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# Taking evidence by videoconference

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 Slovakia

## 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?

Although Slovak law does not contain specific rules allowing evidence to be taken with the court in the requesting Member State participating, there are no provisions preventing this. According to the procedural rules, courts take evidence at a hearing, and also, where practicable, outside hearings (Section 188 of the Civil Litigation Code (*Civilný sporový poriadok*)). With the parties' consent, the court may hold a hearing by videoconference or other communications technology. (Section 175 of the Civil Litigation Code). In principle, the parties have the right to be present while evidence is being taken.

There are no specific procedures for taking evidence by videoconference (apart from those described above). Therefore, only the Regulation on Taking Evidence (*Nariadenie o výkone dôkazu*), the Civil Litigation Code and the Administrative and Secretarial Rules for Courts (*Spravovací a kancelársky poriadok pre súdy*) apply (in 2015, Slovak Justice Ministry Decree No 543 of 11 November 2005 on Administrative and Secretarial Rules for district courts (*okresné súdy*), regional courts (*krajské súdy*), the special court (*Špeciálny súd*) and military courts (*vojenské súdy*)).

All other issues must be resolved by agreement between the courts in question with the aid of the EJN.

## 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 restrictions in Slovak law on the type of person who may be examined via videoconference. Under Section 187 of the Civil Litigation Code, anything that may contribute to the proper clarification of the case and that has been obtained lawfully may serve as evidence. Parties, witnesses and experts may be examined in particular.

Pursuant to Section 203 of the Civil Litigation Code, the obligation to keep classified information confidential must be observed when evidence is taken.

Under Section 38 of the Civil Litigation Code, if a party is a minor, the court shall take their opinion into account. The opinion of the minor is established by the court through their legal representative or the competent authority for the social protection of children and social guardianship, or by questioning the minor, including without the presence of the parents. Specific restrictions would clearly depend on the child's age and the method selected by the court for the examination.

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

None, apart from those restrictions associated with the very nature of the evidence (the fact that it is impossible to conduct a premises search by videoconference, etc.).

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

Evidence is usually taken at a hearing (Section 188 of the Civil Litigation Code) and hearings usually take place at a courthouse (Section 25 in conjunction with Section 35 of the Administrative and Secretarial Rules for Courts). For technical reasons it would be difficult to conduct an interview elsewhere.

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

The videoconferencing equipment is also capable of recording videoconferences. Nevertheless, under the terms of Section 175 of the Civil Litigation Code, an oral hearing via videoconference may only take place with the parties' consent. Such an audio recording is stored on a data carrier, which is part of the case file.

### 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?

This question is not specifically about taking evidence abroad or via videoconference. Under the general rules for hearings pursuant to Articles 12 to 14, court hearings in Slovakia are always held in the official language and interpreters are provided if required.

If a court takes evidence directly pursuant to Articles 19 and 20, it does so in its own language.

### 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?

If the hearing is carried out by videoconferencing in accordance with Articles 12 to 14 and there is a need for interpretation (e.g. a court examining a French person living in the Slovak Republic), the Slovak court will provide an interpreter but request reimbursement from the requesting court in accordance with Article 22(2) of the Regulation. Where videoconferencing is carried out in accordance with Article 19, the central authority agrees the terms and conditions with the requesting court and proposes that the requesting court provide an interpreter if necessary. Interpreters based in Slovakia can be found on the [website of the Ministry of Justice of the Slovak Republic](#).

### 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?

Slovak law does not contain specific provisions governing these issues. The general rules on conducting hearings and summoning witnesses and parties apply. The court usually takes evidence at a hearing (Section 188 of the Civil Litigation Code) and the summons to attend a hearing must be served sufficiently in advance to afford the statutory period for preparing for a court hearing. Section 46(3) of the Administrative and Secretarial Rules for Courts governs the requirements for summonses. A summons to be heard must be served 'as a rule at least five days before the date on which the hearing is to be held' (Section 178(2) of the Civil Litigation Code).

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

The Slovak courts do not apply charges for videoconferencing.

**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?**

Slovak law does not contain specific provisions governing these issues. As a general rule, at the start of the hearing the court must inform the person of their procedural rights and obligations, unless the person is represented by a lawyer or the litigant is the State, a State authority or a legal person represented by a person with legal training (Section 160 of the Civil Litigation Code).

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

Slovak law does not contain specific provisions governing these issues with regard to videoconferencing. The specific procedure will be decided by ad hoc agreement between the courts concerned. The general provisions on verifying the identity of the person being examined (Section 200 of the Civil Litigation Code) evidently apply. [The court] verifies the data from the identity card or passport. At the start of a hearing, a witness's identity must be established as well as any circumstances that could impact on the witness's credibility (family relationships etc.).

**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?**

Slovak law only contains specific provisions governing these issues in criminal proceedings, not in civil proceedings.

However, pursuant to Section 196(2) of the Civil Litigation Code, courts instruct witnesses at the start of each hearing about the significance of witness statements and the witnesses' rights and obligations (to tell the truth and not conceal anything) and about the criminal consequences of perjury.

If the requesting court requests the hearing of a witness, expert or party under oath in accordance with its law, this is not deemed contrary to Slovak public policy (*ordre public*). The text of the oath can be found in the Private International Law and Procedure Act (Section 58b of Act No 97/1963).

**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?**

All Slovak courts have an administrator who can be approached to plan the testing of the video link, the date of the hearing, etc. The administrator is trained in operating the videoconferencing facilities. In the event of any problems, the administrator can contact the court technician and may arrange for the technician to be present on the day of the hearing.

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

The technical information necessary for establishing a link with the requesting court's equipment and, where applicable, information regarding the interpreter are required.

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■ Last update: 06/05/2024

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