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Taking evidence by videoconference

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European Judicial Network
(in civil and commercial
matters)



1 Is it possible for evidence to be taken by videoconference either with the participation of a court in the requesting Member State or directly by a court of that Member State? If yes, what are the relevant national procedures or laws that apply?

Both procedures are possible. Any request should clearly indicate which procedure the requesting court is referring to.

When a request is made pursuant to Articles 12 to 14 of the Regulation, the provisions of the Code of Judicial Procedure on the taking of evidence apply to the hearing.

2 Are there any restrictions on the type of person who can be examined by videoconference – for example, is it only witnesses or can others such as experts or parties also be examined in this way?

There are no such restrictions in civil and commercial matters. Witnesses, experts and parties can all be examined via videoconferencing.

3 What restrictions, if any, are there on the type of evidence that can be obtained by videoconference?

There are no restrictions.

4 Are there any restrictions on where the person should be examined by videoconference – i.e. does it have to be in a court?

No.

5 Is it permitted to record videoconference hearings and, if so, is the facility available?

While recording a videoconferencing hearing is not prohibited, the necessary equipment is not available in all courts. This should be specifically enquired about at the time the request is made.

6 In what language should the hearing be conducted: (a) where requests are made under Articles 12 to 14 of the Taking of Evidence Regulation; and (b) where there is direct taking of evidence under Articles 19 to 21 of the Taking of Evidence Regulation?

When a request is made in accordance with Articles 12 to 14, the hearing takes place in Finnish or Swedish. In the case of direct taking of evidence under Articles 19 to 21, the requesting court selects the language to be used.

7 If interpreters are required, who is responsible for providing them and where should they be located (a) where requests are made under Articles 12 to 14 of the Taking of Evidence Regulation; and (b) where there is direct taking of evidence under Articles 19 to 21 of the Taking of Evidence Regulation?

Where a request is made pursuant to Articles 12 to 14, the organisation and deployment of interpreters may be agreed between the requesting and requested courts. When a request is made under Articles 19 to 21, the requesting court itself is responsible for recruiting and deploying interpreters.

8 What procedure applies to the arrangements for the hearing and to notify the person to be examined about the time and place (a) where requests are made under Articles 12 to 14 of the Taking of Evidence Regulation; and (b) where there is direct taking of evidence under Articles 19 to 21 of the Taking of Evidence Regulation? For both options, how much time should be allowed when arranging the date of the hearing to enable the person to receive sufficient notification?

Where requests are made under Articles 12 to 14, the requested court must send a written summons to the hearing. It would be preferable to allow a minimum period of two to three weeks from the notification to the date of the hearing. Where a request is made under Articles 19 to 21, the requesting court is responsible for service and arrangements.

9 What costs apply to the use of videoconferencing and how should they be paid?

When a person is heard in a court with video equipment in accordance with Articles 12 to 14 of the Regulation, the use of videoconferencing does not normally entail any separate costs. When a person is heard outside the court in accordance with Articles 19 to 21, the costs of the videoconferencing must be borne by the requesting court.

10 What requirements, if any, are there for ensuring that the person examined directly by the requesting court has been informed that the performance shall take place on a voluntary basis?

Under Article 19(2), the requesting court must inform the person concerned that the hearing is voluntary.

11 What procedure exists for verifying the identity of the person to be examined?

When a request is made pursuant to Articles 12 to 14, the requested court must establish the identity of the person to be heard and verify it, where appropriate, based on their identity document or passport. When a request is made pursuant to Articles 19 to 21, the requesting court must verify the identity of the person to be heard itself.

12 What requirements for taking oaths apply and what information is needed from the requesting court when an oath is required during direct taking of evidence under Articles 19 to 21 of the Taking of Evidence Regulation?

No specific requirements relating to the taking of oath apply to the direct taking of evidence under Articles 19 to 21. An oath is taken in accordance with the law of the court hearing the witness.

13 What arrangements are there for ensuring that there is a contact person at the place of the videoconference with whom the requesting court can liaise and a person who is available on the day of the hearing to operate the videoconferencing facilities and deal with any technical problems?

The requested court must indicate a contact person for this purpose.

14 What, if any, additional information is required from the requesting court?

- The requesting court should indicate the contact person for both technical arrangements and specific (legal) questions.
- The request should indicate the contact details (e-mail and/or telephone number) of the contact person via whom they will also be contacted during the hearing, for example in the event of problems with video link.
- If there is a time zone difference between the countries, the request should indicate whether the time indicated for the hearing is the time in the requesting State or in the requested State.

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