

Taking evidence by videoconferencing - Hungary

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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?

Act CXXX of 2016 on the Code of Civil Procedure ('Act CXXX of 2016') provides the option for the court, either at the proposal of a party or acting of its own initiative, to examine a party, other participants in the court proceedings, a witness or an expert, and – provided the owner of the item to be inspected agrees – to conduct an inspection via an electronic communications network. A hearing via an electronic communications network may be ordered if it is practical, for example to speed up the proceedings or where a hearing at the venue where the case is heard would be difficult to organise or disproportionately expensive, or if the protection of a witness so requires.

The rules on examinations via an electronic communications network can be found in Act CXXX of 2016 and Decree 19 /2017 of 21 December 2017 of the Minister for Justice on the use of electronic communications networks in civil action hearings and examinations ('Decree 19/2017 of 21 December of the Minister for Justice').

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 respect of the persons who can be examined via an electronic communications network. This method can be used to examine the parties and other participants in the court proceedings, witnesses, experts and owners of items to be inspected.

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

A hearing, examination or inspection using an electronic communications network can be used to examine the parties, witnesses and experts, or to conduct an inspection.

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

Examinations via an electronic communications network can take place at the premises of the court or another body, in separate rooms set up for videoconferencing, provided the conditions necessary for the operation of the electronic communications network are provided.

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

Under Act CXXX of 2016, the court may order at the trial stage – upon the request of either party or of its own initiative – that the minutes of hearings, examinations or inspections conducted via electronic communications network be prepared using continuous and simultaneous video and audio recordings.

If the minutes are not taken in this manner, the judge hearing the case at the venue where the case is heard may order the video and audio recording of the events at the venue of the hearing and separate premises during an examination or inspection using an electronic communications network.

6 In what language should the hearing be conducted: (a) where requests are made under Articles 10 to 12; and (b) where there is direct taking of evidence under Article 17?

In the case of requests made under Articles 10 to 12 of Council Regulation (EC) No 1206/2001, the provisions of Act CXXX of 2016 must be applied in accordance with Article 10(2). Under Act CXXX of 2016 court proceedings are conducted in Hungarian, but no one may be placed at a disadvantage because of a lack of knowledge of the Hungarian language. In the course of the court proceedings, everybody has the right to the oral use of their mother tongue, or regional or minority language where provided for in international conventions. Where necessary, the court has an obligation to use an interpreter.

In the case of requests made under Article 17, the hearing is conducted by the requesting court under Article 17(6) in accordance with the laws of its Member State.

7 If interpreters are required, who is responsible for providing them under both types of hearing and where should they be located?

In the case of requests made under Articles 10 to 12, if it is necessary to ensure the use of mother tongue or a regional or minority language, the requested court has an obligation to use an interpreter.

Act CXXX of 2016 does not contain specific provisions on where the interpreter should be located in the event of a hearing via an electronic communications network. It does ensure, however, that interpreters are present in the rooms set up for such hearings. On the basis of Decree 19/2017 of 21 December 2017 of the Minister for Justice, the interpreter must be shown on the transmitted recording.

In the case of requests made under Article 17, the provisions of Article 17(4) and (6) apply.

8 What procedure applies to the arrangements for the hearing and to notify the person to be examined about the time and place? How much time should be allowed when arranging the date of the hearing to enable the person to receive sufficient notification?

The order for a hearing via an electronic communications network is served on the persons summoned at the same time as the summons for the hearing, examination or inspection. The order for a hearing via an electronic communications network is sent by the court without delay to the court or other body providing the dedicated facilities for the hearing via electronic communications network.

Act CXXX of 2016 has no special provision concerning summons for hearings via electronic communications network. The summons to attend a hearing must be sent so as to allow for the receipt confirming service in accordance with the law to be returned to the court prior to the hearing.

The first hearing must be scheduled so as to ensure that the summons is served on the parties, as a general rule, at least fifteen days before the date of the hearing. The court may shorten that period in urgent cases.

In the case of requests made under Article 17, the provisions of Article 17(4) and (6) apply.

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

The costs vary and are to be paid 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 17(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?

The identity of the person to be examined via an electronic communications network is verified on the basis of:

- the information provided by the person in question in order to verify his or her identity and address, and
- the presentation through technical equipment specified by law of his or her official identification document or residence document.

If the court ordered the confidential treatment of a witness's data, it must be ensured during the presentation of the witness's official identification document or residence document through the technical equipment specified by law that only the presiding judge (or the registrar, in case the hearing or inspection is conducted by a registrar) can see it.

The court also uses electronic means or direct database queries to confirm that:

- the information provided by the person examined via an electronic communications network in order to verify his/her identity and address matches the records; and
- the official document and residence document presented by the person as proof of identity is valid and matches the records.

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 Article 17?

Act CXXX of 2016 does not provide for oaths in court proceedings.

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?

Act CXXX of 2016 provides for the presence of a person responsible for ensuring the functioning and operation of the necessary technical equipment for hearings via electronic communications network at the dedicated facilities.

The operator must ensure that the technical equipment for the hearing is fully functional before the start of the hearing. If there is any obstacle to the normal operation of the technical equipment, the operator reports the malfunction to the judge present at the premises of the hearing without delay and ensures that the problem is eliminated. The technical problem and the measures taken are then reported in writing to the operator's line manager. The hearing via an electronic communications network cannot be started or continued until the problem is eliminated. The procedural step underway when the problem or malfunction of the technical equipment used for the hearing via an electronic communications network occurred must be repeated if necessary.

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

In general, no other information is required.

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