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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?

Yes, evidence can 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.

Section 5 of the Act (2003:493) on the EU Regulation concerning the taking of evidence in civil or commercial matters ('the Taking of Evidence Regulation') states that the taking of evidence is to be carried out by district courts and that the provisions of the Code of Judicial Procedure on the taking of evidence outside the main hearing are to apply (Chapter 35, Sections 8-11, of the Code) unless otherwise provided in the Regulation.

It should be noted that in cases in which the Taking of Evidence Regulation is not applicable, relevant provisions are contained in other acts, for example the Act (1946:816) on the taking of evidence for a foreign court.

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?

Any party who is to be examined in a case can be examined by videoconference.

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

No particular restrictions have been imposed.

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

The taking of evidence is carried out by district courts. Otherwise, no particular restrictions have been imposed.

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

Yes, it is permitted and the facilities are available.

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?

(a) The hearing must be conducted in Swedish but the court may employ an interpreter.

(b) That depends on the rules of the requesting state.

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?

(a) For examinations in Sweden, it is the Swedish court that decides whether an interpreter is to attend and, if so, how.

(b) The requesting court may, if necessary, request assistance in finding an interpreter from the Government Offices, which is the central body under the Taking of Evidence Regulation. The Government Offices and the requesting court may agree on how the interpreter is to attend the examination (Article 20(2) of the Taking of Evidence Regulation).

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?

(a) The executing court issues a summons to the person who is to be examined. The summons specifies the time and place. Although there are no statutory requirements regarding how much time must be allowed when setting the date of the hearing, the person summoned must be given sufficient time ('reasonable notice') to comply with the summons.

(b) That depends on the rules of the requesting state.

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

The requesting court must, if the Swedish court so requests, bear the costs of experts and interpreters, costs arising as a result of the request for enforcement in accordance with a special procedure, and the cost of communications technology such as videoconferencing and teleconferencing (see Article 22(2) and Article 12(3) and (4) of the Taking of Evidence Regulation).

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?

It is for the requesting court to inform the person concerned that the taking of evidence in accordance with Article 19 of the Taking of Evidence Regulation is to be carried out on a voluntary basis.

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

There is no specifically regulated procedure for verifying identity in this connection.

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?

As a general rule the national rules on oaths apply, and no specific conditions or information requirements have been laid down for the application of Article 19.

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?

Staff who are able to operate the videoconferencing facilities are available at all courts.

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

No additional information is normally required.

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