


**Evidence,  
information  
technology  
&  
principles of  
civil  
procedure**

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# 1. Role of the principles

**“...new technologies have the capacity to change the core values of civil litigation by making litigation more efficient and effective, by making the civil justice system more accessible, and by changing the way we determine the facts and decide the case.”**


**Walker / Watson**

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- the development of IT has an impact on every aspect of civil proceedings
- **to find the limits of applicability** instead of integrating all technical possibilities into the proceedings without criticism
- **“the cultural core of our procedure should not be “sacrificed on the altar of modern technology” Rechberger**

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- one of the greatest challenges for procedural cultures deeply rooted in traditions

**IT does not only contribute to the improvement of the present-day system but may also serve as a catalyst for radical change (Lord Woolf)**

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- whether the *virtualisation of court proceedings is compatible with the traditional principles of procedural law* (originated in the 19th century)
- whether the traditional principles *still stand the test of modern times and fulfil the original function*
- **complex structure of litigious proceedings**

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## 2. Principles of orality and immediacy

### Two-way impact:

- 1. In some fields: IT may restrict the realization of principles,
  - automated proceedings presuppose the **written form of communication.**
- 2. *In other cases* **technical possibilities may give new impetus to the realization of orality** and they may also contribute to the realization of immediacy

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- Video-conferences: this way the **transformation of oral evidence into written evidence could be avoided,**
- **criminal proceedings - the protection of witnesses**  
 ↔ **civil procedure - cost efficiency**
- **"halfway"**
- **IT: the culture of court speeches and trials will also undergo changes**
- **requests**

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### 3. The principle of free evaluation of evidence

- **court is not bound by formal rules of evidence, particular methods of evidence or the use of particular means of proof**
- **certain restrictive elements - regulated probative force of *public documents and private documents of full probative force, the presumptions***
- **Comparative aspects**

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## 4. Publicity

- *electronic publicity* has a rather different meaning
- (physically) present at the trial or broadcasting the trial via the internet,
- access to files v. data protection

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## 5. Principle of party control

- is the parties' responsibility to find the means of proof and present the facts and evidence
- Hungary: Amendment of 1995 abolished the general authorization to take evidence ex officio
- taking of evidence ex officio only based on special authorization.

Thank you for your  
attention!