

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 in both ways. The procedures are developed on an *ad hoc* basis. Bulgarian legislation does not make provisions regarding videoconference but does not prohibit it, either. Requests for the taking of evidence, including by videoconference, are made to the district court within whose geographical jurisdiction the taking is to be performed (Article 617(1) of the Code of Civil Procedure (*Grazhdanski protsesualen kodeks, GPK*) of 2008). In Bulgaria, the provincial court within whose geographical jurisdiction evidence is to be taken directly is competent to allow the direct taking of evidence (Article 617(2) of the GPK of 2008). The competent court is found using the search tool available in the European e-Justice Portal/the European Judicial Atlas. A request must contain details such as the name and address of the parties to the proceedings, the nature and subject matter of the case, a description of the taking of evidence to be performed, etc. The following forms need to be used: Form A: Request for the taking of evidence (pursuant to Articles 10 to 12); Form I: Request for direct taking of evidence (pursuant to Article 17). Bulgaria does not maintain and has not concluded agreements or arrangements with other Member States of the EU to facilitate the taking of evidence that are compatible with Regulation (EC) No 1206/2001. The application of Regulation (EC) No 1206/2001 takes precedence over the agreements concluded by Bulgaria with other Member States in their part concerning the taking of evidence in civil and commercial matters.

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?

No, there are no such restrictions. The Bulgarian Code of Civil Procedure, unlike the Criminal Procedure Code (*Nakazatelen protsesualen kodeks, NPK*), does not contain specific provisions on the taking of evidence by videoconference, and the relevant court within whose geographical jurisdiction the taking of evidence is to be performed has discretion as to which persons should be examined in this way (Article 617(1) and (2) of the GPK). In accordance with the GPK, both witnesses and experts, as well as the parties to the case themselves can be examined. Minors can only be examined in the presence of their legal representative, and children may not be examined if they are under 10 years of age (Article 15 of the Child Protection Act (*Zakon za zakrila na deteto*)).

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

No, there are no provisions imposing such restrictions. If the requesting court or the requested court has no access to videoconference equipment, such equipment can be provided to the courts by an agreement.

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

Persons are usually examined in the building of the relevant court, in accordance with Article 163(1) of the GPK. For important reasons, the examination may alternatively be carried out outside the court, provided that technical equipment for the taking of evidence by videoconference is available, the parties to the case having been given notice to attend, too.

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

Videoconference hearings can only take place with the parties' consent (Article 148 of the GPK). Only the team carrying out the videoconference has the right to record the hearing. The relevant court under whose geographical jurisdiction the hearing is conducted has discretion to decide whether a videoconference hearing is to be recorded. An audio recording of the hearing can be made. Such audio recording is stored on a data medium, which is part of the materials of the case.

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?

All Bulgarian courts conduct hearings in their official language (which is Bulgarian), and an interpreter is provided if necessary. Where requests are made for indirect taking of evidence pursuant to Articles 10 to 12, the language of the requested court is used. Where requests are made for direct taking of evidence pursuant to Article 17, the language of the requesting court is used depending on the conditions determined by the competent provincial court.

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

Bulgarian legislation does not regulate this matter. Interpreters are provided on an *ad hoc* basis and, to this end: The requesting court ensures the presence of an interpreter for the person to be examined if necessary. In the request, the requesting court specifies the language that is to be used and informs the requested court. The requesting court and the requested court may, as appropriate, request for the proceedings to be conducted in whole or in part in a foreign language. At the request of the requesting Member State or of the person to be examined, the requested Member State ensures the presence of an interpreter if necessary.

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?

How much time should be allowed when arranging the date of the hearing to enable the person to receive sufficient notification? The Bulgarian law does not regulate this matter specifically, but the general rules on conducting court hearings and on giving witnesses, parties and experts notice to attend under the GPK should be applied. Persons must be given sufficiently long advance notice, which is at least seven days before the scheduled date of the court hearing (Article 56(3) of the GPK). The procedure for carrying out an examination by videoconference is organised in accordance with the law of the requested State.

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

The Bulgarian court does not award fees for videoconferencing. The requesting court ensures the refunding of the fees paid to experts and interpreters and the costs incurred to organise the videoconference link. At the request of the requested court, the requesting court should ensure a refunding of the costs arising from the use of the videoconference equipment.

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?

The Bulgarian procedural law does make specific provisions on this matter. In principle, requests for direct taking of evidence pursuant to Article 17 of Regulation (EC) No 1206/2001 can only be executed on a voluntary basis, without applying coercive measures. At the beginning of the hearing of a witness, the Bulgarian court clarifies to them their procedural rights and obligations if the witness is not represented by a lawyer. A witness to be examined has the right to refuse to testify under the rules of Article 166 of the GPK.

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

The law of the requested State applies. Pursuant to Article 170 of the GPK, if a person is examined in a witness or expert capacity, their identity is established by producing a personal identification document, information as to whether they may be interested is clarified, and they are reminded of the liability under the law in case of perjury (Article 290 of the NPK).

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?

When evidence is taken directly by a requesting Bulgarian court pursuant to Article 17, Article 170(2) of the GPK applies and the witness or expert examined promises to tell the truth, being warned of the criminal liability they incur for perjury or for preparing an untrue expert report (Articles 290 and 291 of the NPK).

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?

Bulgarian courts have system administrators with required computer skills, who can participate in the arrangements for the videoconference, discharging their respective responsibilities. If there are any technical problems, the system administrator liaises with the court concerned and ensures the smooth videoconference hearing of the persons.

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

Additional technical information may be required in connection with establishing the videoconference link between the requesting court and the requested court.

Last update: 18/06/2020

The national language version of this page is maintained by the respective EJM contact point. The translations have been done by the European Commission service. Possible changes introduced in the original by the competent national authority may not be yet reflected in the translations. Neither the EJM nor the European Commission accept responsibility or liability whatsoever with regard to any information or data contained or referred to in this document. Please refer to the legal notice to see copyright rules for the Member State responsible for this page.