, anger control, conflict resolution and communication to resort to violence or to use more violence against family members especially against -women and children-.

According to the March 2020 Report of “We Will Stop Femicide” Platform, a total of 21 women were killed since 11 March which is the date when the first Covid-19 case is seen in Turkey and until the end of March. Moreover, it is also determined that the numbers of calls made to the hotlines are increased visibly.

According to annual report of “We Will Stop Femicide” Platform, 300 women were killed and 171 women were found suspiciously dead. It could not be determined why 182 of the 300 women were killed, however, it is determined that 22 women were killed due to economic reasons, 96 women were killed while trying to make a decision about their own life, such as wanting to divorce, refusing to make peace, refusing to marry, and rejecting the relationship.

On the other hand, Women in our country are hesitating to go to the hospital even to get a battering report due to the risk of transmission of Covid-19 virus. Students who return to their family houses upon the schools are closed wish to make a complaint about the violence they witness or they are subjected to, however they may change their mind due to fact that the party who uses violence is in the risk group in terms of the age or chronic disease factor. Violence victims or those who witnessed violence may withdraw their complaint about violence to the relevant authorities because of worrying about the violent party would have to stay in unhealthy conditions during this difficult Covid-19 outbreak process, or because of the possibility of not applying measures such as the removal of the violent party from the communal residence due to the Covid-19 pandemic and the concern of being obliged to live in the same residence with the violent party. These facts lead us to think that there are actually more domestic violence cases that are not reported and recorded.

Rights regarding the protection of the family and the prevention of violence against women are regulated and protected under Law Numbered 6284 and within the scope of this law; the women is their homes.” Again, according to the data of the Ministry of the Interior Affairs of 3 hours.

3. Has the pandemic made divorce a luxury for some in your jurisdiction?

Due to Covid-19 pandemic and closure of various businesses and workplaces as a side effect of the measures taken in this regard, the most applied and faced practice - also problem – is “short-time working allowance”. This is a government support which is paid for the employees of a business & workplace which deducted their work to 1/3 or completely stopped. The problem is the paid amount is so less to ensure the livelihood of a family of 3, even 2. Moreover, many of the married women do not work because they do not have a proper education or job. Men also have difficulties for finding well-paid jobs even in normal periods (before Covid-19) and this difficulty increased with pandemic. With these difficulties, especially women try to resolve their in-marriage problems (i.e. forgiving affairs, trying to stand to physical, psychological and economic violence of their husband).

4. If possible, to wait it out (with no physical danger etc.) file now or wait? Can you start your divorce from home? What are the practical/legal/procedural considerations in your jurisdiction? Are courts backlogged/are they hearing all matters?

The answer to this question changes from couple to couple. For instance, if there is hope that the marriage can be saved and the disputes are not that big which requires ending the marriage, it is usually advised to wait for a while and try to settle with the counter party, especially if the parties have little children. On the other hand, if there is nothing left to be saved and the continuance of the marriage damages the parties morally and materially, this marriage should be immediately ended.

If the parties/one of the parties decides to initiate divorce proceedings, it is always the best for both parties to be represented through a legal counsel since Turkish judicial system has an online system called “UYAP” (National Judiciary Informatics System) which provides access for lawyers to all court documents and which enables them to initiate all kind of proceedings (including divorce), to submit various petitions/evidence, to check the file regularly, to control the hearing dates and previous minutes of the hearing, etc. In this system, deadlines are extended until 00:00 of that day, instead of 16:00 which is “the end of business day”, the files can be controlled 24/7.

Victims of violence may request restriction orders which are usually issued within 24 hours. Parties also have access to this system through their “Citizen Portal” and they can see the updates of the file and documents submitted to the court. However, since submissions requires “e-signatures”, they can only observe & read the documents, cannot submit anything. This leads us to conclusion of “starting divorce process while at home” is only possible if you (claimant) are represented by a lawyer whom you provided a valid Power of Attorney to.

Divorce must be based on a specific ground and the judgment of the court. The grounds for divorce are limited and specified under Articles 161 to 166 of Turkish Civil Code. If one ground can be established, this is sufficient to file for divorce. General grounds for divorce include the breakdown of marriage, divorce based on separation and consensual divorce. Special grounds for divorce are based on concrete facts and include mental illness, adultery, cruelty, desertion (for a period exceeding six months), criminal conviction, addiction.

5. Adultery: To establish a ground for divorce based on adultery, there must be a valid marriage between the parties of the divorce. It is not an obstacle if the parties live separately, as the marriage remains between the parties. Another condition is that one of the spouses must have a sexual relationship with another person. Adultery will only be accepted if the sexual relationship was between persons of a different sex. The right to file for a divorce on the basis of adultery remains until the spouse forgives her or his spouse, and lasts until six months starting from the finding out of the adultery and also the end of the five-year period following the adultery in any case.

6. Attempt on life, misbehavior or indignity: In Turkish law an attempt on life is defined as provoking or forcing suicide. Threats of death are not included in this context. All kinds of torture, mental and physical cruelty, not satisfying a spouse's needs, forcing a sexual relationship and sequestration are all considered to be acts of serious misbehavior. Additionally, indignity is also a ground for divorce. However, the Supreme Court ruled that not all behavior that causes indignity

will be a ground for divorce. It must be an extreme form of indignity. The right to file for a divorce on these reasons remains until the spouse forgives her or his spouse, and lasts until six months starting from the finding out the grounds for the divorce and also the end of the five-year period in any cases.

7. Delinquency or living a dishonorable life: Delinquency is considered a ground for divorce if the behavior is degrading (for example, robbery, fraud, falsification, smuggling, embezzlement and rape). Living a dishonorable life means a life that does not comply with the honor, esteem or self-respect as understood in Turkey. The behavior must be continuing in order to constitute living a dishonorable life. The Supreme Court considers the lifestyle of the parties and its continuity when deciding whether or not the spouse is living a dishonorable life.

8. Desertion: Under the Civil Code, desertion means that one of the spouses has left the family home without a valid reason. In practice, in order to satisfy this ground, the desertion of the spouse must be for the purpose of ending a common life together.

9. Mental illness: Mental illness is also accepted as a ground for divorce (except in the situation where one of the spouses has a serious and incurable illness). The mental illness must be determined and verified by medical science. For example, the Supreme Court does not recognize epilepsy as a mental illness. The mental illness must also be proven by a report to be untreatable.

In terms of general grounds; breakdown of marriage: This is the most common ground for divorce in Turkey and also known as a high-conflict divorce. To establish this ground, the conflict must be serious, violent and spouses must not want to continue with a common life together. Examples include the breakdown of a marriage caused by excessive jealousy that has made the marriage unbearable or forcing the wife to live with the husband's whole family (including distant relatives) in the same house.

Uncontested divorce: To establish this ground, the marriage must have lasted for at least one year. Spouses must file the divorce case together or if one spouse files, the other spouse must accept the divorce. The judge is obliged to hear the spouses in person, even though they are represented by lawyers and consider the protocol signed by the parties in order to pronounce the divorce.

For uncontested divorce cases, the court does not have to perform many paperwork. Instead, the parties prepare everything (their written statements, a signed protocol, etc.) and submit these to the court. Since everyone (parties and court) wants to end the process, the courts set near hearing dates for such cases. However, if it is a contested divorce case which is filed as based on above causes, there is a huge amount of paperwork/procedural transactions to carry out. Therefore, the courts can only have 1-2 hearings for the same contested divorce case in the same year.

In terms of Covid-19 and its effects on putting it to a wait or going forward; it should be stated that due to Covid-19 measures taken in the country, all legal proceedings were suspended between 13th of March 2020 until 15th of June, 2020 (including this date). Therefore, even though it was possible to file a divorce case during these 3 month-long periods, anything from the court's side (i.e. issuing preliminary examination report, serving the petitions, etc.) was put on hold until 15th

of June. Even if the case was an uncontested divorce case, the nearest hearing dates for such cases were being set as 16th of June, 2020.

10. Alternatives to court - binding mediation/arbitration?

Mediation is not commonly used as a method for resolving family law disputes and it is not legally allowed, too. Legal action remains the most common method of dealing with family disputes.

There are two conditions that must be satisfied for a dispute to be eligible for mediation/arbitration:

(1) The first is whether or not the arbitration is convenient. The Supreme Court determined that disputes that are unrelated with public order are convenient and can be resolved using arbitration/mediation. Disputes related with public order cannot be solved through mediation.

(2) The second is whether the parties agree to settle the dispute using arbitration.

Under Turkish Law, all family law issues are related with public order. Therefore, it can be concluded that disputes arising from family law are not convenient for arbitration.

It should be also stated that contested divorce cases may take years due to large volume of cases the Turkish courts has. On the other hand, uncontested divorces are concluded in 1 hearing only. This is still an “in-court” solution but the fastest way to end a marriage.

11. Custody and visitation issues to highlight if any?

The coronavirus is a pandemic disease that no one is familiar with before and our priority must protect ourselves and people around us. In this regard the parties whose divorce cases are still pending or finalized must act with the consideration of themselves and the people that they are surrounded with but they must pay the greatest attention and care for not to violate the other parent's legal right of the personal relation with his/her child. For instance, the parent who has the custody right removing or limiting, the personal relation of the other parent with the child, without any valid reason with his/her own decision will be against the legal regulations. In addition to this if one of the party has specific and important facts that the other party has this virus; first of all the parties must take a healthy, understanding and compatible common decision with the consideration of the best interest of the child; if this is not possible or if one of the party has the opinion that his/her own right is violated; that party must take legal actions for this matter to be evaluated and to prevent the loss of the right.

Yet, the Ministry of Interior has published many circulars within the scope of Covid-19 measures; the citizens going out and travelling are restricted to decrease the contagiousness of disease with the purpose of controlling the outbreak. This caused parents to not to be able to see their children or to travel to see their children if they are living in different cities. However, in the following period, the individuals who are not restricted within the scope of Covid-19 measures are listed in the circular. In the circular dated 18.11.2020 and related to New Coronavirus Measures, “Persons under Exceptions” are listed and under the subparagraph §, individuals to establish personal relation visitations are exempted from this practice with the condition of submitting the relevant court decision. With this practice, the left-behind parent's right to parent and right to access the

child are ensured. Until that point, many of the courts decided on online communication/video-calls for the establishment of personal relationship.

12. International related issues and considerations if any?

As you may heard before, Turkish nationals are often involved in marriages with other nationals abroad. Therefore, we have provided legal assistance in various recognition & enforcement cases which they need to file for the foreign court decision to become valid in Turkey. Two Turkish national residing outside Turkey may file a divorce case in the competent court of their habitual residence and they will also need to file a recognition & enforcement case in Turkey, not just parties consisting of a Turkish and a foreigner.

A foreign judgment without recognition and enforcement in Turkey cannot be subjected to a judgment by the Turkish courts. If the foreign court's judgment can be recognized and enforced, Turkish courts will order a prejudicial question for the case that is pending in the foreign courts once the court is convinced of this application.

In case a recognition & enforcement case is filed in Turkey for a foreign divorce/annulment decision to be valid in Turkey, the court must analyze whether the foreign decision meets the conditions of recognition or not. A foreign court decision can serve as definitive evidence or a final judgment, provided that the court decides that the foreign court decree fulfils the conditions of enforcement (Article 58, International Private and Procedural Law).

The competent court will decide on enforcement subject to the following conditions:

THE ARTICLE 54 of INTERNATIONAL PRIVATE AND PROCEDURAL LAW –

- “(1) The competent court shall render enforcement subject to the following conditions:
- a. Existence of an agreement, on a reciprocal basis between the Republic of Turkey and the state where the court decision is given or a de facto practice or a provision of law enabling the authorization of the execution of final decisions given by a Turkish court in that state,
 - b. The judgment must have been given on matters not falling within the exclusive jurisdiction of the Turkish courts or, in condition of being contested by the defendant, the judgment must not have been given by a state court which has accepted himself competent even if there is not a real relation between the court and the subject or the parties of the lawsuit,
 - c. The court decree shall not openly be contrary to public order,
 - d. The person against whom enforcement is requested was not duly summoned pursuant to the laws of that foreign state or to the court that has given the judgment, or was not represented before that court, or the court decree was not pronounced in his/her absence or by a default judgment in a manner contrary to these laws, and the person has not objected to the exequatur based on the foregoing grounds before the Turkish court,
- (2) According to the law, existence of agreement between states or de facto practice or a provision of law based upon reciprocity principle is required for the enforcement. Enforcement of a court decision which is given on a subject that is included in exclusive jurisdiction of Turkish courts is not possible.”

If the right of defense of one of the spouses is seriously violated, or the law that applied to the divorce case is explicitly contrary to Turkish public order, the foreign divorce decree will not be recognized by Turkish courts.

13. Any creative “solutions” - clients figuring out complicated situations, courts making relevant processes easier - that you might have seen?

In terms of international divorces/annulments including at least a Turkish citizen, these decisions made by foreign judicial/administrative authorities can be recognized and registered before foreign representative offices of Turkey (Embassies & Consulates) in the country where the decision is made or before Turkish Civil Registry Offices.

The “Regulation on Registration of Decisions by Foreign Judicial or Administrative Authorities to the Turkish Population Registry” and “Explanation regarding Registration of Decisions by Foreign Judicial or Administrative Authorities to the Turkish Population Registry” contains provisions regarding the registry of decisions made by the judicial or administrative authorities of a foreign country on divorce, the nullity of the marriage, the cancellation of the marriage or the determination of whether it exists or not.

Applications regarding the registration of the decisions made by the judicial or administrative authorities of the foreign country to the family registry shall be done either in person or through legal representatives or counsels of the parties. It is not obligatory for the parties to be present together before the competent authority during the application. The parties can make their applications together at the same time or at different times. If the parties do not apply together, the period between the two application dates cannot exceed ninety days. If they do not apply together at the same time, the parties cannot apply to different application authorities.

It should be noted that issues such as custody, alimony, division of properties included in the divorce decision are not directly recorded into population registry and cannot be recognized by these authorities. For such issues attached to the divorce, the parties must file a separate “recognition - enforcement case” in Turkey in accordance with Law No. 5718. Despite this necessity, it is still a practical solution to first registering the marriage and filing “recognition & enforcement case” only for secondary provisions of the decisions and this lets parties to remarry, get other social and economic benefits, etc. way faster than a regular proceeding before a Turkish court.

14. Non COVID related developments - legislative or otherwise specific to your jurisdiction you wish to highlight?

E-hearing system has entered into force, and this is a system that allows lawyers to attend the hearings of their civil law cases remotely. The lawyer who wishes to attend the hearing remotely should make his/her request in this regard at least 24 hours before the hearing, such requests cannot be made if there is less than 24 hours left to the hearing. This is announced as a new practice which will decrease the costs (i.e., transportation) which is burdened on the parties and save more time for lawyers.

15. Effects of doing things online going forward - commoditization of divorce/DIY divorces/mediation? What parts of the practice do you foresee will stay virtual?

As stated under Q4, being represented by a legal professional (lawyer) is an ease for pursuing claims and filing any kind of submissions remotely. Likewise, as stated under Q9, “e-hearing” is an option for lawyers only, not parties themselves. Therefore “do-it-yourself divorces are not very practical, especially considering Covid-19 pandemic conditions. Moreover, since there are some legal periods that should be complied with under the Code of Civil Procedure, it is hard for parties/citizens to meet this deadline and in case of not submitting petitions/evidence etc. causes the loss of a right, which is not recommended for anyone.

On the other hand, I believe e-hearings will become more common in the practice since it helps lawyers to save time, parties to save money with the technology developing day by day.

16. What are your expectations post pandemics on family dynamics, divorce and marriage rates? What should people be adding to their prenuptial agreements post-pandemic?

In a strange way, increase on both marriages and divorces are expected after Covid-19.

Regarding marriages; as one of Covid-19 measures, it is decided by authorities to perform marriage ceremonies with most possible least people (friends, families) in accordance with general health precautions and weddings are either forbidden or very restricted (this leads the couple to choose/eliminate some of the guests involuntarily). Therefore, the couples soon-to-be married does not desire to get married under Covid-19 measures and wish to have a proper wedding. They are waiting for these measures to be removed to proceed.

On the other hand, due to reasons explained above and side effects of Covid-19 pandemic, there is an expectation on the increase of divorces as well.

In terms of pre-nuptial agreements, it should be stated that there are two different systems that govern the marital property regime under Turkish law. The arrangement can be based on the legal marital property system or a separate nuptial agreement. Under Civil Code, spouses can make nuptial agreements about the marital property, before, during and after the marriage.

There are two different forms of pre-nuptial agreement:^[1]1. Pre-nuptial agreement: The pre-nuptial agreement can be completed at a notary public.^[2]2. Marital property regime: The spouses can inform the marriage officer of the regime that they want to choose when they apply for the marriage.

If the spouses decide to choose a marital property regime during the marriage application, they must inform the registrar of marriage in writing. If the spouses choose a separate property regime with a pre-nuptial agreement under Article 242 of the Civil Code, each spouse can protect their usufruct, management, and disposition rights on their own property (within legal limits). In this type of regime, each spouse is liable for their own debts in relation to their own property and on divorce, the spouses will not have any rights to a claim in each other's property. The marriage is related with public policy and the judge has absolute authority regarding conditions provided in a pre-nuptial agreement.

Since Covid-19 pandemic caused many economic changes for everyone, if one of the parties' financial circumstances has changed since the negotiation of the prenuptial agreement, it is needed to review the terms of the document to ensure that items included are still fair and applicable.

Pre-nuptial agreements usually contain simple terms regarding following marital rights:

1. How to divide the marital property in case of divorce or termination of marriage, 2. Whether a spouse can seek alimony in case of a divorce or termination of marriage, 3. Whether a spouse can make a marital claim against other in case of a divorce or termination of marriage.

Since the financial situations of many people in Turkey are adversely affected due to Covid- 19, division of marital property and alimony clauses should be arranged considering such force majeure situations.

17. Any cultural specifics as to how people get married and the social acceptance of divorce - and the role those have played?

There are some conditions that should be met in order to be legally married in Turkey as follows:

1. Marriage is only allowed between a man and a woman, same-sex marriages are not accepted or recognized in Turkey.
2. Any person getting married must be at least 18 years of age (if judged to understand proceedings, a person from age 16 may be married with a parent or guardian's consent)
3. Close relatives may not marry.
4. Polygamy is not accepted; monogamy is an essential principle of Turkish family law and anyone currently married may not be married in Turkey (Being married to more than one person under different legal systems and in different countries is not valid in Turkey and does not cause the results of a valid marriage, only the first one shall be deemed valid)
5. Women who have been previously married may not remarry until 300 days from the date of that marriage ending (To be able to determine whether she is pregnant from her previous marriage and if so, to determine the baby's paternity. This condition may be met by simply obtaining a report of non-pregnancy from a health institution)
6. Sufferers of mental illnesses judged by health authorities to not have the capacity to understand may not be married.

For international marriages, the legal capacity to marry and the conditions thereof shall be governed by the respective national laws of the parties at the time of the marriage. The form of marriage shall be governed by the law of the state where the marriage is solemnized. The general provisions of marriage shall be governed by the common national law of the spouses. If the spouses are of different nationalities, the law of their common habitual residence shall govern and in the absence of a common habitual residence, Turkish law shall govern (Article 13 of International Private and Civil Procedure Law).

Marriage and family union is accepted as one of the main elements of Turkish society and a big importance is given to this "institution". Marriage means two different families gathering together and evolving into a new, bigger one. Therefore, before official marriage ceremony, there are some cultural steps to follow:

(1) Families meet at the bride-to-be's house and the elderly of the groom-to-be's family ask for bride's families permission/approval of this marriage, the couple start to wear rings which indicate that they promise to each other for their lifetime.

(2) A ceremony of engagement is usually held (This step may be merged with the first one as all in one). Here, both families invite their close ones and give presents to each other's children (parties). This is a ceremony bigger than 1st one (family meeting – asking for permission) and smaller than 3rd one (wedding).

(3) Weddings are very important for Turkish culture and these are accepted like meeting points of society. People who cannot see each other for a long time gathers together for this special occasion and again, families and guests give their gifts to the couple (mostly, gold), eat and dance much, it is like a festival for Turkish culture. Usually, couples prefer to have the official marriage ceremony during the wedding celebrations. Thus, a registrar comes to the venue with his book to be signed by the parties. The registrar asks parties individually if they accept to be married to other and the parties should explain their will clearly (by saying "Yes").

The parties should have 2 witnesses who are over 18 and able to confirm their will in this regard. After the wills are explained, parties and the witnesses sign the registry book and the parties' marriage becomes officially registered. At the end of this procedure, the couple will be given a marriage certificate proving their marital status.

Divorce is not welcome as much as marriage is in the society. Turkish people are not into divorce and when they create a family, they want to keep it as far as it goes due to social pressure.

Especially for women, being a divorced woman is a struggle to handle in many parts of Turkey. There is a recent questionnaire held about "with whom you do not want to become neighbors" and divorced women is one of the most frequently chosen options, sadly.

UAE - Dubai

By Dr. Hassan Elhais, Al Rowaad Advocates & Legal Consultants, info@alrowaad.ae

1. How has the past year affected your work in particular and family law issues in general - what are trends and common issues you have observed? In your jurisdiction - has COVID broken up families or brought them close together? Any Anecdotes - what have you seen or how have people's thoughts changed?

During the Emirate-wide strict lockdown implemented in Dubai, the Courts in Dubai suspended divorce and marriages until alternate arrangements were introduced. The measures taken by the government to fight the pandemic spread affected family matters, among others, such as marriage; divorce, visitation, financial maintenance, travel ban, and estate planning. As restrictions were lifted gradually and the courts decided to implement remote working measures, marriages were allowed to be conducted virtually while ceremonial gathering with physical attendance was prohibited. Furthermore, with the easing of lockdown restrictions, the courts started conducting

hearings through video conferencing. The number of family matters cases filed in the courts increased by approximately fifty percent as a result of the COVID-19 lockdown.

2. Have reports of domestic violence increased in frequency over the past year?

The UAE already has provisions, which were enacted long before the pandemic to deal with domestic violence matters. The UAE Penal Code and the Federal Decree-Law No. (10) of 2019 provide wide protection to the victims of domestic violence and considers psychological abuse, among others, as an act of family violence. The victim may seek a restraining order against the accused. Furthermore, any violation of the Prosecution order may attract punishment such as a fine and imprisonment.

3. Has the pandemic made divorce a luxury for some in your jurisdiction?

With the introduction of strict lockdown measures by the government, the courts suspended all gatherings before the Family Guidance Department and effectively put all applications on hold pending mediation hearings. With the easing of lockdown restrictions and the use of video conferencing, the court procedures started gradually, however the standard timeline was stretched as the process took relatively longer due to the unusual circumstances and the social distancing measures thereto.

4. If possible to wait it out (with no physical danger etc.) file now or wait? Can you start your divorce from home? What are the practical/legal/procedural considerations in your jurisdiction. Are courts backlogged/ are they hearing all matters?

In the United Arab Emirates, should any spouse decide to move to the court to seek relief regarding any personal status matter such as divorce, custody, visitation, maintenance, they will need to mandatorily register an application before the Family Guidance Department located within the premises of the Personal Status Courts. This Department mandates the physical presence of both parties to appear before their staff who are generally trained mediators and adept at handling family matters. The mandatory physical mediation before the Family Guidance Department could conclude with either a settlement or a court referral. No spouse was allowed to skip the mandatory mediation before registering a case with the Personal Status Court as this would risk the potential dismissal of the case. If the matter before the Family Guidance Department remains unresolved, the Department may provide a No Objection Certificate to the parties to proceed with the registration of their matter before the Personal Status Court. Since the Department's proceedings required the physical attendance of the parties, such gatherings could pose potential COVID-19 transmission risk. In light of the restrictions and social distancing as a result of the pandemic, the Family Guidance Department started handling applications by calling each party individually via video calling application or telephone calls. Moreover, the Family Courts also started conducting hearings via video calling applications.

5. Alternatives to court - binding mediation/ arbitration?

Where both spouses agree to enter into an amicable divorce settlement to settle issues related to custody, alimony, maintenance, they may submit an application with the Family Guidance

Department to execute a Mutual Divorce Agreement before the judge. Subsequently, the court will issue a divorce judgement as per the agreement between the parties. As mentioned earlier, this Department mandates the physical presence of both parties to appear before their staff who are generally trained mediators and adept at handling family matters. The hearings before the Department are conducted with a spirit to promote amicable settlement of disputes.

6. Custody and visitation issues to highlight if any?

The parties may agree on a spouse that would keep the custody of the child and the visitation rights of the non-custodian spouse. Accordingly, the parties may cooperate with each other to provide visitation to the non-custodian parent.

Non-custodian parent may also seek a visitation order from the court when there is no amicable agreement in place. The visitation orders could be supervised in public places such as children's center or an unsupervised order. When the spouse had an order from the court, the order could be enforced against the other spouse by law enforcing authorities such as police.

The lockdown resulted in restriction of movement for general public except in emergency cases as defined by the government. The non-custodian parent's movement was impaired by the lockdown as visitation per se could not be considered as an emergency. Due to the potential risk of transmission of the contagion, visitation orders were not functional and thus could not be enforced keeping the child's best interest in mind. Supervised visitation orders were anyway affected as public places or children's center were shut and thus such supervised visitation order could not be implemented. The spouse who had the custody of the child had the discretion to cooperate with the other spouse without relying on the visitation order to arrange any necessary visitation along with safety protocol in view of the current pandemic. The custodian spouse may have the discretion to refrain access to the spouse holding visitation order for reasons related to the transmission of the contagion and the courts could not interfere in the interest of the child's safety, thereby the visitation orders were suspended. However, keeping the safety of the children in mind, non-custodian parents could have virtual contact with the children through video calling applications.

7. International related issues and considerations if any?

As the UAE has a large number of expatriate population, there are often times when the parties to the divorce proceeding are of different nationalities or have multiple nationalities. As per Article 1 of the UAE Personal Status Law either of the parties to a divorce case may request the court to apply the law of their nationality in the divorce proceedings. The court may not accept to apply foreign laws if the applicant is of dual nationality or if one party objects based on the fact that the two parties are from two different religions even if both are of the same nationalities, and regardless of what the two different religions are.

8. Any creative "solutions" - clients figuring out complicated situations, courts making relevant processes easier - that you might have seen?

The courts embraced digital technology seamlessly and were able to conduct their functioning while maintaining social distancing guidelines and best safety practices against the contagion.

9. Non COVID related developments - legislative or otherwise specific to your jurisdiction you wish to highlight?

The UAE announced recently landmark reforms following a Presidential Decree, which introduced significant changes to the laws governing marriage and divorce for non-UAE nationals. Prior to these changes, either party may request to apply the law of their nationality in any personal status matter such as maintenance, divorce or custody claim. However, with the recent amendment by Federal Decree-Law no. 30/2020, the court would now enquire into the law of the country where the parties were married in order to establish whether or not the marriage between the parties is valid. Accordingly, as long as the marriage between non-UAE nationals or a non-UAE national and a UAE national is consistent with the laws of the country where it was concluded or it meets with the conditions provided for by the laws of the country for each of the spouse, the marriage shall be considered valid.

The recent amendments also change the position of the law with regards to maintenance where a party could previously request to apply the law of their nationality with regards to their maintenance claim, however with the recent amendments, the laws of the country where the marriage was concluded shall be applied in relation to financial and personal issues resulting from marriage such as claims for maintenance. In comparison with the repealed provision, the amendments go further to state that matters related to divorce and separation shall be governed by the laws of the country where the marriage was concluded, however prior to these amendments, the laws of the UAE would govern personal status matter unless either party request to apply the law of their nationality.

Prior to the amendments, the husband's rights towards his wife demanded the wife's willful obedience towards the husband, among other rights, however the recent amendment to Article 56 of the UAE Personal Status Law by virtue of Federal Decree-Law No. 5/2020 has taken a departure from the earlier position by completely repealing this provision and thereby leaving the wife free from this obligation. This is a progressive amendment and a big step towards protecting women's rights and achieving gender equality.

10. Effects of doing things online going forward - commoditization of divorce/ DIY divorces/ mediation? What parts of the practice do you foresee will stay virtual?

With the passage of time, the government gradually started easing restrictions and laid down guidelines to be followed by business, general public and government departments. Accordingly, the courts issued guidelines and undertook measures to conduct its usual work during these unusual times of pandemic. The measures focused on continuing with the workings of the Family Guidance Department to handle new applications, follow up on old matters, and schedule mediation hearings, execute settlement agreements, issue divorce judgments and court referral letters.

The measures taken by the government to fight the pandemic spread affected the following family matters practice, namely: i. Marriage; ii. Divorce; iii. Visitation; iv. Financial Maintenance; v. Travel Ban; vi. Estate Planning. The courts had to depart from the usual procedures to maintain claims and requests related to these matters or even suspend them until alternate arrangements

were introduced as procedures during the COVID-19 pandemic to handle requests related to these matters.

11. What are your expectations post pandemic on family dynamics, divorce and marriage rates? What should people be adding to their prenuptial agreements post-pandemic?

Prenuptial agreements may not be valid in the UAE as there is no concept of Prenuptial agreement in the UAE. Instead, one may enter into a postnuptial agreement immediately after the marriage. This agreement may be executed in the Family Guidance Department of the Personal Status Court in the relevant Emirate they are a resident of. Generally, a postnuptial agreement may cover matters related to finance, wife's allowance, property and may not cover matters related to custody, maintenance for children or matters that are against public policy.

12. Any cultural specifics as to how people get married and the social acceptance of divorce - and the role those have played?

Muslim expats could register themselves on Dubai Court's website and accordingly both spouses had to visit the court on the scheduled appointment date along with their documents, bride's guardian and witnesses. An authorized marriage officer would conduct the marriage in physical attendance of all the aforesaid persons.

Non-Muslim expats could conduct their marriages as per the procedures provided by their embassies, which may vary subject to the nationality of each spouse. The marriage could be solemnized in the church or temple as per the religion of each spouse and subsequently attested by their relevant embassy. Such ceremonies would require the physical presence of, among others, relatives, guests, and priests. In light of the exposure that marriage had particularly related to its ceremonial aspects more than its procedural aspects, the Courts decided to suspend marriages during the early days of COVID-19 pandemic when the government was strictly enforcing lockdown measures. As restrictions were lifted gradually and the courts decided to implement remote working measures, and marriages were allowed to be conducted virtually.

United Kingdom

By Stuart Clark & James Netto, The International Family Law Group LLP, stuart.clark@iflg.uk.com, james.netto@iflg.uk.com

1. How has the past year affected your work in particular and family law issues in general - what are trends and common issues you have observed? In your jurisdiction - has COVID broken up families or brought them close together? Any Anecdotes - what have you seen or how have people's thoughts changed?

On the divorce side of our work there has been no large discernible change and at present it is difficult to identify any cogent trends. There has been no influx or tailing off of divorce cases. This might simply mean that there has been no effect of the pandemic on divorces. But I doubt it. The

more likely explanation is that for every way in which the pandemic has broken up families, it has equally kept them together.

The additional pressures of living though a lockdown, be it additional time at home, working from home together, homes schooling etc., have been discussed as a potential factor to an increase in divorce rates. But we have not seen this in reality. From the work I have done since March 2020, the pressures of lockdown have not been cited as a reason for the divorce. The pressures of lockdown may have exacerbated underlying issues or have brought forward separation but, admittedly anecdotally, I have not seen any divorces which cite the pressure of lockdown directly. There have of course been some positive aspects of lockdown. Purely as anecdote, a client of mine who commenced their divorce in 2019 put matters on hold at the outset of the first UK national lockdown in March 2020. That spouses remained together in the family home and the additional time together and with the children, combined with the slowing down of professional lives helped them to reflect and to re-kindle their relationship. They are now reconciling. Maybe an isolated incident, but I doubt it. We will see in the coming months and years the more general impact.

The sprawling effects of the pandemic have in certain cases stopped or slowed divorces. Practical issues have stood in the way – it has proven difficult for a number of clients to arrange a meeting with a family lawyer when they are not only still under the same roof as their spouse (a difficulty pre-pandemic), but both are forced to stay indoors owing to national lockdowns.

Financial concerns have also played a part. People are understandably reluctant to take the financial plunge of a divorce in the context of national and global economic uncertainty.

2. Have reports of domestic violence increased in frequency over the past year?

It is quite hard indeed to give a definitive answer to this; it sadly stands to reason that those in already abusive relationships are more likely to experience more violence if everyone is at home. The stressors of lockdown and illness no doubt exacerbate issues of this nature in family life. The UK's Office for National Statistics could not clarify if lockdown has fueled an increase in domestic violence, stating ‘Police recorded crime data show an increase in offences flagged as domestic abuse-related during the coronavirus (COVID-19) pandemic, however, there has been a gradual increase in police recorded domestic abuse-related offences over recent years as police have improved their recording of these offences; therefore it cannot be determined whether this increase can be directly attributed to the coronavirus pandemic.’ Separately, the weekly number of domestic violence injunction applications (known as non-molestation orders), and the number of orders granted from mid-April to the end of June 2020 were above the pre-lockdown baseline. Meanwhile the weekly number of occupation orders (excluding a parent from a property) between March and the end of June 2020 were generally below the pre-lockdown baseline. Anecdotally speaking, lawyers are seeing more and more cases where the issues of abuse, control and violence regrettably feature.

3. Has the pandemic made divorce a luxury for some in your jurisdiction?

No, far from it. Whilst separating spouses may be put off from pursuing a divorce in these economically uncertain times, access to divorce for those who chose to go ahead has not been prevented by the pandemic.

HMCTS, the Court administrators in England, have been moving toward digital innovation over the last few years, providing wider access to family justice online. This was even so before the pandemic. The pandemic has spurred this on and in some instances brought forward certain innovations, such as video- conference court hearings via HMCTS' bespoke suite, CVP., London, WC2.

The ability to commence divorce proceedings online has been available since 2018. So long as both spouses agree to the divorce going ahead, the entirety of the process of dissolving the marriage can be completed online. Moreover, it can be done without lawyers.

Whilst disputes regarding children and financial matters may of course complicate the situation, in terms of access, the English Court system was well-equipped to enable spouses to pursue a divorce online from their own homes and without breaching lockdown.

4. If possible, to wait it out (with no physical danger etc.) file now or wait? Can you start your divorce from home? What are the practical/legal/procedural considerations in your jurisdiction? Are courts backlogged/ are they hearing all matters?

As above, it is possible for spouses to start the divorce process from home. With or without lawyers, it is potentially possible to conduct the entirety of the divorce, including resolving issues regarding children and finances, without having to leave the house.

Applications to the Court can made either via the HMCTS online portal or by emailing the Court. Court hearings can be conducted remotely either ‘on the paperwork’, by telephone or via video-conferencing using commercially available formats or the Court services’ own bespoke software, CVP. The procedures are different for lawyers and for non-lawyer litigants in person, but the principle is the same.

Whilst some spouses may prefer to wait it out until the end of the pandemic, this might not be possible. We are an international practice and very often our clients have links overseas meaning that it is possible that the divorce could take place not only in England but in one or more other country. Financial outcomes vary significantly upon divorce from country to country and so it might be the case that a spouse is advised to start proceedings in England sooner rather than later so as to help to ensure that the divorce, and consequent financial arrangements, are dealt with here and in accordance with English legal principles. Quite often the financially weaker party will prefer to start proceedings in England given that the financial outcomes upon divorce in England significantly favour that party, certainly compared with other jurisdictions.

So, it may not be possible to wait it out. We may have to say to our clients that they need to start the divorce process now to protect their position, notwithstanding the challenges of divorcing and litigating children and financial matters during a global pandemic.

Other issues may bring forward the necessity to start the divorce sooner rather than later. Wanting to move away from the family home. Child arrangements. Financial and tax planning concerns. There are likely to be many others. What I would say to my clients is that the pandemic has not significantly negatively impacted on their ability to pursue a divorce immediately and that they should not feel that have to wait until the crisis subsides.

From the initial meeting, most if not all parts of the process can be conducted remotely. Even before the pandemic, the international nature of my practice meant that I would often only ever meet my clients remotely via Zoom or telephone. The circumstances of the pandemic have merely increased the need for remote meetings to domestic as well as international clients. The vast majority of my clients have been more than happy to meet remotely. Most either request a remote meeting or presume that any meeting will be remote. I have had only two requests for an in-person meeting since March 2020.

As I have said, much of the court process can be conducted remotely. Commencement of proceedings is online. Lodgment of documents is electronic either via an online portal or email. Procedural rules have been amended to permit electronic signatures to be applied to documents in lieu of wet signatures. Court hearings largely take place remotely. The procedural rules have adapted and so too have the judiciary and court staff.

Before March 2020, the embracing of digital solutions by the court was largely restricted to procedural matters, issuing and receipt of documents. Remote hearings via telephone or video-link were rare. But remote hearings soon became the norm following the implementation of the first national lockdown on 23 March 2020 and the subsequent social distancing guidance. Through necessity, further digital innovations have been embraced. The Courts adapted quickly to the circumstances of the pandemic, although they had a running start given the progress which had already been made prior to March 2020.

That is not to say that there has not been some impact of the pandemic on the administration of family law justice. The Courts were already backlogged prior to March 2020. The initial weeks and months of the first UK national lockdown were very trying for all involved. Many cases had to be adjourned as the practical arrangements for a remote hearing were not satisfactorily in place. This caused delays and the backlog is still being felt today. Thankfully, cases involving children, particularly those at risk, were prioritised. Financial cases were rightly given lower priority, and these are now facing a larger backlog. But the Courts are continuing to hear cases. It may not be business as usual, but the court administration and judiciary must be commended for keeping the wheels of family justice turning over the last 12 months.

I have written further on this subject here: <https://www.iflg.uk.com/blog/rapid-consultation-remote-hearings-family-justice-system-missed-opportunity-long-term-changes>

5. Alternatives to court - binding mediation/ arbitration?

There has been an increased use of the process of private FDRs to resolve financial disputes. Within contested financial proceedings alongside a divorce spouses are required by the Court to engage with a Financial Dispute Resolution hearing – FDR. This is usually the second substantive

court hearing in the process once all financial disclosure has been gathered and before a final determinative hearing. The parties are required to make proposals to settle and a Judge will give a non-binding indication of the likely final outcome, similar to early neutral evaluation.

Private FDRs take the FDR process out of the Court system. Spouses can agree to have a privately appointed Judge take the role of the public Judge for the FDR process. Private FDRs had been becoming increasingly common even before the pandemic. They have increased with regularity since March 2020. The lack of judicial availability and the technological challenges of conducting an FDR remotely have led many litigants to prefer the private option to the public, court-based, FDR.

6. Custody and visitation issues to highlight if any?

After a very bumpy start at the outset of the national lockdown, parents were able to continue with pre-existing arrangements and court orders regarding children who live or travel between two homes. Following a very public U-turn on governmental policy, it became apparent that children could indeed pass from one household to another in times of lockdown pursuant to government rules.

For those so inclined, COVID-19 has given parents yet another excuse to squabble. Alongside all the other contentious issues of day-to-day family life, COVID-19 has been another vehicle for dispute – be it the idea of international travel, or visiting an elderly relative, or with whom one should self-isolate or quarantine. Coronavirus has had the side effect of being another source of dispute between already-stressed parents, having to rapidly adapt to increasing demands of daily life in times of lockdown.

Separately, a monstrous backlog of private law children cases in the family court has unfortunately arisen. This mainly involves issues of ‘custody’, ‘access’ and welfare issues concerning children. Cases are now taking far, far longer to get before a judge than in pre-corona times. This varies from case to case and from court to court of course, but it is not uncommon to wait upwards of five to six months between starting the application process and having just a first hearing. During this time, there may have been a complete rupture in a child’s relationship with the other parent, alienation could have taken even more of a hold, or a hotly contested parenting issue could have been settled by default alone. Whilst the courts still prioritising domestic violence and social services cases, day-to-day parenting issues have just had to wait their turn – and many parents have had to wait longer than others.

7. International related issues and considerations if any?

International travel into and out from the UK has of course been severely affected by the pandemic. As a stark indication of this trend, passenger numbers through London Heathrow Airport, the main international terminus for the UK, are as low as they were in the 1970s (<https://www.bbc.co.uk/news/business-56176403>). Whilst it might be said that the UK government were slow to act to place public health procedures at the borders, some measures have been put in place. That coupled with wide-spread reluctance to travel has seen a reduction in international movement into and out from the UK over the last 12 months.

From a practical point of view, the restriction on international mobility has made it difficult for our overseas clients to attend meetings and hearings. As I have set out elsewhere, this has been ameliorated by increased use of technology for remote meetings and the embracing by the Court of remote hearings.

Coming out of the pandemic, and in the shorter term we may see a concentration of expat returnees; expats who have not been able to return taking advantage of the lifting of restrictions to return to their home country. This can often be a precursor of marital breakdown and so we may see a short-term increase in cross-border divorces involving returning expats.

In relation to children issues, initial signs do show a growing number of international cases. Abductions have still been occurring with surprising frequency, even with the closure of national borders. The pandemic has demonstrated that a determined parent will always find a way to enter or leave a jurisdiction. These matters have had to be resolved and resolved quickly. Moreover, a greater amount of planning is required not just in relation to the legal side of an abduction case, but also how arrangements for a child's return can be executed in the light of indirect flights, quarantine arrangements, and testing requirements.

For those parents particularly from other countries, COVID-19 appears to have struck a chord with what matters and where their futures lie. Many parents, upon separation this year, cannot fathom the idea of future life in the UK, and seek the blessing of the court to relocate with their children abroad. 'Bubbles' have burst, and sometimes abruptly. Many parents want to return 'home'. Distance from grandparents, feelings of isolation, and the lack of easy travel this year can only have exacerbated these feelings and has propelled them into the court arena. As coronavirus restrictions ease, practitioners strongly suspect an influx of relocation cases, fueled in part by the experience of parents whilst under lockdown.

Looking to the longer term, there may be changes to the international nature of our work as family lawyers. Global mobility has been a driving force behind the significant increase in the volume of international work. It remains to be seen whether there will be a retrenchment of this trend in light of the issues some have faced as a result of the pandemic. Restrictions on movement and the experiences of being stranded away from home owing to travel restrictions may impact negatively on the willingness of people to live as expats. We may see a reduction in international work.

Or quite the opposite, remote working away from a central office is likely to become more widespread following on from the experiences during lockdown. Without being tied to an office, people may choose to live overseas without being restricted by their employment. Far better to live and work from an idyllic beach than in a city! Will this lead to an increase global mobility and therefore more international family law work?

8. Any creative 'solutions' - clients figuring out complicated situations, courts making relevant processes easier - that you might have seen?

As above, the Court service in England and Wales had been prior to the pandemic, driving toward digital delivery of family justice. This included online issuing and processing of applications.

Remote hearings were the next piece of the digital puzzle. The onset of pandemic and the implementation of lockdown and social distancing measures in March 2020 accelerated the development and implementation of these creative solutions. The Court services' bespoke video conferencing software, CVP, was intended for a gradual testing and release over the later part of 2020 and into 2021. The launch was brought forward to May 2020 as a response to the pandemic. Prior to that launch, the Courts adopted a flexible approach to ensuring as many as possible family court hearings could go ahead. A so-called 'Smörgåsbord' approach was implemented, with Judges given the freedom and flexibility to conduct hearings by whichever remote means was most appropriate to the case before them. Whilst this led to some initial unpredictability, the flexibility was key to keeping the wheels of family justice running. Judges, barristers, solicitors and other professionals found new ways of working to ensure that, together, our clients could keep accessing the Court in unprecedented and unpredictable circumstances. I have written previously with high commendation for the court service administrators, the judiciary, and the legal profession as a whole for largely making things work (<https://www.iflg.uk.com/blog/rapid-consultation-remote-hearings-family-justice-system-missed-opportunity-long-term-changes>).

The family court procedural rules require represented applicants to provide to the Court a bundle ahead of every court hearing containing the core documents relevant to the hearing. Prior to March 2020 the standard format was a paper bundle in a ring binder or lever arch file delivered by hand or by post to the Court. As legal professionals and Judges were forced to work remotely, this trend changed almost instantaneously after the implementation of the first UK national lockdown. Bundles are now provided in electronic format in indexed and searchable PDFs. This should have been the standard for many years but for a reluctance toward change. Save for a few exceptions, they are seemingly here to stay and quite rightly.

Some judges have even been heard to say that having all parties on video is far more desirable than the previous arrangements whereby one parent appeared 'in person', and the other appeared on a clunky video link arranged by the Court. In an age of Zoom and Teams, COVID-19 has been the kick our justice system needed to get into the 21st century.

9. Non COVID related developments - legislative or otherwise specific to your jurisdiction you wish to highlight?

The Divorce Dissolution and Separation Act 2020 was given Royal Assent on 25 June 2020 and is due to come into force in the Autumn of 2021. It completely changes the process for obtaining a divorce in England and Wales. Our previous divorce law, the Matrimonial Causes Act 1973, provided for a fault-based system of divorce. Unless the spouses had been separated for in excess of two years and could agree to divorce the only way in which a spouse could bring a divorce is if they could establish 'fault' whether by alleging that the other spouse had behaved in a way that made it unreasonable for the applicant to live with them or had committed adultery. The practical effect was a charade of spouses usually making mild anodyne allegations of bad behaviour to appease the legal test which the Judges of the Court had to apply. But in extreme circumstances, such as those of Mrs. Owens (<https://www.supremecourt.uk/cases/docs/uksc-2017-0077-judgment.pdf>), even the highest Court in England was unable to find a way to permit the divorce to take place as the legal test could not be satisfied, forcing Mrs. Owens to remain married against her will.

A change was necessary (and was called for by the Supreme Court in its judgment), and this came finally in the Divorce Dissolution and Separation Act 2020. Spouses will be able to either unilaterally or jointly apply to the Court to dissolve the marriage on the basis of their assertion that the marriage has irretrievably broken down. There will be no requirement to prove fault or a period of separation.

This will not only open the door to spouses who might have previously not been able to pursue a divorce, but it will remove the quite often costly and distressing charade of having to allege fault when a marriage has clearly mutually broken down. It removes the unnecessary early contentious step of having to point the finger at one or other of the spouses for being ‘at fault’ for the end of the marriage. It is the biggest change to divorce law in 50 years and a welcome modernization of an antiquated process.

10. Effects of doing things online going forward - commoditization of divorce/ DYI divorces/ mediation? What parts of the practice do you foresee will stay virtual?

On 1 April 2018, the Court service in England launched a service for spouses to commence divorce proceedings online. This was launched first for the public and in August 2018 for the legal professional (my firm were in fact the first to issue a divorce online on 2 August 2018). The expectation, which is now reality, was that the significant majority of divorces would be commenced and dealt with entirely online.

At the outset there was an anxiety that the online opportunity would give rise to premature divorces petitions, a commoditization of divorce and a spike of divorces. Would easier access lead to more divorce applications? In June 2019, my firm made a Freedom of Information request to the Ministry of Justice to see what the statistics revealed. We wanted to investigate what proportion of newly issued online divorces proceeded to final dissolution compared with the offline figures. Whilst there was some evidence that less online divorces proceeded to final decree, there findings were not categorical or conclusive. More here: <https://www.iflg.uk.com/blog/are-online-divorces-less-likely-result-final-decree-provisional-results-foi-request>. We do not have any compelling reason to believe that digital divorces have increased divorce rates or have affected societal attitudes toward divorce.

It is my sincere hope that the accelerated digitization of family law justice over the last 12 months will continue or, at the very least, we will retain the positive aspects of the new ways of working developed since March 2020. In particular, I hope that the increased use of remote court hearings and the trust of the technology will continue. There were some teething issues, and this was understandable as the family justice system was thrust full-speed into remote ways of working with only a developing and ever-changing blue-print. But now that we have seen that video conferencing can work for some, admittedly not all, hearings, the developments should not be shelved. Amidst the considerations the family law profession has for recovery coming out of the pandemic, we should be considering the viability of remote hearings as the norm for specified hearings. I have in mind procedural hearings and submission-based hearings which do not require live oral evidence. Remote hearing will reduce travel and expenses for litigants. They will allow the judiciary to deal with matters with greater expediency and with staggered hearing times. And

the removal of travel and waiting times will promote well-being and greater work life balance for the professionals involved. It is my hope that the great majority of hearings which are suitable for remote conduct will remain virtual. More here: <https://www.iflg.uk.com/blog/rapid-consultation-remote-hearings-family-justice-system-missed-opportunity-long-term-changes>

11. What are your expectations post pandemic on family dynamics, divorce and marriage rates? What should people be adding to their prenuptial agreements post-pandemic?

As above, we have not seen a particular surge of divorces during the course of the last 12 months and in any event, no discernable pattern of activity around divorce linked solely to the pandemic and lockdown. It remains to be seen whether, as I have commented, there will be a change to divorce dynamics prompted by global mobility as the country and the world re-opens post-pandemic.

There is reason to believe that the pandemic may result in increased marriage rates. The rules of the first national lockdown which started in March 2020 prohibited any inter-mingling of households save for prescribed purposes which did not include visiting or staying with partners who lived in a separate household. These rules were relaxed during the second and third national lockdowns with a ‘bubble’ system permitting partners to visit and stay with each other, but only if one of the partners otherwise lived alone. It is perceived that this has led to couples cohabiting sooner than they might otherwise have done had it not been for the pandemic. At the outset of the first lockdown, the UK government even encouraged partners to live together if they were concerned by the impact of lockdown on their relationships. This acceleration of relationships may of itself lead to more marriages.

Changes to global mobility may affect previously agreed marital agreements which, for example, may have envisaged only a temporary stay in one country of a prospective move to another jurisdiction which might now be delayed or may now not materialise. We would encourage those with marital agreements in place to consider how any changes in plan owing to the pandemic might affect the terms of their agreements.

From a practical point of view, the pandemic may have thrown marital agreement arrangements into some disarray. Weddings have had to be brought forward or pushed back owing to lockdown and social distancing regulations. Signatories of such agreements will need to ensure that they are still be signed appropriately in advance of the marriage date, with guidance in England and Wales being 28 days in advance to best ensure they are upheld in the event of a marital breakdown.

12. Any cultural specifics as to how people get married and the social acceptance of divorce and the role those have played?

As above, the lockdown measures of the last 12 months may have led to an increase in couples cohabiting. Public opinion in the UK is generally very accepting of pre-marital cohabitation and so attitudes toward it are unlikely to shift significantly. But we may see an increase of cohabitee disputes in future. There are no codified laws dealing with financial matters following the breakdown of a cohabitee relationship (unlike, for example, in Australia with de facto relationships), and it is a widespread misconception that there is a status of common-law spouse

after a certain period of cohabitation, there is not. Unless there are children of the relationship, any disputes are dealt with under land and trust laws with no family law input.

The potential rise in cohabitation (and potential cohabitation disputes) may lead to a wider spread acceptance of such relationships as akin to marriage with the law to then play catch-up and make provision for financial division and support upon relationship breakdown. There have been calls in recent years for a codified family law for cohabitantes and this may now come back to the family law agenda.

Marriages themselves may change in their nature. Social distancing has led to either postponements of weddings or to smaller gatherings. It may be the beginning of the end to larger scale weddings. Allied to this, the Law Commission for England and Wales is undertaking a consultation to make marriage easier. Our current laws date back to 1836 and regulate tightly how a valid marriage might be entered and where a wedding can take place. It is hoped that new laws will be more embracing of a wider range of secular and religious ceremonies and will permit marriages to take place in wider range of venues. The experiences of weddings during the pandemic will undoubtedly influence the consultation.

Ukraine 1

By Iryna Moroz, AGA Partners, moroz@agalawyers.org

1. How has the past year affected your work in particular and family law issues in general - what are trends and common issues you have observed? In your jurisdiction - has COVID broken up families or brought them close together? Any Anecdotes - what have you seen or how have people's thoughts changed?

Covid-19 of course has its visible and rather big impact on all spheres of life. The main and, from my point of view, widely spread change due to the coronavirus is the remote work. In other words, many businesses that previously have worked from offices started shifting their focus to working from home. The life overall started to be more online. Everything can be ordered in such a way, including reliable and sound legal advice.

I can vaguely feel that the number of divorce cases in our family law practice has grown since the beginning of the pandemic.

However, there is some interesting statistic data available in this regard in Ukraine. During 2020 the number of the marriages were 29% less than during 2019. At the same time, the number of divorces during 2019 year was 138,005 and for 2020 year this number equals 119,253. As you can see from these figures the pandemic has influenced more on the desire of the Ukrainians to enter the marriage than to dissolve it.

I have some anecdote that I can share with you – if the schools are still closed for another month – the parents would find a formula for vaccine from coronavirus quicker than the scientists.

2. Have reports of domestic violence increased in frequency over the past year?

Sadly to say, but in Ukraine the international trend of increase in domestic violence is also present. The officials inform that the number of such occasions in 2020 doubled in comparison with the previous year.

3. Has the pandemic made divorce a luxury for some in your jurisdiction?

In Ukraine the divorce is rather cheap and affordable for most of the people. If the couple does not have children – then it can be done through the civil acts registry offices. The cost in such case is 8,5 UAH, which is 0.31 USD. If the parties have children – then it should be done through the court proceedings and the amount of court fees is 908 UAH, which is 32.75 USD.

Thus, my answer to this question is negative. The divorce proceedings remain accessible in Ukraine and the pandemic does not influence on its costs.

4. If possible to wait it out (with no physical danger etc.) file now or wait? Can you start your divorce from home? What are the practical/legal/procedural considerations in your jurisdiction. Are courts backlogged/ are they hearing all matters?

I believe that the pandemic is not related to the issue whether to file for divorce now or wait. It is rather connected with the desire of the couple to save their marital relations or not.

The pandemic does not affect the divorce procedure and it still remains the same as before.

I have provided above that the divorce can be achieved by two ways in Ukraine – through civil acts registry offices and in the court proceedings.

To divorce through the public civil acts' registration authority:

- 1) The couple must submit a joint application for divorce to be filed with the authority in the presence of both applicants.
- 2) On the preliminary arranged date, no less than one month from the date of the application filing, both spouses again must visit public civil acts' registration authority to officially confirm the divorce and obtain divorce certificates. It is also possible to grant a power of attorney by one of the spouses in the name of the other, in order to confirm the divorce and obtain a copy of the divorce certificate.
- 3) The marriage can also be dissolved under the application of one of the spouses, in case the other is recognized officially as missing or without legal capacity.

Divorce through court proceedings can be obtained by two possible means: filing a joint application or by filing a claim by one of the spouses against the other:

- 1) A joint application of the spouses must be filed with the court together with the written agreement on the place of residence of the children, order of the participation in their upbringing of the estranged parent and alimony. Such agreement should be certified by the notary. The court is obliged to issue a decision within one month from the date of the application.
- 2) By filling a court claim for divorce by one of the spouses against the other. In a case where one of the spouses does not give his or her consent to the dissolution of the marriage, the court grants a reconciliation period. After this period has elapsed, the court grants a divorce if it is found that the further joint life of the spouses and continuance of their marriage is contradictory to the interests of either party and the interests of their children.

Cases regarding the dissolution of a marriage are considered by the courts in simplified claim proceedings. The timeline is defined by the Civil Procedural Code.

Simplified claim proceedings must be considered on the merits within a reasonable period of time, however, not later than 60 days from the day on which the proceedings began.

In practice, the abovementioned timelines are not met and a case in the first instance is usually heard between three to seven months from when it was opened.

Theoretically it is possible to start your divorce from home in case one is filing divorce application to the court. The application can be prepared on the home computer and provided by the lawyer to the email. The court fees can be paid online. After that it is necessary to print out application, court fees receipt, exhibits, sign application and order a courier to deliver the bundle to the court.

Due to the Covid-19, it is taking longer than usual for cases to be heard and considered. Currently the courts in Ukraine deal with all cases, although with delays as explained above.

5. Alternatives to court - binding mediation/ arbitration?

The divorce in Ukraine can be done only as explained above in two ways.

It is possible to use mediation to reconcile the parties. It should be noted that mediation is still not officially recognized in Ukraine as there is no law providing rules and regulations for its usage. There is a draft law that was adopted by the Parliament in the first reading in summer 2020, however, the official law is yet to be adopted by it.

It is not possible to divorce through arbitration.

Currently the parties can only refer to arbitration disputes that arise from a marriage agreement where both parties are Ukrainian residents, and the dispute does not concern immovable property.

6. Custody and visitation issues to highlight if any?

The pandemic does not affect custody and visitation issues in a legal way.

7. International related issues and considerations if any?

I can see from our family law practice that the number of cases regarding international abduction or illegal retention under Hague Convention 1980 is increasing.

8. Any creative "solutions" - clients figuring out complicated situations, courts making relevant processes easier - that you might have seen?

Ukrainian “solution” can hardly be named creative as due pandemic the courts lastly have started to consider cases by video link without necessity to visit the court premises. Currently it is possible to participate in the court hearing from home or office.

Another useful feature of the courts – they started to actively use email communications with the parties. I know that it may sound strange in 21st century, but even in 2019 the 90% of correspondence between the court and parties were made by regular mail.

9. Non COVID related developments - legislative or otherwise specific to your jurisdiction you wish to highlight?

Ukraine further is strengthening its national legislation relating the child maintenance. There were significant changes in this area during last two years.

10. Effects of doing things online going forward - commoditization of divorce/ DIY divorces/ mediation? What parts of the practice do you foresee will stay virtual?

Ukraine is hardly can be described as active online country. However, during a pandemic the number of Ukrainians that prefer to use online services has increased greatly. The governmental authorities are trying to develop the area of official services available online, however, their majority are still accessible only offline.

Thus, the feature of commoditization of divorce or do-it-yourself divorces are not common in Ukraine. The mediation is most likely to stay virtual in the near future, especially when the respective law on mediation will be adopted in Ukraine.

11. What are your expectations post pandemic on family dynamics, divorce and marriage rates? What should people be adding to their prenuptial agreements post-pandemic?

I guess many people will adopt more serious approach to choosing of their life-time partner.

In Ukraine the family dynamics are unfortunately showing the dropping in the rates if both divorce and marriage. I believe that such trend would continue. In my opinion it may depend rather on the low birth rate and dwindling population than be caused by the pandemic.

It is hard to say now what specifically should be added to the prenuptial agreements post-pandemic as for couple of coming years coronavirus will be the part of our life. Maybe the people in Ukraine should seriously start thinking about making the will, when they are young.

12. Any cultural specifics as to how people get married and the social acceptance of divorce - and the role those have played?

These factors are not currently crucial in Ukraine. They may have some impact in rural regional areas, however, in big cities it is very insignificant.

Ukraine 2

By Oksana Voynarovska & Daria-Oleksandra Zagorui, Vasil Kisil & Partners
voynarovska@vkp.ua, zagorui@vkp.ua

1. How has the past year affected your work in particular and family law issues in general - what are trends and common issues you have observed? In your jurisdiction - has COVID broken up families or brought them close together? Any Anecdotes - what have you seen or how have people's thoughts changed.

In 2020 a quite common saying was “Choosing a person to live with for the whole life no one has imagined that he/she would have to spend several weeks together during the quarantine”.

Overall, Ukraine is one of few countries in which COVID has not changed family law issues significantly. Although the total number of marriages in 2019 was larger than in 2020, marriage figures were six times higher than divorce one in the past year (more than 100,000 and 10,000 respectively).

Thus, Ukraine does not observe the boom in marriages or divorces due to COVID and the quarantine measures in the past year.

Talking about the trends, obtaining divorce in Ukraine became easier and a little bit complicated at the same time. On the one hand, COVID enhanced the possibility to stay away from courts during the proceeding thanks to sending procedural documents by post or email, holding court hearings in absentia or through videoconferences. On the other hand, the courts are quite backlogged, so it has taken more time (six months or more in some cases) to obtain the decision.

2. Have reports of domestic violence increased in frequency over the past year?

In contrast with the divorce figures that have not changed substantially, COVID has negatively affected family relations with respect to cases of violence.

The statistics demonstrate controversial results: meanwhile according to authorities, there was no unexpected and sharp increase in reported cases, civil society organizations (such as “La Strada”) received dozens of phone calls daily. The said discrepancies may relate to the fact that women closed in one apartment with their perpetrator might have no possibility to report the case of violence, are afraid of possible results, decide to tolerate, do not trust the police, or doubt the effectiveness of protective measures provided by Ukrainian legislation.

So once again, there are no exact figures in this field. Nevertheless, in 2020 at least 3,000 cases of domestic or gender-based violence were registered as compared to roughly 1,500 in 2019; only half of them were transferred to the court.

It is worth noting that Ukraine is currently taking measures in order to resolve such an acute situation. Such measures include improvement of legislation by aggravating administrative and criminal liability of perpetrators, enhancement of a network of governmental and civil society hotlines, the Internet, mobile police groups, civil society organizations, shelters, etc. intended to report and resolve the cases of domestic violence.

Still, Ukraine needs to ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence.

3. Has the pandemic made divorce a luxury for some in your jurisdiction?

COVID has not negatively affected divorce procedure, though at the very beginning of the quarantine registry offices and courts worked under some restrictions. Moreover, nowadays divorce proceedings run even more smoothly since the Ministry of Justice of Ukraine elaborated the online platform allowing the couple to file and register remotely divorce application, copies of documents and appoint a date for a personal meeting at the state registry office. So, divorce is still accessible to the spouses willing to terminate their marriage.

4. If possible, to wait it out (with no physical danger etc.) file now or wait? Can you start your divorce from home? What are the practical/legal/procedural considerations in your jurisdiction? Are courts backlogged/ are they hearing all matters?

Divorce via administrative authorities

If both spouses are agreed to terminate their marriage, they may file divorce papers with a competent state civil register office in person or through the special web-portal recently launched by the Ministry of Justice of Ukraine. Herewith, the spouses are subject to a month cooling-off period. Following this month given for consideration and reconciliation, both spouses have to appear in person. Moreover, not every register office is provided with all necessary technical facilities, thus, overall, in Ukraine you still cannot get a divorce online.

Divorce via courts

In case when spouses have underaged children or one of them opposes to divorce, the case has to be heard in a civil court proceeding. The Ukrainian court system has always been overloaded and at the beginning of the past year, COVID made the situation even worse. However, notwithstanding that fact and the delays in proceedings, Ukrainian courts are capable to cope with all cases and hear all matters. Nowadays, though with some quarantine restrictions, the courts work almost as usual and the couple willing to divorce can file a civil claim and then attend all court hearings in person. At the same time, COVID improved the situation by enabling filling claims and other procedural documents via post or e-mail and subsequent participation in court hearings

either through videoconferences (if your facilities allow) or having pleaded to hold proceedings in absentia, i.e. consideration of the case without parties' presence.

5. Alternatives to court - binding mediation/ arbitration?

Despite several legislative initiatives and understanding the benefits of mediation (easing the burden on courts, saving time and costs, preserving good relations between the parties), Ukraine still has no alternatives to courts such as binding mediation or arbitration in family-related issues. If the spouses have a child, the only way to get divorced is to file plead with the court. Though the Civil Procedure Code of Ukraine and the Family Code of Ukraine provide for measures regarding spouses` reconciliation. Such measures are optional and may take place only in the course of court proceedings and cannot be considered as conventional pre-court mediation.

We hope that one day the Law on Mediation will be eventually passed eliminating inconveniences in divorce and other family-related issues proceedings.

6. Custody and visitation issues to highlight if any?

Basically, COVID has not affected custody and visitation issues. The procedure of their consideration or execution remains the same.

7. International related issues and considerations if any?

Consideration of international-related issues, trends remained unchangeable notwithstanding COVID restrictions and limitations.

8. Any creative "solutions" - clients figuring out complicated situations, courts making relevant processes easier - that you might have seen?

It was noticed that parties in divorce proceedings started using more civil procedure instruments such as case hearings through the videoconference either in or outside the courthouses, or case hearings in absentia i.e. without a compulsory presence in judicial sessions. At first, such steps were driven by governmental, ministerial and judicial regulations and recommendations to refrain from visiting courts, however afterward, everyone realized the convenience of such procedural instruments.

9. Non COVID related developments - legislative or otherwise specific to your jurisdiction you wish to highlight?

In February 2020, just before the beginning of the pandemic, a law amending several Ukrainian procedure codes including the Civil Procedure Code of Ukraine became effective. Subject to that law the category of «minor cases» from now on encompasses also divorce issues and alimony cases. This means that courts consider these cases and grant summary judgments within the period of 60 days from the commencement of the proceeding.

Overall, such amendments have positively affected the whole picture of divorce proceedings due to a shorter time frame for case consideration and lifting the obligation to be present in person or with a lawyer, and quite soon came in handy when the quarantine restrictions were imposed.

10. Effects of doing things online going forward - commoditization of divorce/ DIY divorces/ mediation? What parts of the practice do you foresee will stay virtual?

The divorce procedure is unlikely to become more convenient, automated, or online in the nearest future despite the challenges posed by COVID. Though recent governmental efforts concerning the launch of a remote platform intended to file marriage and divorce papers online are worth mentioning, only a few state registry offices possess the necessary facilities to process such applications (mainly those located in big cities) and the procedure is not completely automated – the couple is to appear in person in order to authenticate their identities and obtain respective certificates.

Likewise, several failed legislative attempts to improve the judicial system and civil procedure by introducing binding or voluntary mediation at least in the family-related issues demonstrate that Ukraine will continue to manage without such alternative to the courts.

11. What are your expectations post pandemic on family dynamics, divorce and marriage rates? What should people be adding to their prenuptial agreements post-pandemic?

Divorce and marriage rates in Ukraine are predicted to remain unchangeable as is evident from the current situation.

Though the Family Code of Ukraine reserves the right of spouses to enter into agreements covering property, maintenance, children upbringing issues, however, Ukrainian couples still treat marriage contracts with suspicion and mistrust as for them such agreements might signify cynicism, materialism, and signs of upcoming divorce with subsequent division of property. Therefore, at first, the institute of prenuptial agreements has to be strengthened, and only then the issue of improvements both general and post-pandemic can be raised.

12. Any cultural specifics as to how people get married and the social acceptance of divorce - and the role those have played?

Nowadays, Ukrainians may be no more considered as a conservative close-minded nation. Although older generations may still demonstrate signs of prejudice and stereotypes with respect to the dissolution of marriage, the younger one quite calmly accepts divorces. However, the overall statistics indicate that Ukrainian men and women when entering wedlock really mean it, thus the figures of annual divorces are lower than marriage numbers – the picture has not changed during the pandemic.

USA - California

By Mende Romaniak, Bartholomew & Wasznicky LLP, mende@divorcewithrespect.com

1. How has the past year affected your work in particular and family law issues in general - what are trends and common issues you have observed? In your jurisdiction - has COVID broken up families or brought them close together? Any Anecdotes - what have you seen or how have people's thoughts changed?

I don't know that I have seen a huge trend one way or the other as to people's thoughts changing in family law litigation.

I think, as with most things, COVID made issues which were present previously more acute. Parents who were engaged in high levels of custody litigation now had one more thing to fight over, with people often taking drastically different stances which seemed to align perfectly with their best interests as opposed to maybe the kids' best interests. I do think that it certainly slowed down the process of litigation for a period, and certainly left many with decreased income to litigate, so perhaps ultimately more people were just forced to resolve things outside of the Court system and without the assistance of attorneys they couldn't pay.

2. Have reports of domestic violence increased in frequency over the past year?

I have not seen a significant change in domestic violence potential clients coming in, however, these are not often a huge part of my caseload. I would anticipate that the filings of Domestic Violence Restraining Orders in the Courts and necessity of Domestic Violence preventative and assistance services have likely gone up however.

3. Has the pandemic made divorce a luxury for some in your jurisdiction?

I think it likely has made the use of an attorney a luxury for many people. Perhaps even the full process, particularly if people are out of work and splitting into two households isn't feasible, etc.

4. If possible to wait it out (with no physical danger etc.) file now or wait?

I think at this point, in some respects it is better to litigate now. Everything is via Zoom and is therefore much cheaper for clients as there is no travel time, I can work while waiting for Zoom Court so don't bill for all that time I would just be sitting in a Courtroom waiting and having to bill, and I can have a hearing that pre-COVID may have been a 3+ hour billable event in maybe a 15-30 minute time frame. It can cut costs tremendously. However, obviously do benefit from this you have to have the ability to be able to afford to split up, which given how many families here have been impacted by COVID it may just not be possible if one or both parties have lost their job or have gotten ill, etc. Can you start your divorce from home? Yes, in California starting the divorce process takes 2-3 forms (depending on if you have kids or not). These are all available online. Some counties have efilings systems as well so you can file online, others you can do so via mail, drop box, and in some Courts in person even. What are the practical/ legal/ procedural considerations in your jurisdiction. I work in several different area counties and here each county has been in charge of creating their own rules surrounding Court operations during COVID. Between the 7 different counties I currently have cases in, the rules regarding how to file documents, how hearings are proceeding (in person, via zoom, automatically, do you have to

request to appear virtually, etc.), how trials are proceeding, etc. are all different. Additionally, in at least one county I work in the Court has left it up to the individual judges. In that county I have had cases during the pandemic in front of 5-6 different judges and each one has a different practice with how hearings/trials are being done, which are approved for virtual appearances, etc. It has been nothing short of a procedural nightmare.

5. Are courts backlogged/ are they hearing all matters?

At this point the family law courthouses for the most part seem to have caught up. Filings are still backlogged in some counties, by up to a couple of weeks, but hearings and trial settings seem to be in line with the timing of pre-pandemic. I am unsure if Courts are hearing all matters however, each county has made their rules regarding this and I know some counties for example have not been having jury trials, or hearings on minor infractions. I do not deal with that type of case so do not pay attention to the local rules issued in each county regarding those matters.

6. Alternatives to court - binding mediation/ arbitration?

Parties here can stipulate to the use of a private judge to hear their trial. They have been able to do this pre-pandemic and my understanding is that in some counties in Southern California in particular that is the only way to have your matter heard unless you want to wait a great deal of time. To do this however, you have to pay for the judge's time, that added to attorney time and most people cannot afford luxuries like this in a divorce, generally this would only be an option for higher asset cases.

7. Custody and visitation issues to highlight if any?

People who fight about custody and visitation pre-pandemic have definitely used this to fight about yet another item. It has caused many issues in the custody and visitation side of things.

8. Effects of doing things online going forward - commoditization of divorce/ DIY divorces/ mediation? What parts of the practice do you foresee will stay virtual?

I would love for Court to stay virtual, I think it is so much more cost effective for clients and lets me appear at Court while also being in the office and able to work for the time I am not actively litigating. Plus, the ability to dress more casual and wear slippers to Court just cannot be beat. However, I do not think that counties will continue to hear matters in this way with any regularity. I foresee judges wanting to go back to normal and have people in their Courtrooms, I anticipate it is a bit easier to control their calendar in person.

9. What are your expectations post pandemic on family dynamics, divorce and marriage rates?

I think that people will start divorcing more as things become more stable. Business has already been booming somewhat compared to even just a few months ago (albeit the holidays are always slower in family law), I anticipate that as people are able to get out and about more, the economy improves, etc. people who perhaps felt that they were stuck based on circumstance will now feel comfortable enough to file.

US - Louisiana

By Frank Tranchina, Tranchina and Mansfield, frankt@tmlawfirm.net

1. How has the past year affected your work in particular and family law issues in general - what are trends and common issues you have observed? In your jurisdiction - has COVID broken up families or brought them close together? Any Anecdotes - what have you seen or how have people's thoughts changed?

For me, it was an adjustment. Three of the lawyers in our firm work from home. The Courts were closed, and all hearings were done by Zoom. It took a while for us to get up to speed on working remotely and Zoom, but after a few months, we were able to master it and found that it was a more effective way of trying certain types of cases. In the beginning of the COVID 19 breakout, things were slow. People were not concerned about getting divorced, but were more focused on getting through the pandemic and obtaining basic necessities for their family. I found that as a general rule, if the marriage was somewhat stable prior to the lockdown, it would survive. On the other hand, if the marriage was already floundering, then the lockdown and economic factors pushed both couples over the edge.

2. Have reports of domestic violence increased in frequency over the past year?

It did appear that domestic violence and protective orders increased in frequency over the past year.

3. Has the pandemic made divorce a luxury for some in your jurisdiction?

Our jurisdiction is fairly affluent, so once people were accustomed to the shutdown, and started back to work either remotely or otherwise, our case load picked up.

4. Are courts backlogged/ are they hearing all matters?

Our Courts were generally backlogged for a good while. They were not hearing all cases. They are prioritizing custody, domestic violence, support. The area that I specialize in, marital property, was for the most part pushed off until later in the year. We just started to return to a normal docket.

5. Alternatives to court - binding mediation/ arbitration?

I did find that mediation picked up during the last year. I do both mediation/arbitration and work has certainly increased.

6. What are your expectations post pandemic on family dynamics, divorce and marriage rates?

I have noticed that clients have been much more cooperative in attempting to settle their case due to the backlog in the Court. They are also more open to mediation and compromise. I don't see

any major changes regarding family dynamics, post-COVID. I do see the divorce rates increasing still, but I am not sure if that is a result of the pandemic or simply a general trend.

7. Effects of doing things online going forward - commoditization of divorce/ DYI divorces/ mediation? What parts of the practice do you foresee will stay virtual?

As of this time, our Courts are starting to open up slowly. They are allowing property cases to continue to be virtual, if both sides agree.

Vietnam

By Nguyen Phuoc Bao Tri, JLPW Vinh An Legal, tri.nguyen@jlpwvinhan.legal

1. How has the past year affected your work in particular and family law issues in general - what are trends and common issues you have observed? In your jurisdiction - has COVID broken up families or brought them close together? Any Anecdotes - what have you seen or how have people's thoughts changed?

JLPW: Vietnam has better control of covid compared with its neighbor countries and in the region. Still, we practice social distance and wearing mask to prevent the worst scenario. So, Vietnam becomes more attractive to foreign investors and our legal work is much busier. There is more local married foreigner, and some are happy but few entered into court arrangements for divorce. We don't see much the covid broken up families.

2. Have reports of domestic violence increased in frequency over the past year?

JLPW: In Vietnam, Hotline 1900 969 680 for Peace House (a shelter under the Central Vietnam Women's Union) and Sunshine House Hotline 1800 1769 (cooperated by UNFPA with Korea International Cooperation - KOICA support in Quang Ninh province) has received twice as many calls for help in the past months compared to the same period of previous years. According to the report, the risk of physical abuse, sexual abuse, and child sexual abuse and exploitation has increased significantly.

3. If possible to wait it out (with no physical danger etc.) file now or wait? Can you start your divorce from home? What are the practical/ legal/ procedural considerations in your jurisdiction. Are courts backlogged/ are they hearing all matters?

JLPW: Divorce matter in Vietnam is settled only way by the court

A consensual divorce in Vietnam takes between one – three months from the date the request letter made by spouses is received by the court. It takes this long because the judge that is in charge of the case is expected, by law, to take steps to mediate between couples. The judge is to make a final ruling only when all efforts at reuniting couples proves abortive. Where mediation succeeds, the judge immediately terminates the divorce. The judge will only approve the consensual divorce when:

- 1) The divorce is a voluntary decision of spouses
- 2) The spouses have reached agreement about property division and custody of children.
- 3) The legitimate rights of wife and children have been addressed.

When a divorce pronouncement is made taking into consideration all of the above, it takes effect immediately and cannot be appealed.

第二

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