

**SYNOPSIS OF RESPONSES TO THE COUNTRY PROFILE QUESTIONNAIRE  
ON THE TAKING OF EVIDENCE BY VIDEO-LINK UNDER THE  
HAGUE CONVENTION OF 18 MARCH 1970 ON THE TAKING OF EVIDENCE ABROAD  
IN CIVIL OR COMMERCIAL MATTERS  
(EVIDENCE CONVENTION)**

*drawn up by the Permanent Bureau*

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**APERÇU DES RÉPONSES AU QUESTIONNAIRE SUR LE PROFIL D'ÉTAT  
POUR L'OBTENTION DE PREUVES PAR LIAISON VIDÉO EN VERTU DE LA  
CONVENTION DE LA HAYE DU 18 MARS 1970 SUR L'OBTENTION DES PREUVES  
À L'ÉTRANGER EN MATIÈRE CIVILE OU COMMERCIALE  
(CONVENTION PREUVES)**

*établi par le Bureau Permanent*

This document has not been translated. It is a compilation of the responses as they were presented to the Permanent Bureau and they appear in the form and language in which they were received. The Permanent Bureau has made some minor corrections to the text of responses for presentation purposes. The complete response of each Contracting Party is available on the "[Evidence Section](#)" of the Hague Conference website < [www.hcch.net](http://www.hcch.net) > under "Taking of evidence by video-link".

In the interests of brevity responses to the following questions have not been compiled in this document:

- Full contact details of Central Authorities and responsible persons or departments within the Central Authorities (Part I of the Country Profile Questionnaire, Questions a) and b));
- Full information on the relevant authorities / diplomatic or consular agents / commissioners, that may assist in processing applications where the use of video-links has been requested (Part I of the Country Profile Questionnaire, Question d)).

Throughout this document numbers contained in square brackets ('[#]') refer to the number of relevant responses. In this Questionnaire, the terms "Requesting State" and "Requested State", "State of origin" and "State of execution" are used as terms of art and are to be given the meaning ascribed to them in the Glossary of the Practical Handbook on the Operation of the Evidence Convention (3rd edition, 2016).

\* \* \*

Ce document n'a pas été traduit. Les réponses ont uniquement été compilées telles qu'elles ont été reçues, et dans la langue dans laquelle elles ont été reçues. Le Bureau Permanent a apporté quelques corrections mineures au texte à des fins de présentation. Les réponses des Parties peuvent être consultées dans leur intégralité sur l'« [Espace Preuves](#) » du site web de la Conférence de La Haye (à l'adresse < [www.hcch.net](http://www.hcch.net) >, sous la rubrique « Obtention des preuves par liaison vidéo »).

Par souci de concision, les réponses aux questions suivantes ne sont pas reprises dans le présent document :

- Coordonnées complètes des personnes responsables ou des départements concernés au sein des Autorités compétentes (Partie I du Questionnaire sur le Profil d'État, questions a) et b));
- Coordonnées complètes de l'autorité / de l'agent diplomate ou consulaire / du commissaire concerné chargé spécialement d'aider à traiter les demandes dans les cas où le recours à la liaison vidéo a fait l'objet d'une demande expresse, (Partie I du Questionnaire sur le Profil d'État, question d)).

Les nombres entre crochets ('[#]') dans ce document renvoient au nombre de réponses reçues. Dans le présent Questionnaire, les notions d'« État requérant » et d'« État requis », d'« État d'origine » et d'« État de l'exécution » sont utilisées comme des termes génériques et doivent être interprétées en fonction du sens qui leur est conféré par le Glossaire du Manuel pratique sur le fonctionnement de la Convention Preuves (3e édition, 2016).

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## RESPONSES TO THE COUNTRY PROFILE QUESTIONNAIRE

Responses [34]	
1.	Australia
2.	Belarus
3.	Bosnia and Herzegovina
4.	Brazil
5.	Bulgaria
6.	China, Hong Kong Special Administrative Region <sup>1</sup>
7.	China, Macao Special Administrative Region <sup>2</sup>
8.	Croatia
9.	Cyprus
10.	Czech Republic
11.	Estonia
12.	Finland
13.	France
14.	Germany
15.	Greece
16.	Hungary
17.	Israel
18.	Korea (Republic of)
19.	Latvia
20.	Lithuania
21.	Malta
22.	Mexico
23.	Norway
24.	Poland
25.	Portugal
26.	Romania
27.	Singapore
28.	Slovenia
29.	South Africa
30.	Sweden
31.	Switzerland
32.	United Kingdom (England and Wales; Northern Ireland)
33.	United States of America
34.	Venezuela

<sup>1</sup> Henceforth China (Hong Kong SAR).

<sup>2</sup> Henceforth China (Macao SAR).

## RÉPONSES AU QUESTIONNAIRE SUR LE PROFIL D'ÉTAT

Réponses [34]	
1.	Afrique du Sud
2.	Allemagne
3.	Australie
4.	Belarus
5.	Bosnie-Herzégovine
6.	Brésil
7.	Bulgarie
8.	Chine, Région administrative spéciale de Hong Kong <sup>3</sup>
9.	Chine, Région administrative spéciale de Macao <sup>4</sup>
10.	Chypre
11.	Corée, République de
12.	Croatie
13.	Estonie
14.	États-Unis d'Amérique
15.	Finlande
16.	France
17.	Grèce
18.	Hongrie
19.	Israël
20.	Lettonie
21.	Lituanie
22.	Malte
23.	Mexique
24.	Norvège
25.	Pologne
26.	Portugal
27.	République tchèque
28.	Roumanie
29.	Royaume-Uni (Angleterre et Pays de Galles, Irlande du Nord)
30.	Singapour
31.	Slovénie
32.	Suède
33.	Suisse
34.	Venezuela

<sup>3</sup> Ci-après China (Hong Kong SAR).

<sup>4</sup> Ci-après China (Macao SAR).

Questions & Replies	Contracting Parties
<b>PART I – STATE</b>	
<b>CHAPTER I (LETTERS OF REQUEST)</b>	
<i>As with any other Letter of Request under Chapter I of the Evidence Convention, the requesting authority should contact the Central Authority(ies) of the requested State when seeking to obtain evidence by means of a Letter of Request, whether using video-link or not.</i>	
<b>a) Are the contact details of the Central Authority(ies) designated by your State up-to-date on the Evidence Section of the Hague Conference website?</b>  See the full replies to the Country Profile Questionnaire and / or the contact details provided in the “Central Authorities” link available in the “ <a href="#">Evidence Section</a> ” of the Hague Conference website.	
<b><u>Yes</u></b>	[26]  Australia, Belarus, Bosnia & Herzegovina, Brazil, China (Hong Kong SAR), China (Macao SAR), Croatia, Cyprus, Czech Republic, Estonia, France, Greece, Israel, Korea (Republic of), Latvia, Norway, Poland, Portugal, Romania, Singapore, Slovenia, South Africa, Switzerland, United Kingdom (England and Wales; Northern Ireland), United States of America and Venezuela
<b><u>No</u></b>	[8]  Bulgaria, Finland, Germany, Hungary, Lithuania, Malta, Mexico and Sweden
<b>b) Would your State be in favour of specifying a person or department within the Central Authority(ies) who would assist in processing Letters of Request where the use of video-links has expressly been requested (e.g., to arrange the video-link or provide technical assistance)?</b>  See also the full replies to the Country Profile Questionnaire available in the “Evidence Section” of the Hague Conference website.	

<p style="text-align: center;"><b><u>Yes</u></b></p>	<p style="text-align: center;">[22]</p> <p>Belarus, Brazil, Bulgaria, China (Hong Kong SAR), Croatia, Cyprus, Czech Republic, Finland, Greece, Israel, Korea (Republic of), Latvia, Lithuania, Malta, Mexico, Portugal, Romania, Singapore, Slovenia, South Africa, United Kingdom (England and Wales; Northern Ireland) and Venezuela</p>
<p style="text-align: center;"><b><u>No</u></b></p> <p><u>Australia</u>: The relevant Additional Authority will be responsible for making any arrangements for video-link.</p> <p><u>China (Macao SAR)</u>: At this stage, taking into account that the Macao SAR has not had any request of this nature, it is believed that there is no need to specify a person or department within the designated Central Authority to deal with this request.</p> <p><u>Estonia</u>: As the Central Authority consists of 2 people dealing with civil matters, both of them can be contacted.</p> <p><u>France</u>: L'Autorité centrale française n'a pas pour mission de participer à l'exécution d'une commission rogatoire internationale, quelles que soient les formalités particulières demandées par la juridiction requérante.</p> <p>En l'état actuel du mécanisme prévu par le chapitre I de la convention, et si elle accepte la demande qui lui est transmise, l'autorité centrale française, l'adressera à la juridiction compétente aux fins d'exécution. Le juge français pourra alors accepter que le juge requérant assiste à cette exécution, notamment par vidéoconférence. Dans ce cas, les modalités pratiques et techniques seront uniquement discutées entre la juridiction requérante et la juridiction française requise, sans l'intermédiaire de l'autorité centrale.</p> <p>Par ailleurs, si la juridiction requérante formule une demande d'exécution directe par vidéoconférence, comme l'autorise désormais le droit français, transmise en application du chapitre I de la convention, aux fins d'exécution de l'acte dans des</p>	<p style="text-align: center;">[10]</p> <p>China (Macao SAR), Estonia, France, Germany, Hungary, Norway, Poland, Sweden, Switzerland and United States of America</p>

conditions moins restrictives, telles que prévues à l'article 27(b) de la Convention, l'autorité centrale française se bornera à examiner la conformité de la demande et, le cas échéant, à désigner la juridiction française chargée d'assister techniquement l'exécution par vidéoconférence. Les coordonnées de la personne de contact près la juridiction française seront communiquées par l'autorité centrale dans le courrier d'autorisation qu'elle adressera à la juridiction requérante.

Germany: Germany is a federal state. Each of the 16 German LÄNDER (federal states) has named a Central Authority. The video-links are not carried out by the Central Authorities but, as a rule, by courts, which have designated contact persons.

Hungary: Contact persons are designated case by case, and any potential case worker is able to deal with such requests.

Norway: The Letters of Request should be sent to the Central Authority under the Evidence Convention. A request for the use of video-link will be forwarded to the competent court in Norway, depending on where the witness is located.

Poland: Assistance is provided by the Central Authority, which liaises between the requesting court and the IT specialist at the requested court.

Sweden: To be able to keep the information on the web-site as up-to-date as possible.

Switzerland: En Suisse, le recours à la liaison vidéo n'est pas envisageable sous le Chapitre I de la CLaH70.

United States of America: The United States does not permit the direct taking of evidence by video-link under Chapter I of the Convention. The United States permits the direct taking of evidence by video-link on a voluntary basis under Chapter II of the Convention, but such arrangements must be agreed upon privately and do not involve the United States Central Authority.

*Comments*

Australia: The relevant Authority will be responsible for making any arrangements for video-link.

Belarus: Division of Execution of International Treaties of the Ministry of Justice of the Republic of Belarus receives Letters of Request and transmits them to the Supreme Court of the Republic of Belarus. The Supreme Court arranges the execution of requests.

Portugal: Directorate-General of Justice Administration Ministry of Justice (Direcção-Geral da Administração da Justiça, Ministério da Justiça) Av. D. João II, nº 1.08.01 D/E Pisos 0, 9º ao 14º 1990-097 Lisboa Portugal The requesting and the requested courts (once the latter has been identified by the central authority) should establish direct contact with each other to schedule a videoconference and should also arrange a date for a prior test.

Lithuania: Legal Cooperation Division of International Law Department of the Ministry of Justice (e-mail: [tbs@tm.nl](mailto:tbs@tm.nl)).

Romania: The videoconference is made by the specialized Directorate functioning within the Ministry of Justice (fax 0040372041148, telephone 0040372041146, 0040372041147, [razvan.craciunescu@just.ro](mailto:razvan.craciunescu@just.ro)) and by the Romanian court by using the videoconference servers of the Special Telecommunications Service. A list of the Courts which have video-link facilities is attached hereto (Annex 1). The coordinates of these courts are available on the internet pages of the Romanian Courts portal

<http://portal.just.ro/SitePages/acasa.aspx>, E-justice at [https://e-justice.europa.eu/content\\_jurisdiction-85-ro.do](https://e-justice.europa.eu/content_jurisdiction-85-ro.do) and the European Judicial Atlas in civil and commercial matters at

[http://ec.europa.eu/justice\\_home/judicialatlascivil/html/cc\\_searchmunicipality\\_en.jsp#statePage0](http://ec.europa.eu/justice_home/judicialatlascivil/html/cc_searchmunicipality_en.jsp#statePage0)

Slovenia: for technical assistance or for help arranging the video link one should turn to Judicial Development Department at the Ministry of Justice: [http://www.mp.gov.si/si/delovna\\_podrocja/sluzba\\_za\\_razvoj\\_pravosodja/](http://www.mp.gov.si/si/delovna_podrocja/sluzba_za_razvoj_pravosodja/); Phone: 00 386 1 369 5342, Mail: [gp.mp@gov.si](mailto:gp.mp@gov.si)

United Kingdom (England and Wales): [foreignprocess.rcj@hmcts.gov.uk](mailto:foreignprocess.rcj@hmcts.gov.uk)

United Kingdom (Northern Ireland): Arrangements are put in place once a request is made and the details of the date and time have been organized. There should always be someone available to assist with any request.

**c) What arrangements are there for ensuring that there is a contact person with whom the requesting authority can liaise and who is available on the day of the hearing to operate the video-link facilities (e.g. is there a booking system)?**

Australia: Each Additional Authority has different processes; more information on this is below.

Brazil: To ensure that there is a contact person available, please get in touch with the Central Authority, if possible in advance of the scheduled date. Please note that the Central Authority is located in Brasília (DF). If the hearing is to take place outside of Brasília (DF),

please allow for the necessary time for the Central Authority to contact the local authorities or to arrange for travel to the remote location. Please note that flights within Brazilian States capitals may take up to 7 or 8 hours.

Bulgaria: As a Central Authority, the Bulgarian Ministry of Justice has reliable system for registration of all filed requests for legal aid, including Letters of Request under Chapter I of the Hague Evidence Convention.

Directorate International Legal Cooperation and European Affairs within the Ministry of Justice is responsible for re-sending to the competent authorities all reasonable and correctly filed requests for legal aid.

There is not specific booking system regarding requests for video-link hearings.

China (Hong Kong SAR): The local agents (*i.e.* the local legal representatives of the parties in the foreign proceedings) will be the contact persons with whom the requesting authority can liaise, and where local agents are not appointed, the Law Officer (International Law) of the Department of Justice. The local agents (or Law Officer (International Law)) would be responsible for applying to the court for the taking of evidence. The Judiciary would be responsible for the operation of the video-link system on the day of hearing.

China (Macao SAR): Since the Macao SAR has no such experience until now, there is no special arrangements on this issue. The designated Central Authority, the Public Prosecutions Office (MP), is one of the main judiciary authorities of the Macao SAR with powers of investigation and intervention in court proceedings.

Cyprus: A staff member of the Court and/or technician is present on the day of the hearing.

Czech Republic: The Central Authority will contact the local authorities (courts). A video-link test will be carried out prior to the actual hearing. The room where the video-link will take place has to be booked in advance.

Estonia: The court, which will have the video-conference, will appoint a specific contact person.

Finland: The Finnish Central Authority asks both the requesting and the requested court to name a contact person who can be contacted in the matter and who can then liaise directly.

France: Les coordonnées téléphonique et électronique de la personne de contact sont communiquées, selon le cas, soit par l'autorité judiciaire compétente, soit par l'autorité centrale française à la juridiction requérante. Le service compétent (le greffe) de la juridiction française compétente gère lui-même le calendrier de réservation.

Germany: The requested authority will inform the requesting authority about the contact persons. Details of courts which have video-link facilities and their contact persons can be found online at the following address: [http://www.justiz.de/verzeichnis/zwi\\_video-konferenz/videokonferenzenanlagen.pdf](http://www.justiz.de/verzeichnis/zwi_video-konferenz/videokonferenzenanlagen.pdf). There are no booking systems.

Greece: After an official request is lodged, the judge in charge of videoconference in the relevant court makes all the necessary arrangements.

Hungary: The Hungarian court assisting with organisation of the videoconference might designate such a person, it is up to the court's assessment.

Israel: The court will appoint a contact person when necessary.

Korea (Republic of): Every high and district court designated officers in charge of the operating video-link facilities.

Latvia: To ensure that there is a contact person available, please get in touch with the Central Authority, if possible in advance of the scheduled date.

Lithuania: There is no particular person designated within the Ministry of Justice for operation of requests regarding video-link. Anyone from the Legal Cooperation Division (e-mail: [tbs@tm.lt](mailto:tbs@tm.lt)) can assist in processing letters of request, liaise the competent court or perform the role of coordinator as regards the content of the request. For technical assistance the National Court Administration might be contacted. A booking system is not available.

Malta: The contact person will be present for the taking of evidence. A video-link test will be carried out prior to the actual hearing. The room where the video-link takes place will be booked for the whole session.

Mexico: Mexico, through its Central Authority, undertakes to coordinate with the judicial authorities the implementation of the electronic links for videoconferences; therefore, the requesting authority should contact the Mexican CA, so the CA requests the local Superior Court to designate a tribunal to attune the videoconference with its staff.

Norway: There are no formal arrangements, but normally the competent court in Norway will have persons trained to operate the systems.

Poland: Every court, that possesses equipment to arrange a video-link, employs a person trained to operate it and agree upon the suitable time and other details for the specific connection in a given case. If there are any problems, the Polish Central Authority may be contacted to restore communication between the requesting authority and Polish court.

Portugal: In Portugal, the Directorate-General for the Administration of Justice (Direcção-Geral da Administração da Justiça, or DGAJ) is the central authority responsible for receiving and accepting requests from another State. Once the request has been accepted, the DGAJ indicates to the court of the requesting State the (requested) Portuguese court where the videoconference will take place. Once this has been done, the requesting and requested courts must agree with each other directly on the dates for conducting first the test and then the videoconference hearing. The DGAJ, as a central authority, facilitates the direct contact between the requesting and IT videoconferencing support team, so as to overcome any technical difficulties. Through direct contacts, the courts shall book the videoconference room and appoint the staff to set up the technical connections and monitor the videoconference at the requesting and requested courts, respectively. In Portugal, as a rule, a court official with appropriate knowledge is chosen, preferably accompanied by the IT technician of the Portuguese court.

Romania: Specialized Department of the Ministry of Justice. Information Technology Department: fax 0040372041148, telephone 0040372041146, 0040372041147, [razvan.craciunescu@just.ro](mailto:razvan.craciunescu@just.ro). A list of the courts which have video-link facilities is attached (Annex 1). The coordinates of these courts are available on the internet pages of the Romanian Courts Portal <http://portal.just.ro/SitePages/acasa.aspx>, E-justice at [https://e-justice.europa.eu/content\\_jurisdiction-85-ro.do](https://e-justice.europa.eu/content_jurisdiction-85-ro.do) and European Judicial



Atlas in civil and commercial matters.

[http://ec.europa.eu/justice\\_home/judicialatlascivil/html/cc\\_searchmunicipality\\_en.jsp#statePage0](http://ec.europa.eu/justice_home/judicialatlascivil/html/cc_searchmunicipality_en.jsp#statePage0). The technical test must be made at least 24 hours before the hearing.

Singapore: The necessary arrangements will be made once a request is received and acceded to.

Slovenia: There will be a form available on the website of the Ministry of Justice soon (still in preparation).

South Africa: The Embassy of the requesting state must liaise with the Department of Justice.

Sweden: When a request is made a person will be designated to handle the contacts in the specific case.

Switzerland: Aucun, voir réponse b).

United Kingdom (England and Wales): HM Courts & Tribunal Service will provide that contact in each case and arrange booking. Contact [foreignprocess.rcj@hmcts.gov.uk](mailto:foreignprocess.rcj@hmcts.gov.uk)

United States of America: N/A.

Venezuela: The office has on-call staff, in charge of the information technology area, who is dedicated to the operation of video-link.

## CHAPTER II (TAKING OF EVIDENCE BY DIPLOMATIC OFFICERS, CONSULAR AGENTS AND COMMISSIONERS)

*Permission by a designated authority may be required to apply certain provisions under Chapter II. To know if such a permission is required for a particular State, see the practical information chart (accessible from the [Authorities](#) page) AND / OR the declarations (accessible from the [Status Table](#) page) of the relevant State available on the [Evidence Section](#) of the Hague Conference website.*

*If permission is not required, applicants should contact the diplomatic and consular mission (Arts 15/16) or the commissioner (Art. 17) to explore whether or not evidence may be obtained by video-link under this Chapter.*

*If permission is required, applicants should contact the authority that was designated to grant permission AND the relevant diplomatic and consular mission or commissioner, to explore, where necessary, whether or not evidence may be obtained by video-link under this Chapter.*

**d) Would your State be in favour of specifying an entity or authority, in addition to the relevant authority / diplomatic or consular agent / commissioner, that would assist in processing applications where the use of video-links has expressly been requested (e.g., to arrange the video-link or provide technical assistance)?**

See also the full replies to the Country Profile Questionnaire available in the "[Evidence Section](#)" of the Hague Conference website.

<p style="text-align: center;"><b><u>Yes</u></b></p>	<p style="text-align: center;">[5]</p> <p style="text-align: center;">Latvia, Lithuania, Malta, South Africa, United Kingdom (England and Wales)</p>
<p style="text-align: center;"><b><u>No. Please explain why:</u></b></p> <p><u>Cyprus:</u> Not available in diplomatic and consular missions.</p> <p><u>Estonia:</u> Estonia is such a small State that there is no need for additional contact-persons. Diplomatic officers etc. in any case take contact with the Central Authority.</p> <p><u>Finland:</u> There is no prior approval needed by the Finnish authorities. The Finnish authorities are not involved in these proceedings.</p> <p><u>France:</u> Si la commission rogatoire est adressée en vertu du chapitre II, il importe au seul commissaire ou autorité/agent diplomatique de l'Etat requérant désigné de prendre les mesures techniques nécessaires à son exécution par vidéoconférence. Le mode de transmission et d'exécution prévu par le chapitre II est incompatible avec une quelconque intervention des autorités de l'Etat requis dans l'exécution de la demande, et par conséquent de la mise en œuvre de la vidéoconférence. Il appartient donc aux seules parties et juridiction requérante de s'informer sur l'équipement dont dispose le commissaire ou le poste diplomatique/consulaire concerné, et la possibilité pour ce dernier de procéder à l'audition par vidéoconférence, sous réserve du consentement de la personne à entendre.</p> <p><u>Germany:</u> Diplomatic or consular agents or commissioners stationed in Germany can independently organise the taking of evidence once they have received any requisite permissions.</p> <p><u>Greece:</u> No need.</p> <p><u>Hungary:</u> There is no added value, relevant authority can deal with such requests.</p>	<p style="text-align: center;">[19]</p> <p style="text-align: center;">Bulgaria, Cyprus, Estonia, Finland, France, Germany, Greece, Hungary, Israel, Korea (Republic of), Mexico, Norway, Poland, Romania, Slovenia, Sweden, Switzerland, United States of America and Venezuela</p>

Israel: In Israel, the judicial and administrative authorities of the state of Israel are not generally involved in the taking of evidence under chapter II, and there is no centralized body that oversees the operation of chapter II.

Outside Israel, there is no practice or regulation of taking of evidence by Israeli diplomatic or consular officers.

Korea (Republic of): Republic of Korea excluded the application of the Art. 16.

Mexico: The United Mexican States expressly and fully presented a reservation regarding Articles 17 and 18 and does not accept "Commissioners" neither the use of urgency measures by diplomatic and/or consular agents.

Norway: Permission from the Central Authority is required according to Norway's declaration to art. 15.

Poland: Not applicable: Poland does not require permission for incoming requests under Art. 15. Except for Art. 15, Poland does not apply other provisions of Chapter II. According to Polish consular services there is no possibility of processing outgoing requests under Chapter II.

Romania: When submitting the instrument of joining the Convention, Romania made a reservation based on art. 33, paragraph 1, according to which Romania shall not apply the provisions of articles 16, 17 and 18 of the 2nd Chapter II of the Convention. At the same time, Romania declared that art. 19 and 21 become inapplicable to the extent that they refer to art. 16, 17 and 18 to which the reservation was made.

Slovenia: There are no technical possibilities at consulates and embassies.

Sweden: To be able to keep the information up-to-date.

Switzerland: Après avoir obtenu l'autorisation, l'organisation et l'exécution de l'obtention de preuve par liaison vidéo est de la responsabilité de l'autorité requérante / de l'agent diplomatique

<p>ou consulaire / du commissaire. Les autorités suisses n'apportent pas d'assistance ou des services</p> <p><u>United States of America:</u> The United States permits the direct taking of evidence by video-link on a voluntary basis under Chapter II of the Convention, but such arrangements must be arranged for privately and do not involve the United States Central Authority.</p> <p><u>Venezuela:</u> Our State considers that it is not necessary.</p>	
<p><i>Comments</i></p> <p><u>Australia:</u> Letters of Request for evidence under Chapter II should be sent to the Central Authority for assessment and will be forwarded to the appropriate authority for action.</p> <p><u>Bulgaria:</u> On the ground of Article 33, the Republic of Bulgaria has excluded the application within its territory of the provisions of articles 16, 17, 18 and 19 of Chapter II under the Convention.</p> <p><u>China (Macao SAR):</u> No comments.</p> <p><u>Czech Republic:</u> Not applicable.</p> <p><u>Lithuania:</u> Legal Cooperation Division of International Law Department of the Ministry of Justice, e-mail: <a href="mailto:tbs@tm.lt">tbs@tm.lt</a>.</p> <p><u>Malta:</u> Ministry for Foreign Affairs. However, it highly depends on the case.</p> <p><u>Portugal:</u> Not applicable.</p> <p><u>Romania:</u> Counting from the date when the Convention came into effect for Romania, according to the records of the Ministry of Foreign Affairs, Romania's diplomatic and consular agents have not performed any procedural acts based on art. 15 of the Convention. The resort to modern technical means for taking evidence by video-link can be achieved, from the perspective of the application of the provisions of art. 15 by Romanian diplomatic and consular agents provided the necessary infrastructure is set in place at the level of diplomatic and consular missions and a secure video-link connectivity with the beneficiaries of such evidence-taking is granted.</p> <p><u>Singapore:</u> Not applicable. We have declared that the whole of Chapter II shall not apply to the Republic of Singapore.</p> <p><u>United Kingdom (England and Wales):</u> Please note that the UK takes video evidence via diplomatic officers only in exceptional cases; usually customers are referred to commercial suppliers such as conference centres. For the tiny number of cases involving diplomatic officers, various systems may be used including government-owned video equipment and commercial platforms (ECHO, Skype, Webinar, Vidyo are examples), so would be unable to provide one entity to cover all cases, but would be happy to provide details of technical assistants for specific cases.</p>	

**e) What arrangements are there for ensuring that there is a contact person with whom the Court of Origin can liaise and who is available on the day of the hearing to operate the video-link facilities (e.g. is there a booking system)?**

Australia: This is determined on a case-by-case basis and the person managing the request is likely to contact the Court of Origin to make any necessary arrangements.

Bulgaria: On the ground of Article 33, the Republic of Bulgaria has excluded the application within its territory of the provisions of articles 16, 17, 18 and 19 of Chapter II under the Convention.

China (Macao SAR): The contact between the Requesting Party and the Requested Party should be via the Central Authorities to ensure that court hearings will be operated smoothly.

Cyprus: Not available.

Czech Republic: Not applicable.

Estonia: The representation, which will have the video-conference, will appoint a specific contact person.

France: Comme rappelé précédemment, cette question relève de la compétence du seul commissaire ou du poste diplomatique/consulaire commis par la juridiction requérante. Aucune intervention de l'autorité centrale française n'est possible à ce stade.

Germany: See answer d).

Greece: After an official request is lodged, the judge in charge of videoconference in the relevant court makes all the necessary arrangements with the presence of an IT expert.

Hungary: The Hungarian court assisting with organisation of the videoconference might designate such a person, it is up to the court's assessment.

Israel: N/A. See comment in section d above.

Latvia: To ensure that there is a contact person available, please get in touch with the Central Authority, if possible in advance of the scheduled date. Responsible court employee organized videoconference in accordance with internal rules Nr.1-2/14 "Video conferencing equipment booking and procedures for the use in legal proceedings" (12.06.2013) of Ministry of Justice.

Lithuania: The Legal Cooperation Division shall assist in granting the permission, explaining how the evidence can be obtained by video-link under Chapter II. There is no booking system available.

Malta: Diplomatic representation staff from the concerned Embassy.

Mexico: Does not apply.

Norway: This is an arrangement between the Court of Origin and the embassy concerned.

Poland: Not applicable: Except for Art. 15, Poland does not apply other provisions of Chapter II.

Portugal: Not applicable.

Singapore: Not applicable. See response to Part I(d).

South Africa: Department of Justice and the Embassy.

Sweden: When a request is made a person will be designated to handle the contacts in the specific case.

Switzerland: Aucun, voir réponse d).

United Kingdom (England and Wales): Usually contact details are exchanged by e-mail between the officers from both sides once the request has been set up. The booking system varies between locations.

United States of America: Since the United States Central Authority is not involved in the taking of evidence under Chapter II of the Convention, the Requesting Authority, the parties to the litigation, or someone retained in the United States would be responsible for making all of the private arrangements necessary for taking evidence by video-link.

Venezuela: The office has on-call staff, in charge of the information technology area, who is dedicated to the operation of video-link.

## PART II – RELEVANT LEGISLATION AND COURT SYSTEM

## Preliminary comments

Australia:

Australia is a federation made up of six states and two internal territories. Each Australian State and Territory has different laws and processes and therefore the way in which they may deal with taking evidence via video-link may differ. On this basis, please note that the contributions to this Questionnaire below have come directly from each Australian State or Territory.

## Abbreviations:

"NSW" – New South Wales

"QLD" – Queensland

"WA" – Western Australia

"SA" – South Australia

"VIC" – Victoria

"TAS" – Tasmania

The Northern Territory provided the following comment and did not respond to each question individually:

*"Very few matters arising under the Hague Convention as the Northern Territory (NT) is a relatively small jurisdiction compared to some of the other Australian States.*

*Over the last 5 years or so the NT have only had two matters that have fallen under the Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters 1970 (the Evidence Convention). Both of these matters did not proceed because the persons required to give evidence were unable to be located.*

*The Supreme Court of the Northern Territory does have Video Link facilities available and if required, the facilities can be made available for the matters that may arise under the Hague Evidence Convention. Generally, the Court charges for the use of Video Link facilities."*

A response was not received from the Australian Capital Territory.

NSW answered "A witness located in NSW cannot be compelled by any NSW court to give evidence directly to a foreign tribunal by video-link." in Part IV and in Part V d, e, f.

Legal Basis	
a) Does your State, in the application of Article 27 (i.e. internal law or practice), allow for a foreign Court to directly take evidence by video-link?	
<p><u>Yes.</u> Please specify:</p> <p><u>China (Honk Kong SAR):</u> Section 76(2) (a) of the Evidence Ordinance (Cap.8) provides for the examination of witnesses by any means, including by way of a live television link.</p> <p><u>Czech Republic:</u> If the judicial authority of the requesting State requests the use of video-links, the Czech Central Authority will request the Czech judicial authority to consider such a request.</p> <p><u>Estonia:</u> Under certain circumstances. § 15 (4) of Code of Civil Procedure: "Unless otherwise provided by law or an international agreement, an Estonian court provides procedural assistance in performance of a procedural act at the request of a foreign court if, pursuant to Estonian law, the requested procedural act belongs to the jurisdiction of the Estonian court and is not prohibited by law. A procedural act may also be performed or a document may be issued pursuant to the law of a foreign state if this is necessary for the conducting of proceedings in the foreign state and the interests of the participants in the proceeding are not damaged thereby". The law can be found in English: <a href="https://www.riigiteataja.ee/en/eli/510012017004/consolide">https://www.riigiteataja.ee/en/eli/510012017004/consolide</a>.</p> <p><u>Israel:</u> In addition to directly taking evidence, Israel allows the foreign country to send a representative that can take the evidence.</p> <p><u>France:</u> Cette possibilité est déjà offerte aux tribunaux d'autres Etats membre de l'Union européenne en application de l'article 17 du règlement CE n°1206/2001 sur l'obtention des preuves en matière civile et commerciale. Par ailleurs, le décret n° 2017-892 du 6 mai 2017 récemment adopté portant diverses mesures de modernisation et de simplification de la procédure civile permet désormais, pour les demandes transmises en application du</p>	<p>[16]</p> <p>China (Hong Kong SAR), Cyprus, Czech Republic, Estonia, Finland, France, Israel, Latvia, Malta, Portugal, Romania, Singapore, Slovenia, Sweden, United States of America and United Kingdom (England and Wales)</p>



chapitre I de la Convention, et uniquement en ce qu'elles sollicitent l'audition de témoins, à l'autorité judiciaire requérante de solliciter auprès de l'autorité centrale française l'autorisation d'y procéder directement, notamment par voie de vidéoconférence.

Romania: The law applicable in this case is Law No. 189/2003 regarding the international legal assistance in civil and commercial matters, namely art. 25, paragraphs 1 and 3 and art. 35, paragraph 3.

The requested Romanian judicial authority requested may consider, upon request submitted by the requesting judicial authority, to use a special procedure, provided that such procedure does not contravene the Romanian law. The Romanian court will inform the requesting judicial authority on the date and venue where the letter rogatory is to be made and it may allow, upon request, participation thereto of foreign magistrates. Based on art. 3, paragraph 3 of the Council's Regulations (CE) No. 1206/2001 of May 28th, 2001, the Ministry of Justice is the authority that has to make a decision as regards the requests submitted based on art. 17 of the aforementioned regulations.

The videoconference should take place in the presence of the Judge from the Court within whose territorial range of competence the evidence is to be taken, assisted, as the case may be, by an interpreter. The said judge must verify the identity of the person heard and has the obligation to see that the fundamental principles of the Romanian law are duly observed.

Slovenia: Article 114a of the Civil Procedure Code (hereinafter CPC)

Sweden: Under certain circumstances in accordance with national law and international agreements. However, not within the application of the 1970 Convention.

United States of America: It is permissible for a voluntary witness located in the United States to directly provide evidence by video-link to a foreign court. See 28 U.S.C. § 1782(b).

<p>Although U.S. procedure allows an interested party to file a 28 U.S.C. § 1782(a) motion to request that a U.S. district court issue an order to compel a witness to provide evidence in aid of a foreign proceeding, it is unlikely a U.S. court will compel a witness to directly provide evidence by video-link to a foreign court. Neither of these options involve the United States Central Authority.</p> <p><u>United Kingdom</u>: Evidence (Proceedings in Other Jurisdictions) Act 1975; Civil Procedure Rule 32.3.</p>	
<p><b><u>No. Please specify:</u></b></p> <p><u>China (Macao SAR)</u>: Under the Macao SAR law, only indirect taking of evidence is allowed. Therefore, only lawyers and magistrates of the Macao SAR can raise questions against witnesses (Article 539 of the Macao Civil Procedure Code (CPC), Law No. 10/1999 and Decree-law No. 42/95/M).</p> <p><u>Croatia</u>: If it is not agreed otherwise by an international agreement, courts shall proceed on requests for legal assistance from foreign courts only if they are delivered through diplomatic channels and if the request and enclosures are written in one of the languages in official use in the court or if an authorized translation in that language is enclosed (Article 183. of the Civile Procedure Act ("Official Gazzete" 53/91, 91/92, 58/93, 112/99, 88/01, 117/03, 88/05, 02/07, 84/08, 123/08, 57/11, 148/11, 25/13 and 89/14; further in the text: CPA).</p> <p><u>Germany</u>: Germany does not allow foreign courts to directly take evidence in Germany, even by video-link.</p> <p><u>Greece</u>: All procedures must pass through the control of the relevant court.</p> <p><u>Hungary</u>: Direct taking of evidence is only allowed on the basis of EU law or international agreement.</p> <p><u>Latvia</u>: Not Applicable Art.27.</p>	<p>[15]</p> <p>Belarus, Brazil, China (Macao SAR), Croatia, Germany, Greece, Hungary, Korea (Republic of), Latvia, Lithuania, Mexico, Poland, South Africa, Switzerland and Venezuela</p>

<p><u>Lithuania</u>: Lithuania has not made a declaration in favour of application of Article 27. There is not that much practice on direct taking of evidence by video-link under the Convention, but in accordance with analogues EU instruments on taking of evidence in civil cases, foreign courts' request for direct taking of evidence shall be accepted by the Ministry of Justice, which usually does so by setting the following condition, <i>i.e.</i> Ministry usually assigns the competent national court to take part in the performance of the direct taking of evidence by telephone/videoconference in a relevant case.</p> <p><u>South Africa</u>: Process must be through the Central Authority.</p> <p><u>Switzerland</u>: Soumis à autorisation.</p> <p><u>Venezuela</u>: Our State only allows indirect intervention of evidence.</p>	
<p><i>Comments</i></p> <p><u>Australia</u>: This depends on each Australian State and Territory:</p> <ul style="list-style-type: none"> <li>• <u>NSW</u>: Under NSW law, a foreign court is not entitled to directly take evidence from a witness located in NSW by video-link. However, NSW law does not prevent a witness, who is located in NSW, from voluntarily giving evidence from NSW by video-link in proceedings in a foreign court. Such request is ordinarily arranged privately between the parties outside of the Convention, and NSW courts have no role to play in the giving of such evidence (except on a case by case basis, lending the use of its AVL IT facilities, if requested to do so by a foreign court, in the interests of judicial comity). That is, in the above circumstances, the law of NSW does not govern the giving of that evidence.</li> <li>• <u>WA</u>: Yes. For the purposes of proceedings not relating to the commission of an offence or an alleged offence, a person nominated by a requesting court or tribunal or, if no such person is nominated, the Attorney General, may make an application to the Supreme - - Court of Western Australia under section 116 of the <i>Evidence Act 1906</i> (WA) (Act) for an order for evidence to be obtained in Western Australia. The application must be made pursuant to a request issued by or on behalf of a foreign court or tribunal, and the evidence to which the application relates must be obtained for the purpose of proceedings either instituted before the requesting court or whose institution is contemplated. <ul style="list-style-type: none"> <li>- Upon such an application, the Court then has the power make an order to obtain evidence in Western Australia as may appear to the Court to be appropriate for the purpose of giving effect to the request in pursuance of which the application was made: subsection 117(1) of the Act (See sections 115-118A of the Act and Order 39 of the Rules of the Supreme Court 1971 (WA) (Rules).</li> <li>- Further, a court or tribunal of a participating jurisdiction that is authorised by legislation of that jurisdiction to direct that evidence be taken by video-link may, for the purposes of a proceeding in or before it, take evidence from a person in Western Australia under section 123 of the Act. However, unless the jurisdiction is prescribed to be a participating jurisdiction, this is confined to the courts</li> </ul> </li> </ul>	

or tribunals of the States or Territories comprising the Commonwealth of Australia. At the time of writing, there were no jurisdictions prescribed for this purpose (See sections 120-130 of the Act.).

- QLD: There is no legislative basis for a Foreign Court to take evidence in Queensland. The evidence must be taken by Queensland Courts in legal proceedings in Queensland commenced for the purposes of giving effect to any foreign evidence request.
- SA: Section 59F of the *Evidence Act 1929 (SA)* permits taking of foreign evidence. SA was not aware of any agreements with other Contracting States that would impede taking evidence by video-link.
- VIC: Taking of video-link evidence is subject to a Court order. Where video-link has been expressly requested, a judge will need to make an order for evidence to be taken via video-link. The party requesting the video-link on behalf of the Requesting State/Authority Court would, through the Requested State, be responsible for organising a video-link if required. A judge will need to approve the video-link and Court Registry will require an order from a judge to proceed with any video-link.

Bulgaria: There is not explicit rule in the national legislation arranging the possibility for a foreign Court to directly take evidence by video-link.

Croatia: As a matter of fact, a requesting foreign Court must, as a rule, address a request to the requested court in which it will propose which person to examine and to which circumstances.

Mexico: Mexico has a federal system of 32 states, which don't allow a foreign court to take evidence (statements) directly through the use of electronic media, nonetheless the Federal Civil Procedure Code does consider the use of videoconferences to take evidence, as well as Mexico's city and the State of Mexico.

Slovenia: Article 114a of the CPC stipulates that the court may allow videoconference if the parties agree.

Switzerland: Dans le cadre de la CLaH70, deux cas de figure peuvent être envisagés pour la participation du juge étranger. 1) En théorie, on peut imaginer une participation des autorités étrangères à une audition des parties et/ou de tiers effectuée par un juge suisse (art. 8 CLaH70 ; soumise à autorisation). Cette possibilité n'est cependant pas envisageable en pratique. 2) L'autorisation d'une vidéoconférence dans le cadre du Chapitre II de la CLaH70 avec la participation du juge étranger est soumise aux mêmes conditions que les cas classiques d'autorisation. En dehors du cadre de la CLaH70, l'audition par vidéoconférence n'est pas possible, sauf cas très exceptionnels. Voir Lignes directrices de l'OFJ.

<https://www.rhf.admin.ch/dam/data/rhf/zivilrecht/wegleitungen/wegleitungzivilsachen-f.pdf>

Venezuela: In Venezuelan legislation there are no express prohibitions for foreign courts to obtain evidence by videoconference. In our judicial system, operates the principle of freedom of evidence, unless they are expressly prohibited. In the case of the presentation of evidence through videoconferences, both jurisprudence and doctrine, have pointed out its legality.

Article 857 of the Venezuelan Code of Civil Procedure establishes that the examination of witnesses, examinations, oaths, interrogations, summonses, notifications, and other acts of mere instruction to be carried out in the country shall be processed by the national courts, without are required by Letters Rogatory or diplomatic channel. The latter case is covered by Article 27 of the Convention.

In addition, article 38 of the Venezuelan Act on Private International Law (1998) recognizes the effectiveness of evidence obtained according to the procedural process of the right of the Court or official to which it is carried out.

**b) Please indicate the legal basis or applicable protocols (i.e., relevant laws, regulations, practice, etc.) for the use of video-links in the taking of evidence in your State, either under the Convention or independent of the Convention (see, e.g. Art. 27 (b) and (c)):**

Australia:

- NSW: The legal basis for the use of video-link in the taking of evidence in NSW (that is, independent of the Convention), is the *Evidence (Audio and Audio Visual Links) Act 1998* (NSW). That statute does not provide for foreign tribunals to take evidence by video-link from witnesses in NSW.
  - Part 4 of the *Evidence on Commission Act 1995* (NSW), together with Part 52 of the *Uniform Civil Procedure Rules 2005* (NSW) regulates the taking of evidence on commission in NSW, upon a request being made under Chapter 1 of the Convention.
  - The Act and the Rules provide for obtaining evidence in NSW. The Act and the Rules do not provide for the local witness to give evidence directly in the foreign tribunal's proceedings by audio-visual link. Rule 52.2 of the UCPR (in combination with r. 24.13) provides for evidence on commission to be recorded in NSW by video, and for that recording to be sent to the foreign tribunal with a transcript of the witness' oral evidence.
- WA: Sections 115-118A of the *Evidence Act 1906* (WA) and Order 39 of the *Rules of the Supreme Court 1971* are the legal basis/applicable protocols in relation to a foreign court taking evidence in the Supreme Court of Western Australia. The orders the Court may make in this regard under section 117 are sufficiently broad to permit the use of video-links in the taking of evidence.
  - Sections 120 and 121 of the Act and Supreme Court of Western Australia Consolidated Practice Direction 1.2.7 are the legal basis/applicable protocols in relation to a "WA Court" taking evidence by video-link from a person at a place outside Western Australia.
  - Sections 120 and 122-130 of the Act are the legal basis for a "recognised court" taking evidence by video-link from a person in Western Australia.
- QLD: Under Rule 392 of the *Uniform Civil Procedure Rules 1999* (Qld), the use of video link facilities in Queensland to receive evidence is subject to the discretion of the Court. A copy of the Rules can be located at [https://www.legislation.qld.gov.au/Acts\\_SLs/Acts\\_SL\\_S.htm](https://www.legislation.qld.gov.au/Acts_SLs/Acts_SL_S.htm)
- SA: *Evidence on Commission Act 2001* (TAS) provides for matters relating to evidence obtained in Tasmania for other jurisdictions and examination of witnesses outside Tasmania.
  - Also *Supreme Court Rules 2000* Part 39 - deals with obtaining evidence for external court or tribunal.
  - *Evidence (Audio and Audio Visual Links) Act (1999)* –s6 - A Tasmanian court may, on the application of a party to a proceeding before the court or on its own motion, direct that evidence be taken, or submissions made, by audio link or audio visual link, from a participating State, from any place outside Australia other than New Zealand, or from any place within Tasmania other than the courtroom or other place at which the court is sitting.

- VIC: *Supreme Court (General Civil Procedure) Rules 2015* - Order 41A. *Supreme Court (Criminal Procedure) Rules 2008* - Rules 2.36 (3) and 2.53 (2), (3). *Evidence (Miscellaneous Provisions) Act 1958* - Part IIA. See also Video-link Application Guide on the Victorian Supreme Court website.

Belarus: The Chapter 22 of the Civil Procedural Code of the Republic of Belarus (hereinafter "CPC"), in particular the Article 185-1. The Chapters 8 and 20 of the Code of Commercial Procedure of the Republic of Belarus (hereinafter "CCP"), in particular the Article 176-1.

<http://pravo.by/pravovaya-informatsiya/normativnye-dokumenty/kodeksy-respubliki-belarus/>.

Brazil: The use of videoconference is a common practice in Brazilian courts over the past years, especially since the institution of the electronic judicial procedure by Law 11.419/2006 ([http://www.planalto.gov.br/ccivil\\_03/ato2004-2006/2006/lei/l11419.htm](http://www.planalto.gov.br/ccivil_03/ato2004-2006/2006/lei/l11419.htm)). The National Council of Justice Resolution n. 105/2010 (<http://www.cnj.jus.br/busca-atos-adm?documento=2829>), containing rules about the documentation of the hearings made by videoconference.

The new Code of Civil Procedure – CPC ([http://www.planalto.gov.br/ccivil\\_03/ato2015-2018/2015/Lei/L13105.htm](http://www.planalto.gov.br/ccivil_03/ato2015-2018/2015/Lei/L13105.htm)) provides for the use of videoconferences. Articles 236, 385, 453, 461 and 937 of the CPC provide for the use of videoconferences.

Bulgaria: The Bulgarian national legal framework is based on the following legal acts:

Bulgarian Civil Procedural Code, Chapter XIV Evidence, more specifically Article 163 where it is envisaged that a witness shall be obligated to appear before court in order to give testimony. In the same time, taking of testimony by video - link is not explicitly forbidden which can be interpreted as a permissible procedural action.

As a Member State of the EU, Bulgaria also apply directly Council Regulation (EC) No 1206/2001 of 28 May 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters.

As a Member State of the Hague Conference and a Contracting State, for the Republic of Bulgaria is also bidding the Evidence Convention (excluding the application of several provisions on the ground of Article 33).

China (Hong Kong SAR): Order 39 and 70 of the Rules of the High Court (Cap. 4A) and Part VIII of the Evidence Ordinance (Cap. 8) (both available at <https://www.elegislation.gov.hk>).

China (Macao SAR): Notwithstanding the absence of legal provisions specially regulating the taking of evidence by video-link, the use of video-link is not prohibited under the Macao SAR law.

Article 542 of the CPC allows a witness to give testimony by phone or other direct means of contact with the court, which states that "When it is impossible or seriously difficult for the persons to give evidence at hearing to appear in time, the judge may, after hearing the parties, determine that any clarification indispensable for the decision of the case would be provided through the use of telephone or other means of communication direct with the court, so far as the nature of the facts to be investigated or clarified is compatible with the measure."

According to Article 135 of the CPC, the court is competent to assess and ensure the compliance with letters rogatory in accordance with law; if certain formalities are requested therein, they can be satisfied as long as they do not contradict internal law.

Legal provisions for the taking of evidence by other means provided for in the CPC will equally be applicable for the use of video-link for that purpose. The CPC can be consulted online (both in Chinese and Portuguese) at:

<http://bo.io.gov.mo/bo/i/99/40/codprocivpt/default.asp>

<http://bo.io.gov.mo/bo/i/99/40/codprocivcn/default.asp>

Croatia: The Republic of Croatia does not have any legal provisions which specifically prescribe the recording or recording of hearings conducted through videoconferencing in civil procedures, but Articles 126a to 126.c CPA provide the legal basis for hearing screening. The decision on the tone recording shall be decided by the court, either ex officio or at the proposal of the parties. The method of storing and transmitting tons of recordings, technical conditions and recording methods is prescribed by the Rules of Court ("Official Gazzete" 37/14, 49/14, 08/15, 35/15, 123/15, 45/16, 29/17, 33/17 and 34/17).

[http://www.vsrh.hr/CustomPages/Static/HRV/Files/Legislation\\_Civil-Procedure-Act.pdf](http://www.vsrh.hr/CustomPages/Static/HRV/Files/Legislation_Civil-Procedure-Act.pdf); <https://sudskapraksa.csp.vsrh.hr/home>

Cyprus: Cap. 12, Foreign Tribunal Evidence Law.

Czech Republic: In civil matters - Act No 99/1963 Coll., the Code of Civil Procedure (Sec. 122).

Currently, there is a new amendment to the Civil Procedure Code in the legislative process which is expected to be enacted until September 2017 - this will introduce new more specific rules on video-links.

Estonia: § 350 (2) of Code of Civil Procedure is the legal basis for video-link under national law (<https://www.riigiteataja.ee/en/eli/510012017004/consolide>).

Finland: In the Finnish legislation, there are no specific rules on the use of video-links in taking of evidence in the cross-border civil matters.

The rules on the judicial assistance in the cross-border taking of evidence are included in the Act on international judicial assistance and on the recognition and enforcement of judgments in the area of civil and commercial law, 426/2015 (Laki kansainvälisestä oikeusavusta sekä tuomioiden tunnustamisesta ja täytäntöönpanosta siviili- ja kauppaoikeuden alalla, 426/2015).

The national rules on the taking of evidence, including the use of video-links, are included in the Code of Judicial Procedure, 4/1734, (Oikeudenkäymiskaari, 4/1734).

France: Décret n°2017-892 du 6 mai 2017.

L'article 16 de ce décret crée les articles 747-1 et 747-2 du code de procédure civile ainsi rédigés :

« Paragraphe 2 : Exécution directe des commissions rogatoires transmises en vertu du chapitre I de la Convention de la Haye du 18 mars 1970 sur l'obtention des preuves à l'étranger en matière civile et commerciale

Art. 747-1. - Si demande en est faite dans la commission rogatoire, et pour autant que la mesure d'instruction prescrive qu'il soit exclusivement procédé à une audition, le ministère de la justice peut en autoriser l'exécution directe par la juridiction étrangère, notamment par vidéoconférence, sans contrainte ni sanction possible.

« Art. 747-2. - S'il est déféré à la demande de la juridiction étrangère, le ministère de la justice indique dans quelles conditions il doit être procédé à la mesure d'instruction et, s'il y a lieu, désigne le tribunal de grande instance compétent chargé d'assister la juridiction étrangère dans l'exécution de la mesure d'instruction. »

Germany: See answer a).

Greece: Article 393 para 3 of the Code of Civil Procedure and Presidential Decree 142/2013.

Hungary: A polgári perrendtartásról szóló 1952. évi III. törvény (Act III of 1952 on the code of civil procedure, hereinafter "Pp"), Sections 340/C and 394/N to 394/P ([http://njt.hu/cgi\\_bin/njt\\_doc.cgi?docid=305.331318](http://njt.hu/cgi_bin/njt_doc.cgi?docid=305.331318)).

A polgári eljárásban a tárgyalás, valamint a személyes meghallgatás zártcélú távközlő hálózat útján történő megtartásáról szóló 3/2016. (II. 22.) IM rendelet (Decree of the minister of justice No. 3/2016 (II.22.) on the use of closed-circuit telecommunication network in civil procedures for the purposes of trial and hearing of persons - hereinafter "Decree")([http://njt.hu/cgi\\_bin/njt\\_doc.cgi?docid=194118.318997](http://njt.hu/cgi_bin/njt_doc.cgi?docid=194118.318997)).

Israel: Regulations on mutual legal assistance - 1999:

Taking testimony over closed circuit television, Article 15:

15. If a competent authority, a foreign competent authority or a party requested that the testimony be taken over international closed circuit television, then the court may approve that, if arrangements were made to make the following possible:

- (a) for the Court and the parties- to see the witness in the course of the entire testimony, to hear him and to address questions to him;
- (b) for the defendant- to keep in contact with his defence attorney and through him to address questions to the witness.

Evidence Ordinance, Article 13:

13. Evidence on commission in civil proceedings

(A) On the application of any party to any civil proceedings, the court may, where it appears necessary for the purpose of justice and subject to such terms as the court may direct, make any order for the examination upon affidavit before any person and in any place outside the jurisdiction of the court of any witness or other person and may give directions as to any matter connected with the examination as may appear reasonable and just and may permit any party to the proceedings to give the deposition in evidence therein.



(B) Any person so directed to take any examination may administer the oath and make a special report to the court as to the examination and the conduct or absence of any witness or other person thereat, and the court may direct such proceedings and make such order as may seem just.

Korea (Republic of): The Civil Procedure Act, The Enforcement Rule of the Civil Procedure Act. Under the Art. 327-2, Art. 339-3, Art. 340, Art. 341 (3) of the Civil Procedure Act and the Art. 95-2, Art. 103-2 of the Enforcement Rule of the Civil Procedure Act which are revised in 2016, the witness examination or the expert testimony can be taken by the way of the video links if a court deems it proper for the remotely located witness/expert or the vulnerable witness. Act on special cases concerning video trials. The text translated in English is available online at: <http://elaw.klri.re.kr/>.

Latvia: Article 703 of Civil Procedure Law ([http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/Civil\\_Procedure\\_Law.pdf](http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/Civil_Procedure_Law.pdf)). Internal rules Nr.1-2/14 "Video conferencing equipment booking and procedures for the use in legal proceedings" (12.06.2013.) of Ministry of Justice.

Lithuania: Article 175(2) of the Code of Civil Procedure of the Republic of Lithuania

<https://www.e-tar.lt/portal/lt/legalAct/TAR.2E7C18F61454/GRELeMJBjN>

Article 175(2) of the Code of Civil Procedure establishes that the participation in court hearings of proceedings participants and questioning of witnesses at his place of location may be ensured using information and electronic communication technologies (via video conferences, teleconferences, etc.). Article 175(2) also governs that using information and electronic communication technologies (via video conferences, teleconferences, etc.) in the manner established by the Minister of Justice must ensure a reliable identification of process participants and an objective recording and submission of data (evidence).

Malta: Article 622B of Chapter 12 of the Laws of Malta (Code of Organisation and Civil Procedure) is the legal basis for video-link under national law.

Mexico: The Federal Civil Procedure Code and the correlatives of every State. There's no official translation of such documents.

Likewise, there's an official website: <http://ordenjuridico.gob.mx/>

Norway: In the Norwegian legislation, there are no specific rules on the use of video-link in taking of evidence in the cross-border civil matters.

Act of 17 June 2005 no. 90 relating to mediation and procedure in civil disputes (The Dispute Act).

<http://app.uio.no/ub/ujur/oversatte-lover/data/lov-20050617-090-eng.pdf>

Act relating to the Courts of Justice of 13 August 1915 no.5 (Court of Justice Act) section 46.

Poland: Art. 235 § 2, 1131 § 6 and 1135(2) § 4 of the Civil Proceedings Code (kodeks postępowania cywilnego); Regulation of the Minister of Justice on the devices and technical means enabling taking of evidence from the distance in civil proceedings – issued on

basis of Art. 235 of the Civil Proceedings Code; Regulation of the Minister of Justice on the detailed actions of courts in cases falling in the scope of international civil and criminal proceedings in international relations.

Portugal: In Portugal the taking of evidence by videoconference is a common practice for many years, in both internal and cross border cases. Portuguese courts do not use video-link as such, as a common mean to establish videoconference. Instead, they ensure videoconference through videoconference devices that are available in all courts of first instance.

Under Portuguese law, the judge of the requesting court must take the evidence of persons heard by videoconference directly, without the intervention of the judge from the requested court. This is the rule for internal cases in which there is examination by videoconference. The same procedure applies in cross-border cases where the court of the requesting State asks for the examination to take place by videoconference. Alternatively, in cross-border cases, the court of the requesting State may ask for the examination to take place by videoconference as indirect taking of evidence. But this is not common practice. The main national procedural rules governing the collection of evidence by videoconference from experts, witnesses and parties are as follows:

#### Experts

Article 486 of the Code of Civil Procedure (Código de Processo Civil)

#### Appearance of experts at the final hearing

1 - When requested by one of the parties or ordered by the judge, experts shall appear at the final hearing in order to provide, on oath, any clarifications requested of them.

2 - Experts from establishments, laboratories or official services shall be heard by teleconference at their workplace.

#### Witnesses

Article 502 of the Code of Civil Procedure

#### Examination by teleconference

1 - Witnesses residing outside the district or, in the case of the Autonomous Regions, outside the island concerned shall be presented by the parties in accordance with Article 507(2), where they have made a declaration to this effect on offering to be witnesses, or shall be heard by teleconference during a specific hearing and from the district court in the area in which they reside.

2 - The court hearing the case shall set the date of the hearing after consulting the court where the witness is to give evidence and shall summon the witness to appear.

3 - On the date of the examination, witnesses shall identify themselves to the official of the court where the evidence is given, but from that point onwards the examination shall be conducted by the court hearing the case and by the counsel for both parties, via teleconference, without the need for intervention by the judge of the court where the evidence is given.

4 - Witnesses residing overseas shall be examined by teleconference whenever the necessary technical means are available at the place where they reside.

5 - In cases being heard in courts in the metropolitan areas of Lisbon and Porto, there shall be no examination by teleconference if the witness is a resident of the respective district, with the exception of cases provided for in Article 520.

Article 520 of the Code of Civil Procedure

Direct communication between the court and the person giving evidence

1 - Where it is impossible or extremely difficult for the person who must give evidence to appear in court in good time, the judge may determine, with the agreement of the parties, that any clarification needed in order to make a proper decision on the case be given by telephone or other means of direct communication between the court and the witness, as long as the nature of the facts to be investigated or clarified are compatible with the procedure.

2 - The court must ensure, through the means available to it, that the evidence is given truthfully and freely, in particular by determining that the witness is accompanied by a court official during the giving of evidence and that the content of the evidence and the circumstances in which it was given are placed on record.

3 - The provisions of Article 513 [oath and preliminary questioning by the judge] and the first part of paragraph 4 of the previous article [the judge may order evidence to be given again before him in person] shall apply to cases falling under this article.

Parties

Article 456 of the Code of Civil Procedure

Time and place of giving evidence

1 - Evidence must, as a rule, be given in the final hearing, unless it is urgent or the witness is unable to appear in court.

2 - The rules for the giving of evidence by teleconference laid down in Article 502 shall apply to parties residing outside the district or, in the case of the Autonomous Regions, outside the island concerned.

3 - Evidence may also be given at the preliminary hearing, in which case the provisions of the previous paragraph shall apply with the necessary adjustments.

Romania: The Code of civil procedure; Law No. 189/2003 republished on international legal assistance in civil and commercial matters; the Council Regulation (CE) No. 1.206/2001 of May 28th, 2001 on cooperation between the courts of the member states in the taking of evidence in civil and commercial matters.

Singapore: Article 9 of the Convention provides that the judicial authority which executes a Letter of Request shall apply its own law as to the methods and procedures to be followed.

In this regard, section 4(1) of the Evidence (Civil Proceedings in Other Jurisdictions) Act, Chapter 98, Revised Laws of Singapore gives the High Court the power by order to make such provision for obtaining evidence in Singapore as may appear to the High Court to be appropriate for the purpose of giving effect to the request. This includes the taking of evidence by video-link in the High Court as well as the Family Division of the High Court.

Order 66 rule 4 of the Rules of Court, Chapter 322, Rule 5, Revised Laws of Singapore and Rule 945 of the Family Justice Rules, Act 27 of 2014, Revised Laws of Singapore also provides for the person to take and the manner of taking examination.

Slovenia: Article 114a of the CPC: If the parties agree the court may allow the parties and their attorneys to be in a different place in the time of hearing and perform procedural acts there, if the transfer of sound and image is provided from the place where the procedural act is performed to the place where parties and their attorneys are located and vice versa (videoconference). Under conditions of the previous paragraph the court may decide to carry out the proof of hearing of parties and witnesses and examination of expert. There is no appeal against the decree of court from the first and second paragraph of this Article.

South Africa: Superior courts act of 2013, the convention.

Sweden: The basic provision in domestic law is Chapter 5, Section 10 the Swedish Code of Judicial Procedure. Sweden is also bound by Regulation (EG) nr 1206/2001, Art. 10.4 and 17.4 regulates the possibility to use video-link in certain procedures.

Switzerland: Voir Lignes directrices de l'OFJ.

<https://www.rhf.admin.ch/dam/data/rhf/zivilrecht/wegleitungen/wegleitungzivilsachen-f.pdf>

United States of America: 28 U.S.C. § 1782: [https://www.justice.gov/sites/default/files/civil/legacy/2014/08/08/28\\_USCA\\_s\\_1782.pdf](https://www.justice.gov/sites/default/files/civil/legacy/2014/08/08/28_USCA_s_1782.pdf)

Federal Rules of Civil Procedure: <http://www.uscourts.gov/sites/default/files/rules-of-civil-procedure.pdf>

OIIA Evidence and Service Guidance: <https://www.justice.gov/civil/page/file/956711/download>

United Kingdom (England and Wales): Civil Procedure Practice Direction 32 paragraph 29.1 and Annex 3 to the Practice Direction.

Venezuela: In Venezuela, although there is no special law for the use of videoconferencing, there are several instruments that promote the use of information and communication technologies in the judicial sphere: the National Constitution; the Code of Civil Procedure, the Act of Info-Government; the Act of data messages and electronic signature; the Organic Act Labour Procedure; the Act on Protection of Victims, Witnesses and other procedural subjects; the Organic Act for the Protection of Children and Adolescents; the Organic Act of the Supreme Court of Justice; the judgments of the Constitutional Chamber of the Supreme Court of Justice (No. 721 07 / 9th / 2010 and No. 01 / 27th / 2011).

Additionally, the implementation of videoconference by the Executive Direction of the Magistracy and the Judiciary, is regulated through the "Normative Instrument for the videoconference service of the Executive Direction of the Magistracy and the Judiciary", and Resolution No. 2016-001 of the Criminal Cassation Chamber of the Supreme Court of Justice (Judicial Gazette No. 64, 12 / 12th / 2016).

**c) Does your State have any agreements with other Contracting States that derogate from the Convention when taking evidence by video-link (see Art. 28 and Art. 32)?**

**Yes.** Please attach a copy of, or provide a link to, the relevant provisions, where possible in English or French

Australia: The Agreement on Judicial Assistance in Civil and Commercial Matters and Co-operation in Arbitration between Australia and the Kingdom of Thailand [1998] ATS 18 and the Treaty on Judicial Assistance in Civil and Commercial Matters between Australia and the Korea (Republic of) [2000] ATS 5 allow for the taking of evidence via video-link.

Croatia: <https://pravosudje.gov.hr/pristup-informacijama-6341/zakoni-i-ostali-propisi/zakoni-i-propisi-6354/medjunarodne-konvencije-i-ugovori/6442>

Cyprus: [www.mfa.gov.cy](http://www.mfa.gov.cy)

Estonia: Council Regulation (EC) No 1206/2001 of 28 May 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters (<http://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX:32001R1206>).

Finland: Council Regulation (EC) No 1206/2001 of 28 May 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters. <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32001R1206>

Korea (Republic of): Article 24 (Taking of Evidence by Video Link) of the Treaty on judicial assistance in civil and commercial matters between the republic of Korea and Australia.

Mexico: The Inter-American Convention on the Taking of Evidence Abroad, especially the art. 9.

Portugal: Regulation (EC) No 1206/2001 of 28 May 2001 (Taking of evidence Regulation).

Sweden: For example, the EU-instrument Regulation (EG) nr 1206/2001.

[9]

Australia, Croatia, Cyprus, Estonia, Finland, Hungary, Korea (Republic of), Mexico, Sweden

<b><u>No</u></b>	[24]  Belarus, Brazil, Bulgaria, China (Hong Kong SAR), China (Macao SAR), Czech Republic, Germany, Greece, France, Israel, Latvia, Lithuania, Malta, Norway, Poland, Portugal, Romania, Singapore, Slovenia, South Africa, Switzerland, United Kingdom (England and Wales), United States of America and Venezuela
<p><i>Comments</i></p> <p><b>Bulgaria:</b> The Republic of Bulgaria is a Contracting Party under bilateral agreements for legal assistance in civil law matters. There are no explicit rules on taking of evidence by video-link.</p> <p>According to Article 5 (4) of the Bulgarian Constitution, any international treaty, which has been ratified according to a procedure established by the Constitution, which has been promulgated, and which has entered into force for the Republic of Bulgaria, shall be part of the domestic law of the land. Any such treaty shall take precedence over any conflicting standards of domestic legislation.</p> <p><b>France:</b> La France, en tant que membre de l'Union européenne, est liée par le règlement CE n° 1206/2001 relatif à la coopération entre les juridictions des Etats membres dans le domaine de l'obtention des preuves en matière civile et commerciale. L'article 17 de ce règlement autorise, sous certaines conditions, l'exécution directe par vidéoconférence.</p> <p><b>Venezuela:</b> Venezuela has signed regional agreements regulating the matter of obtaining evidence abroad, without specifying that the route be the videoconference, such as the Law Approving the Inter-American Convention on Letters Rogatory (Official Gazette No. 33033, 08/03/1984); The Law Approving the Inter-American Convention on the Taking of Evidence Abroad (Official Gazette No. 33170, 02 / 3rd / 1985); The Law Approving the Additional Protocol to the Inter-American Convention on Letters Rogatory (Official Gazette No. 33171, 02 / 25th / 1985); The Law Approving the Additional Protocol to the Inter-American Convention on the Taking of Evidence Abroad (Official Gazette No. 4580, 05 / 21st / 1993); The Approval Law of the Code of Private International Law or Bustamante Code (Official Gazette of 04 / 9th / 1932).</p>	
<b>Court System</b>	
<b>d) Please indicate which courts permit, or have the facilities for, the taking of evidence by video-link. If possible, indicate where relevant information on videoconferencing facilities in courts can be found online:</b>	
<u>All courts</u>  <b>Hungary:</b> By law all courts can use this method of taking of evidence, although not all of them have the necessary technical	[16]

<p>facilities. In case of need mobile equipment is used. There is no online list of properly equipped courts.</p> <p><u>Portugal</u>: All national courts of first instance have videoconference devices.</p>	<p>Croatia, Cyprus, Czech Republic, Estonia, Finland, Hungary, Israel, Latvia, Lithuania, Malta, Norway, Poland, Portugal, South Africa, Sweden and Venezuela</p>
<p><u>All courts of a specific type / level. Please specify:</u></p> <p><u>Belarus</u>: The Supreme Court of the Republic of Belarus, regional courts (Minsk Municipal Court), economic regional courts (the same of the city of Minsk).</p> <p><u>Bulgaria</u>: All courts of appeal.</p> <p><u>France</u> : tous les tribunaux de grande instance, qui ont seuls compétence en France pour exécuter les commissions rogatoires internationales d'obtention formées en matière civile et commerciale par les juridictions étrangères.</p> <p><u>Korea (Republic of)</u>: All courts except municipal courts (Si/Gun Court).</p> <p><u>Romania</u>: The High Court of cassation and Justice has video-link facilities. All the 15 Courts of Appeal and all the 42 County Courts have video-link facilities. As of the courts of first instance, 86 out of the total number of 176 of such courts have video-link facilities. See Annex 1.</p> <p>The technical test must be made at least 24 hours before the hearing.</p> <p><u>Singapore</u>: All courtrooms in the High Court in the Supreme Court.</p> <p>All the courtrooms in the Supreme Court can support video-link facilities. We have 8 court rooms which are equipped with dedicated video conferencing facilities while the other court rooms are enabled with mobile video conferencing facilities. More information on the Technology Facilities can be found at Part XV of the Supreme Court's Practice Directions which are available on the Supreme Court's website (at <a href="http://www.supremecourt.gov.sg/rules/practice-">http://www.supremecourt.gov.sg/rules/practice-</a></p>	<p>[6]</p> <p>Belarus, Bulgaria, France, Korea (Republic of), Singapore and Slovenia</p>

<p>directions/supreme-court-practice-directions) and Paragraph 161A of the Family Justice Court's Practice Directions which can be found on the Family Justice Court's website (at <a href="http://www.familyjusticecourts.gov.sg/QuickLink/Pages/Legislation-and-Directions-.aspx">http://www.familyjusticecourts.gov.sg/QuickLink/Pages/Legislation-and-Directions-.aspx</a>).</p> <p><u>Slovenia</u>: All district courts in Slovenia.</p>	
<p><u>Only specific courts. Please specify which courts:</u></p> <p><u>Bosnia &amp; Herzegovina</u>:  <a href="http://www.pravosudje.ba/vstv/faces/kategorijevijesti.jsp?ins=10001&amp;modul=7694&amp;kat=7711&amp;kolona=114395">http://www.pravosudje.ba/vstv/faces/kategorijevijesti.jsp?ins=10001&amp;modul=7694&amp;kat=7711&amp;kolona=114395</a></p> <p><u>Brazil</u>: Many courts are prepared for the taking of evidence by video-link. Please contact the Central Authority so that it can obtain information about the specific court in regards of the feasibility of the taking of evidence by video-link.</p> <p><u>Bulgaria</u>: Some regional courts in remoted areas such as the Regional Court of Vidin, the Regional Court of Pazardzik, the Regional Court of Smolyan; also Sofia Regional Court.</p> <p><u>China (Hong Kong SAR)</u>: The Technology Court.</p> <p><u>Germany</u>:  <a href="http://www.justiz.de/verzeichnis/zwi_videokonferenz/videokonferenzenanlagen.pdf">http://www.justiz.de/verzeichnis/zwi_videokonferenz/videokonferenzenanlagen.pdf</a>  <a href="https://e-justice.europa.eu/content_information_on_national_facilities-319-de-en.do?member=1">https://e-justice.europa.eu/content_information_on_national_facilities-319-de-en.do?member=1</a></p> <p><u>Greece</u>: First Instance Court of Athens.</p> <p><u>Mexico</u>: The Supreme Court of Justice and the local tribunals through their legal cultural centers.</p> <p><u>United Kingdom (England and Wales)</u>: See list attached.</p>	<p>[8]</p> <p>Bosnia &amp; Herzegovina, Brazil, Bulgaria, China (Hong Kong SAR), Germany, Greece, Mexico and United Kingdom (England and Wales)</p>



None	[1] Switzerland
<p><i>Comments</i></p> <p><u>Australia:</u> This depends on each Australian State and Territory:</p> <ul style="list-style-type: none"> <li>• <u>NSW:</u> All courts in NSW have the facilities for the taking of evidence from witnesses by video-link in local proceedings. However, under the <i>Evidence on Commission Act 1995</i> (NSW), only the Supreme Court of NSW has power to take evidence on commission for the purpose of giving effect to a request under Chapter 1 of the Convention. Neither that Act, nor the Supreme Court's inherent jurisdiction, confers power on the Court to compel a local witness to give evidence by video-link in foreign proceedings.</li> <li>• <u>WA:</u> The Supreme Court of Western Australia permits, or has facilities for, the taking of evidence by video-link in 33 locations around Western Australia.</li> </ul> <p>These locations can be obtained from the Supreme Court of Western Australia website.</p> <ul style="list-style-type: none"> <li>• <u>QLD:</u> All courts.</li> <li>• <u>TAS:</u> The Supreme Court of Tasmania website features information about video links for private room hire use and for the conduct within the Tasmanian judicial jurisdiction. A guideline is being developed that articulates technical requirements and court exceptions for video links. All Tasmanian Supreme Court sites have the ability to host and record video links.</li> <li>• <u>SA:</u> An authorised South Australian Court under section 59D of the <i>Evidence Act 1929</i> (SA) includes the South Australian Supreme, District and Magistrates Court. All have access to video-link facilities but the facilities are not embedded in each court room, hence sufficient time is required to liaise with the relevant Court to ensure the facilities are available and operational on a particular day. This would require notice to contact person to ensure the necessary facilities are made available. At a practical level, the video-link equipment is often managed and operated by individual Courts (Supreme, District and Magistrates Courts) who sit at various locations throughout the State.</li> <li>• <u>VIC:</u> Supreme Court of Victoria see: Video-link Application Guide. Email <a href="mailto:videolink@supcourt.vic.gov.au">videolink@supcourt.vic.gov.au</a></li> </ul> <p><u>Belarus:</u> All Courts of General Jurisdiction of the Republic of Belarus have juridical opportunity to obtain evidence via video conferencing. Currently this technical capability is available for Supreme Court of the Republic of Belarus, regional courts (Minsk City Court), and economic regional courts (of the city of Minsk).</p> <p><u>Bulgaria:</u> The Supreme Judicial Council has the necessary technical equipment and in case of need, this equipment may be provided at the disposal of the courts. Further information for the technical video equipment which is at the disposal of the courts can be found on the following webpage: <a href="http://www.vss.justice.bg/en/page/view/2081">www.vss.justice.bg/en/page/view/2081</a></p> <p><u>China (Hong Kong SAR):</u> See further Practice Direction 29 (<a href="http://legalref.judiciary.hk/lrs/common/pd/pdcontent.jsp?pdn=PD29.htm&amp;lang=EN">http://legalref.judiciary.hk/lrs/common/pd/pdcontent.jsp?pdn=PD29.htm&amp;lang=EN</a>)</p> <p><u>China (Macao SAR):</u> It should be pointed out that, until now, the Macao SAR has no such experience.</p>	

Croatia: Although there are no specific rules governing the provision of evidence through a video-link, there are no restrictions on taking of evidence by video-link.

Czech Republic: The video-link is not restricted to specific type or level of courts.

Estonia: List can be found: [https://e-justice.europa.eu/content\\_information\\_on\\_national\\_facilities-319-ee-en.do?clang=et](https://e-justice.europa.eu/content_information_on_national_facilities-319-ee-en.do?clang=et).

Lithuania:

1. Stationary video transmission, recording and storage equipment is installed in the Supreme Court of Lithuania, the Court of Appeal, the Supreme Administrative Court, the Vilnius Regional Administrative Court, in 5 Regional Courts of Vilnius, Kaunas, Klaipėda, Šiauliai and Panevėžys, also in the district courts of Vilnius, Kaunas, Klaipėda, Panevėžys, Šiauliai, Alytus, Marijampolė, Kaišiadorys and Vilkaviškis.

2. Movable video transmission, recording and storage equipment (which may be delivered to any court or other place located in the territory of the regional court if necessary) is kept in 5 Regional Courts (of Vilnius, Kaunas, Klaipėda, Panevėžys and Šiauliai).

3. Relevant information on videoconferencing facilities in courts can be found on this link (however, information is in Lithuanian): <http://www.teismai.lt/lt/visuomenei-ir-ziniasklaidai/aktuali-informacija-teismu-lankytojam/nuotolinis-teismo-posedis/2935>

Norway: Most courts have videoconferencing facilities.

Poland: Detailed information is available at IT departments of courts. All Regional Courts (sąd okręgowy, being the 2nd instance in most cases) and some District Courts (sąd rejonowy, being the 1st instance in most cases) have such facilities.

Slovenia: Relevant information on videoconferencing facilities and equipment can be found on E-justice web-site: [https://e-justice.europa.eu/content\\_information\\_on\\_national\\_facilities-319-si-en.do?clang=sl](https://e-justice.europa.eu/content_information_on_national_facilities-319-si-en.do?clang=sl).

South Africa: Not online.

Switzerland: En Suisse, le recours à la liaison vidéo n'est pas envisageable sous le Chapitre I de la CLaH70.

United Kingdom (England and Wales): England and Wales have over 100 civil and family courts with video links, so all major towns and cities are able to support video links with Member States. HMCTS will nominate the court following the request from the Member State.

United States of America: As explained in Part I question b), the United States does not permit the direct taking of evidence by video-link under Chapter I of the Convention and permits the direct taking of evidence by video-link on a voluntary basis under Chapter II. U.S. courts are therefore not involved in the taking of evidence by video-link under Chapter II of the Convention.

Venezuela: Until now, only these courts have facilities and practice: Judicial Circuits of the Courts of Protection of Children and Adolescents of the Judicial District of the Metropolitan Area of Caracas; and the State of Zulia.

PART III – TECHNICAL AND SECURITY ASPECTS (APPLICABLE TO BOTH CHAPTERS)	
a) Does your State use licensed software (which ensures support for technical and security matters) for the taking of evidence by video-link?	
<p><u>Yes</u>, please specify</p> <p><u>Belarus</u>: LifeSize.</p> <p><u>Bosnia &amp; Herzegovina</u>: Cisco telepresence system.</p> <p><u>China (Hong Kong SAR)</u>: Built-in security features provided by the video conference facilities.</p> <p><u>Croatia</u>: Sony.</p> <p><u>Cyprus</u>: Aethra software license.</p> <p><u>Czech Republic</u>: Polycom.</p> <p><u>Finland</u>: Video content.</p> <p><u>Germany</u>: A variety of software from a number of manufacturers is used. Most Länder, however, use licensed software. Support is ensured.</p> <p><u>Hungary</u>: The software is secure and encoded, supports the taking of evidence by videoconference.</p> <p><u>Israel</u>: SFB.</p> <p><u>Korea (Republic of)</u>: Vidyo Conference.</p> <p><u>Lithuania</u>: Huawei ViewPoint system.</p> <p><u>Malta</u>: Polycom software licensed.</p> <p><u>Norway</u>: We have a Cisco infrastructure that make the use of video-link possible.</p> <p><u>Portugal</u>: Skype for Business.</p> <p><u>Romania</u>: See the Annex 2.</p>	<p>[23]</p> <p>Belarus, Bosnia &amp; Herzegovina, Bulgaria, China (Hong Kong SAR), Croatia, Cyprus, Czech Republic, Finland, France, Germany, Hungary, Israel, Korea (Republic of), Latvia, Lithuania, Malta, Norway, Poland, Portugal, Romania, Singapore, South Africa and Sweden</p>

<p><u>South Africa:</u> Telkom.</p> <p><u>Sweden:</u> We use physical videoconference systems, and jabber video.</p>	
<p style="text-align: center;"><b><u>No</u></b></p>	<p style="text-align: center;">[9]</p> <p style="text-align: center;">Brazil, China (Macao SAR), Estonia, Greece, Mexico, Slovenia, United Kingdom (England and Wales), Switzerland and Venezuela</p>
<p><i>Comments</i></p> <p><u>Australia:</u> This depends on each State and Territory:</p> <ul style="list-style-type: none"> <li>• <u>WA:</u> Yes however the Court Technology Officer was unable to provide further details.</li> <li>• <u>QLD:</u> Yes - Cisco Unified Communications Manager.</li> <li>• <u>TAS:</u> Yes - Tasmanian Supreme Court utilizes Polycom maintenance contract.</li> <li>• <u>VIC:</u> Yes - see Supreme Court of Victoria Video-link Application Guide.</li> </ul> <p><u>Brazil:</u> Some courts may use licensed software, so it is important to contact the Central Authority previously and exchange information about the technologies available at the requesting and requested court.</p> <p><u>Bosnia &amp; Herzegovina:</u> The High Judicial and Prosecutorial Council only provides this answer on behalf of courts and prosecutor's offices in BH.</p> <p><u>China (Hong Kong SAR):</u> Only if the taking of evidence is held by the Court.</p> <p><u>China (Macao SAR):</u> Until now, the Macao SAR does not have such experience.</p> <p><u>Finland:</u> Can be used via videoconferencing.</p> <p><u>France:</u> Maintenance matériel et suivi des CODEC en visioconciergerie.</p> <p><u>Poland:</u> There is not a single software standard for all courts. They use software included in video equipment.</p> <p><u>Switzerland:</u> Pas d'informations disponibles.</p> <p><u>United Kingdom (England and Wales):</u> This is sometimes the case for Consular officers.</p> <p><u>United States of America:</u> N/A.</p> <p><u>Venezuela:</u> We use the Apache Openmeetings software, Version 3.0.6 Release, which is developed under free software (freeware) (<a href="http://openmeetings.apache.org/#Audio_and_Video_Conferencing">http://openmeetings.apache.org/#Audio_and_Video_Conferencing</a>). Openmeetings is a software used for presentations, online training, web conferencing, drawing board, document collaboration and editing, user desktop exchange. The product is based on the</p>	

OpenLaszlo RIA framework and the Red5 video server, which in turn relies on open source components. The communication takes place in the meeting rooms that establish the security and modes of video quality. The recommended database is MySQL. The product can be configured as an installed server product, or used as hosting. Openmeetings has applied for membership to the Apache Software Foundation incubator. Openmeetings is an alternative to other commercial software that allows you to create web-based conferences, share and broadcast audio, videos, presentations and chats. This is one of the first free projects that allows to make videoconferences. For its operation uses technology Flash, for which it uses the server Red5 that is an application that pretends to be a free alternative to Adobe Flash Media Server.

**b) What are the specifications of the video-link technology in use in your State, including, if any, the minimum standards or mechanisms used to secure the communications and any recordings made?**

States are encouraged to provide as much information as possible when responding to this question. As such, it may be useful to consider liaising with the relevant IT experts.

State	Codec (i.e., manufacturer, model, transmission speed, bandwidth)	Video and audio standards (e.g. Standard Definition, High Definition, etc.)	Type of network (e.g., ISDN, IP, etc.)	Type of encryption for signals in secure transmissions	Split screen capability	Document cameras	Multipoint connections	Additional specifications or capabilities	Protocols or other practices
<u>Belarus</u>	LifeSize (the Supreme Court of the Republic of Belarus, regional courts (Minsk Municipal Court), Tanberg (economic regional courts (the same of the city of Minsk); bandwidth is up to 2 Mbps	Standard Definition	IP	AEC Encryption	Available	No	Available	No	Protocols H/323 (IP)
<u>Brazil</u>	There is no specific Codec used all over the country.	There is no specific audio standard used all over the country	There is no specific type of network used all over the country. ISDN and IP networks are available	To be determined on a case by case basis	Split screen capability is available in most cases.	Document cameras are available in most cases	Multipoint connections are available in most cases.	Please contact the Central Authority for additional specifications or capabilities of specific courts	Please contact the Central Authority for protocols or their practices of specific courts

State	Codec (i.e., manufacturer, model, transmission speed, bandwidth)	Video and audio standards (e.g. Standard Definition, High Definition, etc.)	Type of network (e.g., ISDN, IP, etc.)	Type of encryption for signals in secure transmissions	Split screen capability	Document cameras	Multipoint connections	Additional specifications or capabilities	Protocols or other practices
<u>Bosnia &amp; Herzegovina</u>	CISCO/TANDBERG,C20,S X20,Edge 95,SX80,do 6Mbps,od 512kbps-6Mbps	VIDEO:H.261 H.263 H.263+ H.264; AUDIO:G.711 G722 G722.1 G728 G.729; AAC-LD	IP	H.323 and SIP point-to-point; Standards-based:H.25 3v3 and Advanced Encryption Standard (AES)	Yes	Depending on the location	Yes	-	H323 and SIP
<u>Bulgaria</u>	AVER, CISCO	HIGH DEFINITION	IP	According to the approved standards	Yes	No	No	Record of the video-hearing	Sending a request; Sending an answer to the request
<u>China (Hong Kong SAR)</u>	Protocol: ITU H.323 or SIP compliant for Internet connection; or ITU H.320 compliant for ISDN connection  Manufacturer and model: Avaya Scopia XT5000 and Cisco SX20  Bandwidth: Depending on location, minimum 4Mbps for Internet connection, and minimum 384kbps for ISDN connection.	Both standard definition and high definition	IP and ISDN	AES-128 encryption	Yes (in one of the location only, other locations support single screen only)	Yes	Yes		

State	Codec (i.e., manufacturer, model, transmission speed, bandwidth)	Video and audio standards (e.g. Standard Definition, High Definition, etc.)	Type of network (e.g., ISDN, IP, etc.)	Type of encryption for signals in secure transmissions	Split screen capability	Document cameras	Multipoint connections	Additional specifications or capabilities	Protocols or other practices
<u>Croatia</u>	Sony PCS-1P, 512 kbps	SD	IP and ISDN	ITU-T standard based encryption	Yes	Yes	No	-	H.264
<u>Cyprus</u>	Aethra. Vega star silver, 128 kbps	-	ISDN	H.320	Yes	Can connect computer directly (can show document through PC)	No	-	Technical Specifications  Supported Standards  ITU-T H.320 ISDN  ITU-T H.323 IP Networks  Video H.261, H.263++  Audio G.711, G.722, G.728  Data T.120  Features  Bit rate 64:2 Mbps over IP  56:384 Mbps over ISDN 3 BRI  Simultaneous video motion coding and PC presentations from the XGA input (option)

State	Codec (i.e., manufacturer, model, transmission speed, bandwidth)	Video and audio standards (e.g. Standard Definition, High Definition, etc.)	Type of network (e.g., ISDN, IP, etc.)	Type of encryption for signals in secure transmissions	Split screen capability	Document cameras	Multipoint connections	Additional specifications or capabilities	Protocols or other practices
<u>Czech Republic</u>	Polycom RMX 1800, 2Mb/s	H.261, H.263+, H.263++, H.264, G.722	IP, testing ISDN	AES 128bit	Yes	Yes	Yes	-	H.323, SIP
<u>Estonia</u>	Polycom products. HDX and Group Series	HD	IP	AES-128	Yes	No	Yes	-	
<u>Finland</u>	Polycom, varies, 768 kbps	H. 323	IP	AES	Yes	Can be used	Yes	-	SIP
<u>France</u>	1570 CODEC CISCO DX80 ou SX10 ou SX20 ou SX80 en IP de 512kbis/s à 6Mbits/s	Matériel en HD en H264 pour la visio et en G722 pour l'audio	Passage de ISDN vers IP en cours en H323 ou en SIP. Les trois quarts des CODEC sont en IP	AES 256	oui	Oui, mais uniquement dans les affaires pénales (salle d'assises et cabinet des juges d'instruction)	Par pont sur l'infrastructure du ministère de la justice	-	-
<u>Germany</u>	Different models produced by different manufacturers are used at the individual locations: Lifesize Team 220, Cisco TelePresence MX200 G2; Cisco SX 20; Cisco MX 300 G2 and Cisco SX80; Polycom HDX 7000/6000, Polycom RMX 1500; the Tandberg C60 and Cisco TelePresence MX300 G2 video-link systems; Polycom HDX	Different standards depending on the equipment used by the competent authority, resolution and audio quality up to Full HD or HD quality	IP at some locations, ISDN at others, no ISN available at some locations, LVN, DOI and ISDN are available at some locations	Different standards, depending on the facility used, AES at some locations	Available at some locations; the use of several HD screens is supported at some locations	Available at a few individual locations; at some locations, this can be done by connecting a camera to a PC/laptop and transmitting the images	Possible at some locations; sometimes possible by using a suitable platform (virtual conferencing room), sometimes	Several (depending on the manufacturer)	Various: including H.323, SIP, H.261, H.263, H.263+ H.264, H.239



State	Codec (i.e., manufacturer, model, transmission speed, bandwidth)	Video and audio standards (e.g. Standard Definition, High Definition, etc.)	Type of network (e.g., ISDN, IP, etc.)	Type of encryption for signals in secure transmissions	Split screen capability	Document cameras	Multipoint connections	Additional specifications or capabilities	Protocols or other practices
	7000, Polycom HDX 8000 and Polycom RealPresence Group 500; Polycom ViewStationFX; Sony IPELA Video Communication System PCS-G50. The bandwidth depends on the prevailing conditions at the individual location.					via video link as an alternative.	possible with prior sign-up.		
<u>Hungary</u>	Polycom HDX 8000, unit max. speed 2048 kbit/sec, connected LAN dedicated 100 Mbit/s	High definition	IP	Internal codec	Yes	No	Yes	2 microphones per set	H.323
<u>Israel</u>	H.323 or SIP standards	Web client & skype client	IP	TLS, MTLS, SRTP, HTTPS	Yes	Yes	Yes	N/A	N/A
<u>Korea (Republic of)</u>	Vidyo, H.264 SVC, 1000base-T, 1FHD	Video: H.264 SVC, Audio: SPEEX Wideband Audio, up to 32 KHz sampling rate	IP, ISDN, ADSL	AES 128bit, SSL, FIPS140-2, TLS	Eight division	Software style, codec: H.264 SVC	100 people	WebRTC, FECC, Linux OS	H.264 SVC, HTTP, HTTPS, LDAPS, RMCP, EMCP, SCIP, SOAP
<u>Latvia</u>	Cisco c40, c20, 1700, EX90	HD, 720p, 1080p	IP, ISDN	TLS	1 to 16	Elmo TT-12	yes, MCU	-	-
<u>Lithuania</u>	Huawei TE60 / Huawei TE40, transmission speed up to 8Mbps	Video Standards & Protocols: H.261, H.263, H.263+, H.264 BP, H.264 HP, H.264 SVC	ISDN and IP	H.235 signaling and media stream encryption	The video conferencing image is shared in all TV screens in the	Aver PL50 document cameras are used in the courtrooms	Up to 46 video conferencing participants with 720p30 video quality	-	-

State	Codec (i.e., manufacturer, model, transmission speed, bandwidth)	Video and audio standards (e.g. Standard Definition, High Definition, etc.)	Type of network (e.g., ISDN, IP, etc.)	Type of encryption for signals in secure transmissions	Split screen capability	Document cameras	Multipoint connections	Additional specifications or capabilities	Protocols or other practices
		Audio Standards & Protocols: G.711, G.722, G.722.1*, G.722.1C*, G.728, G.719, G.729A, AAC-LD, HWA-LD		AES media stream encryption, dual-stream encryption  TLS and SRTP for SIP signaling and media stream encryption	courtrooms equally				
<u>Malta</u>	Polycom HDX 7000, 5Mbytes download and 3Mbytes upload	high definition	IP	h323 and or SIP Manual answering secure	Yes	Can connect Computer directly (can show document through PC)	Yes	-	H.264, H.264 High Profile IP, H.263++, H.261  H.239/Polycom People+Content  H.263 & H.264 Video Error Concealment 22 kHz bandwidth with Polycom®  Siren™ 22 technology  14 kHz bandwidth with Polycom® Siren™ 14

State	Codec (i.e., manufacturer, model, transmission speed, bandwidth)	Video and audio standards (e.g. Standard Definition, High Definition, etc.)	Type of network (e.g., ISDN, IP, etc.)	Type of encryption for signals in secure transmissions	Split screen capability	Document cameras	Multipoint connections	Additional specifications or capabilities	Protocols or other practices
									technology, G.722.1 Annex C  7 kHz bandwidth with G.722, G.722.1,  3.4 kHz bandwidth with G.711,  G.728, G.729At
<u>Norway</u>	Equipment from Tandberg and Cisco  Transmission speed/bandwidth: IP: depending om the system, ISDN: 384 kbps	Some equipment with SD and some with HD	All codecs can dial-out and receive calls via IP and ISDN	AES-128	Depends on the equipment	No	Yes, either from the equipment or via an MCU	-	-
<u>Poland</u>	H261, H263+, H.264. Audio codecs: G.711, G. 722, G.728, MPEG-4. ISDN TRANSMISSION SPEED TO 384 K. IP TRANSMISSION SPEED TO 2 Mbps	High Resolution and below	ISDN and IP	Equipment encryptions	-	For example: LUMENS and other type.	It is possible but not in all courts.	-	-
<u>Portugal</u>	H.323, maximum bandwidth 768kbps SD or 2Mbps HD	Video: H.261, H.263, H.264. Audio: G.711, G.722, G.722.1	ISDN (H.320) and IP (H.323)	H.235/AES	PIP. Continuous Presence	No	MCU with support of SD and HD systems	We are implementing the interoperability between H.323,	H.235/AES encryption

State	Codec (i.e., manufacturer, model, transmission speed, bandwidth)	Video and audio standards (e.g. Standard Definition, High Definition, etc.)	Type of network (e.g., ISDN, IP, etc.)	Type of encryption for signals in secure transmissions	Split screen capability	Document cameras	Multipoint connections	Additional specifications or capabilities	Protocols or other practices
					with MCU support			SIP and Skype for Business	
<u>Romania</u>	Vega X5	Video: H.261, H.263++, H.264 H.239, H.241  Audio: G.711, G.728, G.722, G.722.1, MPEG4 AAC- LD	ISDN, leased networks  IP network  Network interface: Ethernet	AES encryption standard H.233, H. 234, H. 235  NIST (National Institute of Standards & Technology) certified	See Annex II	See Annex II	See Annex II	See Annex II	Network protocols TELNET, HTTP, SNMP, DNS, DHCP, RTP/RTC, TCP/UDP, ARP
<u>Singapore</u>	Polycom RMX 2000	Video: H.261, H.263, H.264  Audio: G.711a, G.711u, G.722.1, G.723., G.728, G.729a, Siren 7, Siren 14	ISDN, IP		Yes	Yes	Yes	Videoconferencing Server - Polycom RMX 2000; Videoconferencing Endpoint - Polycom HDX 8000 or Group 500  Network Speed - Recommended connection at H.323 512 Kbps or H.320 384Kbps	ITU H. 323 and H.320 compliant
<u>Slovenia</u>	Polycom RMX 2000, Polycom CMA 4000,	HD	ISDN, IP	AES Encryption	Yes	AVer Media SPB350	20 in a moment	Document camera	G.711a/u, G.722, G.722.1C, G.722.1,

State	Codec (i.e., manufacturer, model, transmission speed, bandwidth)	Video and audio standards (e.g. Standard Definition, High Definition, etc.)	Type of network (e.g., ISDN, IP, etc.)	Type of encryption for signals in secure transmissions	Split screen capability	Document cameras	Multipoint connections	Additional specifications or capabilities	Protocols or other practices
	Polycom RSS 4000, Polycom HDX 8000-720								G.723.1, G.719, G.729A, Polycom Siren™ 14, Siren 22 (in mono or stereo) and Siren LPR;  H.261, H.263, H.264, H.264 High Profile;  IP, ISDN, PSTN and LAN
<u>Sweden</u>	<i>See comments below</i>	<i>See comments below</i>	All codecs can dial-out via IP and ISDN	AES-128	All our codecs are H.239- compatible	All court rooms have access to document cameras (object cameras)	All court rooms have multisite capability (up to 5 participants, if more is needed our MCU is used).	-	-
<u>Venezuela</u>	Openmeetings	Yasm, H.264 (MPEG-4 AVC) video streams, Audio Codec: Nellymoser, Video Codec: VP8, Video Codec: H.263.	IP	<i>See comments below</i>	Yes	Yes, with the option sharing files with other remote users	Yes	<i>See comments below</i>	<i>See comments below</i>

*Comments*Australia:

- QLD:  
 Codec - Cisco SX & MX Series, configured @ 512Kbps.  
 Video and audio standards - Standard & High definition.  
 Type of network - IP & ISDN (IP preferred).  
 Type of encryption for signals in secure transmissions – Not in use.  
 Split screen capability – Yes, utilizing PiP configuration.  
 Document cameras – Yes - Lumens, Canon & WolfVision.  
 Multipoint connections – Yes  
 Additional specifications or capabilities – None.  
 Protocols and other practices – Establishment of video calls managed through Court registries.
- TAS:  
 Codec - Polycom Group 500 series and Polycom Group 700 series codec.  
 Video and audio standards - 700 - 720p.  
 Type of network - IP only, no in-house bridge service to ISDN.  
 Type of encryption for signals in secure transmissions – 786.  
 Split screen capability – Yes.  
 Document cameras – No.  
 Multipoint connections – No.  
 Additional specifications or capabilities – Share Content.  
 Protocols and other practices – N/A.
- SA:  
 The systems are usually ISDN. They have split-screen capability and multi-point connections. The Court Officer would test the equipment video-link facilities in advance of the hearing.
- VIC:  
 Codec - Supreme Court only CODEC 1, CODEC 2, CODEC 3, OHC 1  
 Type of network - ISDN  
 Protocols and other practices – See Supreme Court Video-link Application Guide.

China (Hong Kong SAR): Only if the taking of evidence is held by the Court.

China (Macao SAR): Until now, the Macao SAR does not have such experience.

Cyprus: Technical specifications may vary from court to court.

Germany: There is no uniform specification. Some aspects of the systems differ from one another. We recommend that the individual contact persons of the requested authorities be contacted via the Central Authorities, if necessary.

Hungary: The full system is currently under construction, expected to be finished by March 2018.

Mexico: The service will be given through a commercial provider, such as skype.

Romania: See Annex 2.

Singapore: These are the specifications if the Supreme Court Technology Facilities are utilised. There are no prescribed specifications if external technology facilities are used.

Slovenia: H.264, H.264 High Profile IP, H.263++, H.261, H.239 720p@30fps, 720p@60fps, 4SIF/4CIF, SIF (352 x 240), CIF (352 x 288), QSIF (176 x 120), QCIF (176 x 144) H.221, H.224/H.281, H.323 Annex Q, H.225, H.245, H.241, H.331, H.239, H.231, H.243, H.460, BONDING, Mode 1.

South Africa: Information not provided.

Sweden: *Codec (i.e., manufacturer, model, transmission speed, bandwidth):* Manufacturers: Tandberg and Cisco Models: Cisco Telepresence MX200, Cisco Telepresence SX10, Cisco Telepresence SX20, Cisco Telepresence SX80, Tandberg 3000MXP, Tandberg 6000MXP, Tandberg Codec C20, Tandberg Codec C40, Tandberg Edge 75MXP, Tandberg Edge85MXP, Tandberg Edge95MXP, Tandberg 770MXP, Tandberg 880MXP Transmission speed/bandwidth: Video-link via IP: 1472 kbps (when dialing from an Edge 75MXP, 770MXP och 880MXP it is 768 kbps), video-link via ISDN: 384 kbps regardless of model.

*Video and audio standards (e.g. Standard Definition, High Definition, etc.):* There are some minor differences between the amount of standards the Tandberg and Cisco models can handle. Video standards: H.261, H.263, H.263+, H.264 and H.265 (H.265 only works with SIP-calls); Audio standards: G.711, G.722, G.722.1, G.728, G729AB, AAC-LD.

Switzerland: Pas d'informations disponibles.

United Kingdom (England and Wales): Most of the Court video links in England and Wales are on a secure network that requires a bridging link (court will advise in each case). Only incoming ISDN calls are currently allowed though IP connections should be allowed by end 2017. Some courts have direct ISDN to ISDN video links (again Courts will advise). Courts have Polycom HDX systems. For Chapter II, In overseas posts, usually ECHO VTN or Skype.

United States of America: N/A.

Venezuela: Type of encryption for signals in secure transmissions: You can use custom encryption type, but you must decide during the installation the type of encryption to be used. By default, two types are available: 1) org.apache.openmeetings.util.crypt.MD5Implementation - this uses MD5 common crypt as PHP. This is the default encryption; 2) org.apache.openmeetings.util.crypt.MD5CryptImplementation - this uses the BSD encryption style. You can edit the configuration key during installation or later in the admin panel. But if you change it using the admin panel, the previous passwords might not work since they are encrypted with another algorithm.

Additional specifications or capabilities: It allows the diffusion of video and audio; You can view the desktop of any participant; Available in 19 languages; Virtual whiteboard with drawing, writing, editing, "cut and paste" capabilities, resizing of images and

inserting symbols; Lecture while drawing (4x4 or 1xn modus); Secure drawing; Import documents in most formats available; Sending invitations and direct links within the conference; System of moderators; Public and private conference rooms; The server can run on both Windows and Linux, and clients only need a browser and Flash Player, so you can participate in a session from almost any platform; Has a module for integration with Moodle.

Protocols or other practices: Real-Time Messaging Protocol (RTMP) Flash Streaming. Use of OpenMeetings with RTMPS & HTTPS: There are three ways in which the Openmeetings client can communicate with the server: 1) The Flash client uses the RTMP protocol to transfer video / audio and to send and receive user data (login, etc.) to the server and vice versa; 2) The browser uses the HTTP protocol to load the SWF file and upload and download the files (documents, pdfs, images, etc.) to the server and vice versa; And 3) The screen sharing client uses the RTMP protocol to transfer screen data and remote control to the server and vice versa.

**c) Can evidence be taken via commercial providers (e.g., Skype™)?**

**Yes. Please specify:**

Brazil: Skype and others.

China (Macao SAR): As mentioned, Article 542 of the CPC allows the possibility of taking evidence by other means, such as the use of video-link. However, the court, as mentioned, shall assess and ensure, in accordance with law, the compliance with letters rogatory. If certain formalities are requested therein, they can be satisfied as long as they do not contradict internal law (Article 135 of the CPC). Meanwhile, it should be stressed that network security is taken into consideration as a crucial factor.

Finland: Video content.

Israel: Skype.

Korea (Republic of): Cisco, Polycom, LifeSize, Radvision.

Malta: Skype.

Portugal: Any commercial provider, nevertheless we suggest the use of Skype because of the interoperability with Skype for Business.

Singapore: Polycom RealPresence™ Mobile or Polycom RealPresence Desktop

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Brazil, China (Macao SAR), Finland, France, Israel, Korea (Republic of), Malta, Mexico, Portugal, Romania, Singapore, United States of America, United Kingdom (England and Wales) and Venezuela



<p><u>United Kingdom (England and Wales)</u>: Chapter II only.</p> <p><u>Venezuela</u>: Although the recommendation is to use free software and open standards.</p>	
<p style="text-align: center;"><b><u>No</u></b></p>	<p style="text-align: center;">[19]</p> <p>Belarus, Bosnia &amp; Herzegovina, Bulgaria, China (Hong Kong SAR), Croatia, Cyprus, Czech Republic, Estonia, Germany, Greece, Hungary, Latvia, Lithuania, Norway, Poland, Slovenia, Sweden, Switzerland and United Kingdom (England and Wales)</p>
<p><i>Comments</i></p> <p><u>Australia</u>: This depends on each State and Territory:</p> <ul style="list-style-type: none"> <li>• <u>WA</u>: Yes, but not Skype.</li> <li>• <u>QLD</u>: No, currently do not support cross-platform integration with other VC providers such as Microsoft (Skype).</li> <li>• <u>TAS</u>: Yes, Skype - This is an ad-hoc option for the Court, not recommended, but it has been done on several occasions in the past and recorded well.</li> </ul> <p><u>Belarus</u>: According to the CPC and the CCP evidence can only be taken via video conferencing.</p> <p><u>Brazil</u>: Please contact the Central Authority for additional information about the use of a certain commercial provider (e.g., Skype) with a specific court around the country.</p> <p><u>Bosnia &amp; Herzegovina</u>: Based on the practices so far known to the HJPC in the courts and prosecutor's offices in BH.</p> <p><u>China (Hong Kong SAR)</u>: Use of commercial providers is not recommended to avoid possible storage of the content of the evidence taking by the service providers.</p> <p><u>Finland</u>: A judge may allow the use of skype if that is the only technical possibility to organize the hearing.</p> <p><u>France</u>: Par cascading de l'infrastructure du ministère et de celle de notre prestataire, et la possibilité de connecter des CODEC extérieurs sur internet.</p> <p><u>Latvia</u>: In case if skype have IP connection, we don't have integrated skype in our VC infrastructure.</p> <p><u>Lithuania</u>: Legal acts do not state the list of equipment which may be used to ensure the remote court hearing. It is recommended for courts to use the above-mentioned equipment for videoconferencing. The practice in courts differs. The Judicial Council aims to create recommendations for remote hearings using different information technologies (video conferencing equipment, Skype, etc.) to be organized.</p>	

Poland: We prefer sufficiently secured connections established individually between the requesting and requested authority. However, if the requesting court demands connection via a commercial provider, it may be organized.

Singapore: These are the specification if the Supreme Court Technology Facilities are being utilised. There are no prescribed specification if external technology facilities are used.

South Africa: Through Telkom.

United States of America: The United States permits the direct taking of evidence by video-link on a voluntary basis under Chapter II of the Convention. A voluntary witness can provide evidence using any means stipulated by the parties.

United Kingdom (England and Wales): Chapter I: This will be possible when the secure court network can take IP connections (see b above) but this will be at the discretion of the Judge in each case.

**d) Does your State have a procedure for testing connections and the quality of transmissions before the hearing?**

**Yes. Please specify:**

Belarus: The preliminary connection and transmission quality testing is available on request before hearings open.

Bosnia & Herzegovina: The interested parties' needs to arrange equipment and link testing before the official witness hearing.

Brazil: Most of the times connections are tested beforehand, so that no problems are faced during the hearing.

Bulgaria: There is no specific written rule, but in practice, such test should be done before a video-hearing.

China (Hong Kong SAR): Pre-hearing testing of Live Television Link will be conducted with the other end.

Cyprus: A few days before the actual hearing a test is carried out to ensure that the technical systems of the two countries are compatible.

Czech Republic: Test connection.

Estonia: The testing time is agreed upon with the other party. Test will be done between the same locations and using similar setup to the hearing.

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Belarus, Bosnia & Herzegovina, Brazil, Bulgaria, China (Hong Kong SAR), Cyprus, Czech Republic, Estonia, Finland, France, Germany, Hungary, Israel, Korea (Republic of), Latvia, Lithuania, Malta, Portugal, Romania, Singapore, Slovenia, South Africa, United Kingdom (England and Wales) and Venezuela

Finland: Video test call.

France: Une salle permanente est dédiée aux tests avant audiences, le correspondant local informatique de la juridiction effectue les tests.

Germany: Connections are tested as arranged between the authorities involved.

Hungary: Under Section 5 of the Decree the assisting technical staff has to make sure that all devices work properly. Any problem encountered must be reported to the judge of assistant judge and until it is solved the trial/hearing cannot start or continue.

Israel: The connections are tested in advance by the I.T. staff.

Latvia: At least 2 weeks before hearing.

Lithuania: A video conferencing test call shall be performed no later than one working day before the scheduled video conference.

Malta: A week before a test is done to ensure technical features are compatible and functioning well.

Portugal: We test the compatibility with other systems before making the hearing so we have a fully videoconference experience and can achieve the best quality.

Romania: The technical test must be made at least 24 hours before the hearing.

Singapore: If Supreme Court Technology Facilities are used, test calls will be scheduled and arranged before the hearing itself.

Slovenia: The testing should be provided minimum one week before the hearing, if possible in the same timeframe as the hearing is planned. We test the quality of picture and voice and check the position of the lights.

South Africa: The service provider does the testing.

<p><u>United Kingdom (England and Wales)</u>: Chapter I: arranged by court.</p> <p><u>Venezuela</u>: Review of the quality of service and diagnostic module of OpenMeetings through a module included in the same app.</p>	
<p style="text-align: center;"><b><u>No</u></b></p>	<p style="text-align: center;">[5]</p> <p style="text-align: center;">China (Macao SAR), Croatia, Mexico, Norway and Poland</p>
<p><i>Comments</i></p> <p><u>Australia</u>: This depends on each State and Territory:</p> <ul style="list-style-type: none"> <li>• <u>WA</u>: There are no formal procedures for testing connections and the quality of transmissions before a hearing. However, it is common practice for the Court Technology Officer to conduct a test call before a hearing.</li> <li>• <u>QLD</u>: Yes, Courts IT section has test facilities in place for in-court staff to test video connections prior to the commencement of any court proceedings.</li> <li>• <u>TAS</u>: Yes - ICT Manager does not recommend video link proceed until satisfied. Judge approves / rejects based on the test and recommendation from the ICT Manager. Tasmania Supreme Court has ICT Manager that can test connections etc.</li> <li>• <u>SA</u>: The Court Officer would test the equipment video-link facilities in advance of the hearing.</li> <li>• <u>VIC</u>: Once an order is obtained from the Supreme Court approving the person appearing via video-link, a video-link setup form is required to be completed with the Supreme Court order and booked by emailing <a href="mailto:videolink@support.vic.gov.au">videolink@support.vic.gov.au</a> and contacting relevant Technical support staff. The Supreme Court Tech Support can be contacted on +61 (3) 9603 2410.</li> </ul> <p><u>Bosnia &amp; Herzegovina</u>: The HJPC only provides this answer in the name of courts and prosecutor's offices in BH.</p> <p><u>China (Hong Kong SAR)</u>: Only if the taking of evidence is held by the Court.</p> <p><u>China (Macao SAR)</u>: Until now, the Macao SAR does not have such experience.</p> <p><u>Finland</u>: The testing will usually be done a day or two before the hearing.</p> <p><u>Mexico</u>: The Central Authority will assist as a liaison between the judicial Mexican authorities and the foreign requesting authorities and will provide technical help just before the beginning of the conference.</p> <p><u>Norway</u>: There are no formal procedures for testing, but the courts normally test the connection before the hearing.</p> <p><u>Poland</u>: Following arrangement through e-mail correspondence.</p>	

Singapore: This is the procedure if the Supreme Court Technology Facilities are utilised. There are no prescribed procedures if external technology facilities are used.

Slovenia: The protocol we use is not regulated by law but is used on the basis of past experience and acceptance of best practice.

Sweden: This is done if deemed necessary.

Switzerland: Pas d'informations disponibles.

United Kingdom (England and Wales): Chapter II: Overseas posts would normally try to arrange a test call.

United States of America: N/A

**e) Does your State have any requirements as to the hearing room, e.g., should be located in a court, should have a camera view of the whole room or a view of all the parties, etc.?**

**Yes. Please specify:**

Bulgaria: A video-hearing should be done in a hearing room, situated in a building of the competent court.

Cyprus: It should be located in the court and the camera view is set according to the requirements of the requesting state.

China (Hong Kong SAR): Technology Court.

Finland: Both.

France: Dans un tribunal.

Germany: Evidence is taken as usual in a German court room, since the German court takes the evidence within the framework of legal assistance. The video transmission should capture the entire room and all persons present. A pan and zoom mechanism is desirable.

Greece: Should be located in a court.

Hungary: The person heard via closed-circuit telecommunication network and all other persons present together with him/her must be seen by in the place where the hearing is held. Furthermore, all areas of the premises where the person heard must be kept visible for the president of the chamber or the

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Belarus, Bulgaria, China (Hong Kong SAR), Cyprus, Finland, France, Germany, Greece, Hungary, Israel, Korea (Republic of), Latvia, Lithuania, Malta, Portugal, South Africa, United Kingdom (England and Wales) and Venezuela

single judge or the assistant judge holding the hearing. The person heard must also be enabled to follow the trial/hearing. (See Section 394/O (7) of Pp [code of civil procedure]).

The location can be at a court or other body but it must be a separated room. The camera must be placed in a way that all persons present in the room can be seen, and the (assistant) judge can see all parts of the room. The camera cannot be moved during the hearing and the time must be constantly indicated. Additional cameras can be placed in the room that can be directed by the judge with the purpose of monitoring certain persons or documents. Microphones must be placed in the room as well. (See Section 2 of the Decree).

Israel: It is important that the image quality is good enough for the judge to clearly see the witness.

Korea (Republic of): We have remote witness rooms for video links which are established in the Court building. For now the witness has to be examined in the hearing room. But for the expert testimony the video link facilities of a view of all the parties outside of the Court building can be used in an appropriate situation.

Lithuania: It is recommended, that the participants in the video conference shall clearly see, hear and understand what is happening in the courtroom and in the room where the interviewee is. There shall be real opportunity not only to see the general view and all the participants participating in the conference, but also to see their mutual communication, to evaluate the verbal, body language, corresponding facial expressions, gestures, etc.

Malta: Video linking is carried out in a specific room within the court building, however video link can be held in most Court Halls through portable video linking.

Portugal: All court rooms have PTZ camera so it can view the whole room.

<p><u>South Africa</u>: It has to be in court as the Magistrate or Judge should sit through the proceedings.</p> <p><u>United Kingdom (England and Wales)</u>: requires a view of the whole room.</p> <p><u>Venezuela</u>: There is a "Normative Instruction for the videoconference service of the Executive Direction of the Magistracy and the Judicial Power".</p>	
<p style="text-align: center;"><b>No</b></p>	<p style="text-align: center;">[11]</p> <p style="text-align: center;">Brazil, China (Macao SAR), Croatia, Czech Republic, Estonia, Mexico, Norway, Poland, Romania, Singapore and Slovenia</p>
<p><i>Comments</i></p> <p><u>Australia</u>: This depends on each State and Territory:</p> <ul style="list-style-type: none"> <li>• <u>WA</u>: In circumstances where a "WA court" has directed that evidence be taken by video link under section 121 of the Evidence Act 1906 (WA), Consolidated Practice Direction 1.2.7(5) requires that the person intending to call the witness use reasonable endeavors to ensure that:             <ul style="list-style-type: none"> <li>a) the room from which the video link is to be broadcast is able to be closed off such that only the witness and any other person as permitted by the Court are in the room;</li> <li>b) the quality of the video link is of a standard that is sufficient to provide continuous uninterrupted video images and clear and audible audio feed, so as to be easily seen and heard by the Court;</li> <li>c) where a video link is used, the witness is dressed appropriately for court, as if the witness were giving evidence in person in the courtroom; and</li> <li>d) the arrangements made with the venue from which the video link is to be broadcast maintain the dignity and solemnity of the court, consistent with the venue being treated as part of the court for this purpose.</li> </ul> <p>This Practice Direction does not apply to evidence taken in Western Australia pursuant to sections 117 or 123 of the Evidence Act 1906 (WA).</p> </li> <li>• <u>QLD</u>: Yes - In a court or hearing room, the cameras are placed to provide a view of participants. Courtrooms have cameras positioned to provide a continuous view of the presiding Judicial Officer (<i>i.e.</i> Judge, Magistrate), and views of the various parties (including witnesses). Matters involving vulnerable witnesses utilise a remote room with video conferencing facilities. These rooms have a view of the witness as well as a whole room view.</li> <li>• <u>TAS</u>: Yes - Subject to the conditions described in the <i>Evidence (Children and Special Witnesses) Act 2001</i>. This Act allows for special witnesses to give evidence in private outside the court room. The Supreme Court video facilities have been established primarily for these purposes but may also be utilised for other purposes, such as Hague Convention proceedings.</li> </ul>	

- SA: Location – it would usually be the case that the evidence is taken in the Court precincts but there may be instances where the authorised Court permits it being taken in another location. Note that some Courts have video-conferencing suites which are small rooms adjacent to courtrooms where witnesses can give evidence.
- VIC: See Video-link Application Guide.

Belarus: The CPC Article 268, the CCP Articles 170 and 176.

China (Macao SAR): As stated previously, there are no provisions specially regulating the taking of evidence by video-link. The hearings should be conducted in the court.

Finland: In the courtroom there are two cameras; the whole room viewing and also a view of all the parties.

Poland: However, such requirements apply to all hearings, if they are being recorded: §7 of the Regulation of the Minister of Justice on the sound or sound and vision recording from public hearings in civil proceedings, issued on basis of Art. 158 of the Civil Proceedings Code, provides, that the testifying person should be visible and audible in the recording, which uses the viewpoint of the judge. For recordings taken outside of the courtroom, portable recording devices can be used.

Romania: There are no restrictions as regards the venue where a person is to be heard by videoconference.

However, in accordance with the provisions of art. 16, art. 261 paragraph 1 and art. 314 of the New Code of Civil Procedure, the evidence is to be taken by the Court in which the case is pending.

If for objective reasons the taking of evidence is only possible outside the town/city in which the respective court's venue is located, the procedure may be performed, by letter rogatory, by a court of the same degree or of a lesser degree if there is no court of a similar degree in the respective town/city. The Court assigned by letter rogatory shall proceed to the taking of evidence in the presence of the parties, or even in their absence, if they have been duly summoned, having the same competences as the court that the case was referred to, as regards the procedure to be followed. Furthermore, a witness prevented from attending the hearing by illness or by other serious circumstance may be heard on his current location, the parties being duly summoned accordingly.

Singapore: There are no specific requirements on the hearing room, whether in Singapore or in the foreign requesting state, where the video link is set up. If the request is for a Singapore Judicial Officer to assist in taking the evidence, then the hearing room will need to be a courtroom in the Supreme Court.

Slovenia: The judge has the authority to ask for additional requirements if necessary (as document camera or showing the whole room ...).

Sweden: It is a requirement that the hearing is held in accordance with applicable law and international agreements.

Switzerland: Pas d'informations disponibles.

United States of America: N/A.



PART IV – USE OF VIDEO-LINKS UNDER BOTH CHAPTERS – LEGAL CONSIDERATIONS	
Restrictions	
<b>a) Must a court order directing the use of video-links first be obtained from the requesting State (Chapter I) / State of Origin (Chapter II)?</b>	
<p><b>Yes.</b> Please specify:</p> <p><u>Brazil</u>: If the judicial authority of the requesting State requests the use of video-links, the Brazilian Central Authority will request the Brazilian judicial authority to consider such a request.</p> <p><u>Czech Republic</u>: Video-links are only permissible under a court order. If the judicial authority of the requesting State requests the use of video-links, the Czech Central Authority will request the Czech court to consider such a request.</p> <p><u>France</u>: Dans tous les cas, la juridiction d'origine doit préciser dans sa demande selon quelles formalités particulières :</p> <ul style="list-style-type: none"> <li>- elle souhaiterait pouvoir assister à l'exécution de la mesure d'instruction sollicitée (Chapitre I) ; voire exécuter elle-même directement la mesure par voie de vidéoconférence ;</li> <li>- le tribunal compétent de l'Etat requis doit l'exécuter ;</li> <li>- le commissaire / agent diplomatique ou consulaire doit l'exécuter (Chapitre II).</li> </ul> <p>Par ailleurs, s'il s'agit d'une demande formée en application du chapitre I, le juge de l'Etat requis chargé d'exécuter la mesure d'instruction sollicitée applique son droit national, et reste donc libre d'utiliser les formes autorisées par ce dernier pour exécuter la mesure d'instruction sollicitée.</p> <p>S'agissant du recours à la vidéoconférence pour la tenue d'une audience, et notamment l'audition d'une des parties à la</p>	<p>[16]</p> <p>Belarus, Brazil, Czech Republic, France, Greece, Korea (Republic of), Latvia, Lithuania, Malta, Mexico, Portugal, Romania, South Africa, Switzerland, United Kingdom (England and Wales) and Venezuela</p>

procédure (à l'exclusion d'un tiers appelé à témoigner), le consentement de l'ensemble des parties est nécessaire.

Latvia: If the judicial authority of the requesting State requests the use of video-links, the Latvian Central Authority will request the Latvian judicial authority to consider such a request.

Lithuania: Article 175(2) of the Code of Civil Procedure establishes that the participation in court hearings of proceedings participants and questioning of witnesses at his place of location may be ensured using information and electronic communication technologies (via video conferences, teleconferences, etc.). Order No 1R-309 of 7 December 2012 of the Minister of Justice of the Republic of Lithuania approved the Description of the procedure for the use of video conference and teleconference technologies in hearing civil and administrative cases (hereinafter referred to as the Description). Paragraph 3 of the Description states that a process participant, who wishes to participate in the hearing via video conference, submits a request to the court. Article 290(1) of the Code of Civil Procedure states that the court shall pass rulings on particular issues on which the case cannot be decided on the merits. Therefore, the court shall pass a ruling regarding a participation of process participant in the hearing via video conference.

Malta: Video-links are only permissible under Court order.

Romania: Decision by which the court approves the taking of evidence by international letter rogatory and use of a modern technical method of communication.

South Africa: To indicate that it is a valid and legal request.

United Kingdom (England and Wales): Civil Procedure Rule 32.3 requires the permission of the court to be obtained; Evidence (Proceedings in other Jurisdictions) Act 1975 Section 2 permits the court to make an order for oral testimony provided such an order can be made by our court.

Venezuela: As an exceptional route, the use of videoconferencing must be authorized through a judicial resolution.

<p style="text-align: center;"><b><u>No</u></b></p> <p><u>Hungary</u>: There is no need for court order but a formal request is required.</p>	<p style="text-align: center;">[14]</p> <p>China (Hong Kong SAR), Croatia, Estonia, Finland, Germany, Hungary, Israel, Norway, Poland, Singapore, Slovenia, Sweden, United Kingdom (England and Wales) and United States of America</p>
<p><i>Comments</i></p> <p><u>Australia</u>: It is unclear whether Australian Courts require a court order from the Requesting State prior to the taking of evidence. However, certain Australian States may need to issue an order allowing evidence to be taken via video link. This is outlined as follows:</p> <ul style="list-style-type: none"> <li>• <u>NSW</u>: A witness located in NSW cannot be compelled by any NSW court to give evidence directly to a foreign tribunal by video-link.</li> <li>• <u>WA</u>: Subsection 116(1) of the Evidence Act 1906 (WA) merely requires that there be a request by a court or tribunal in relation to the evidence to be taken in Western Australia. A formal court order from the requesting State/State of Origin to this effect is not required, nor is a court order for the evidence to be obtained by video-link.</li> <li>• <u>QLD</u>: Under Rule 392 of the <i>Uniform Civil Procedure Rules 1999</i> (Qld), the use of video link facilities in Queensland to receive evidence is subject to the discretion of the Court.</li> <li>• <u>TAS</u>: An application is to be filed in accordance with section 4 of the <i>Evidence on Commission Act 2001</i> and <i>Supreme Court Rules 2000</i> Part 39.</li> <li>• <u>VIC</u>: A Court Order is required from the Supreme Court of Victoria.</li> </ul> <p><u>Belarus</u>: The state of origin should file a letter of request with the demand of the taking of evidence or other procedural actions by using video conferencing.</p> <p><u>Bulgaria</u>: The national legislation does not provide specific rules on taking of evidence by video-link in the field of civil or commercial matters.</p> <p><u>China (Hong Kong SAR)</u>: The Court may make such provision for obtaining evidence as may appear to it to be appropriate for the purpose of giving effect to the request issued by the requesting State. However, as a matter of discretion, the Hong Kong court would ordinarily exercise its discretion to make the order asked for by the requesting State unless it is satisfied that the application would be regarded as falling within the description of frivolous, vexatious or an abuse of the process of the court.</p> <p><u>China (Macao SAR)</u>: As mentioned, Article 135 of the CPC states that the court is competent to assess and ensure the compliance with letters rogatory in accordance with law; if a letter of rogatory requests the compliance with certain formalities which do not have conflict with the law of Macao SAR, the request shall be satisfied. Therefore, the Requesting Party is suggested to include in its request the particular practical or technical information as detailed as possible so as to facilitate the taking of evidence by video-link.</p> <p><u>Croatia</u>: Courts offer legal assistance to foreign courts in the manner prescribed by domestic law. The action, which is the subject of the request</p>	

by the foreign court, may be carried out in the manner requested by the foreign court if this procedure does not contravene the public order of the Republic of Croatia (Article 182. CPA).

Germany: Incoming requests can be executed without a court order from the requesting state. According to German law (see Secs. 128A, 358 ZPO (Zivilprozessordnung – Code of Civil Procedure), however, this is not the case for German courts making outgoing requests.

Slovenia: See above - Part II/Legal basis/b.

Switzerland: Une participation des autorités étrangères et des représentants des parties à une audition des parties et/ou de tiers effectuée par un juge suisse est envisageable en théorie (art. 7 et 8 CLaH70), mais pas en pratique. En particulier, le juge suisse resterait maître de la procédure ; il serait la seule personne à pouvoir ordonner des mesures de contrainte. On peut également imaginer qu'il est fait recours à la technique de la vidéoconférence dans le cadre d'une requête conformément au Chapitre II de la CLaH70. L'autorisation est alors soumise aux mêmes conditions que les cas «classiques» d'autorisation sous le Chapitre II. Toutefois, le fait que les parties ne se trouvent pas dans les mêmes locaux implique qu'une procédure d'identification soit prévue.

United Kingdom (England and Wales): Chapter I: The Hague Evidence Convention Model Form Section 15 can be used to obtain the court order giving permission Chapter II: No court order required.

United States of America: As explained in Part I question b), the United States of America does not permit the direct taking of evidence by video-link under Chapter I of the Convention and permits the direct taking of evidence by video-link on a voluntary basis under Chapter II. Therefore, no prior permission or a court order are necessary for a voluntary witness to provide evidence by video-link under Chapter II of the Convention.

**b) Are there any restrictions on what types of evidence can be taken by video-link or how it is to be taken?**

**Yes**

Brazil: The evidence can only be taken in Brazil if the request to do so is complied with by the Brazilian judicial authority.

Cyprus: According to the rules of evidence.

Czech Republic: It is up to the court to determine what is admissible as evidence.

France: Seules les auditions de témoin peuvent être réalisées par vidéoconférence, dans le cadre d'une demande formée en application du chapitre I. Si la production de documents peut se faire par voie dématérialisée devant un commissaire ou agent diplomatique / consulaire, c'est au tribunal requérant de déterminer, conformément à son droit national, si le commissaire

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Belarus, Brazil, Cyprus, Czech Republic, France, Germany, Hungary, Korea (Republic of), Latvia, Lithuania, Malta, Mexico, Portugal, Singapore, Slovenia, South Africa, Sweden and Switzerland.

ou l'agent diplomatique / consulaire peut recueillir par vidéoconférence la production de documents.

Germany: According to German law, evidence may be taken in the form of examining witnesses, experts or parties to the dispute using video-link (Sec.128a Subs. 2 ZPO).

Hungary: According to Section 394/N (1) of Pp [code of civil procedure], videoconference can only be used for the hearing of a party, a witness, an expert or any other person involved in the proceedings.

Korea (Republic of): The witness examination and the expert testimony.

Latvia: It is up to the Court to determine what is admissible as evidence.

Lithuania: Article 175(2) of the Code of Civil Procedure establishes that using information and electronic communication technologies (via video conferences, teleconferences, etc.) in the manner established by the Minister of Justice must ensure a reliable identification of process participants and an objective recording and submission of data (evidence). Information and electronic communication technologies may be used also for collecting evidence (e.g. participation and explanations of expert).

The Description provides rules, how a reliable identification of process participants and an objective recording and submission of data (evidence) is ensured.

Resolution No 13P-156-(7.1.2) of 28 November 2014 of the Judicial Council approved the Description of the procedure for the use of video conference in the proceedings (hereinafter referred to as The Resolution of the Judicial Council). The Resolution of the Judicial Council provides detailed rules on how the use of video conference is organised and how video conference technologies are used.

<p><u>Malta</u>: It is up to the Court to determine what is admissible as evidence.</p> <p><u>Mexico</u>: Yes, there are some restrictions regarding minors, adolescents and people with disability.</p> <p><u>Portugal</u>: It is up to Portuguese Court to determine if the evidence is admissible.</p> <p><u>Singapore</u>: See section 5 of Evidence (Civil Proceedings in Other Jurisdictions) Act, Chapter 98, Revised Laws of Singapore.</p> <p><u>Slovenia</u>: See above - Part II/Legal basis/b: Paragraph 2 of the Article 114a of the CPC: Under conditions of the Paragraph 1 the court may decide to carry out the proof of hearing of parties and witnesses and examination of expert.</p> <p><u>South Africa</u>: It depends on the type of case.</p> <p><u>Sweden</u>: Under certain circumstances. This must be decided on a case-by-case basis.</p>	
<p style="text-align: center;"><b><u>No</u></b></p>	<p style="text-align: center;">[13]</p> <p style="text-align: center;">China (Hong Kong SAR), China (Macao SAR), Croatia, Estonia, Finland, Greece, Israel, Norway, Poland, Romania, United Kingdom (England and Wales), United States of America and Venezuela</p>
<p><i>Comments</i></p> <p><u>Australia</u>: This depends on each State and Territory:</p> <ul style="list-style-type: none"> <li><u>NSW</u>: A witness located in NSW cannot be compelled by any NSW court to give evidence directly to a foreign tribunal by video-link.</li> <li><u>WA</u>: There is a restriction on the types of evidence that can be taken. In this regard, paragraph 116(1) (b) of the <i>Evidence Act 1906</i> (WA) requires that the evidence to which an application relates is to be obtained for the purposes of proceedings which either have been instituted before the requesting court or whose institution before that court is contemplated. There are no legal restrictions on how evidence by video-link is to be taken. Section 117 of the <i>Evidence Act 1906</i> (WA) and Order 39 rule 3 of the <i>Rules of the Supreme Court 1971</i> (WA) enables the Court to make a number of orders in this regard, as long as an order does not require any particular steps to be taken unless they are steps that can be required in relation to obtaining evidence for the purposes of proceedings in the Supreme Court: subsection 117(4).</li> <li><u>QLD</u>: No. However, please note that issues such as type of evidence and length of evidence may be factors considered in whether the Court will exercise its discretion to grant leave for the use of video link facilities.</li> </ul>	

- TAS: No.
- VIC: See answer to Part II (b) above.

Belarus: The CPC Articles 178, 185-1, the CCP Articles 83 and 176-1.

Bulgaria: The national legislation does not provide specific rules on taking of evidence by video-link in the field of civil or commercial matters.

China (Hong Kong SAR): Except for general privilege of witnesses in civil proceedings in Hong Kong SAR or in the requesting State.

China (Macao SAR): There are no specific provisions ruling this issue.

Croatia: The Republic of Croatia has no special limitations on the type of evidence that can be obtained through video-link.

Norway: As long as it is not prohibited by Norwegian Law.

Poland: Video-links cannot be used for taking of evidence, if its character is incompatible with this form of evidence.

Romania: There is no express restriction as regards the type of evidence. In accordance with the provisions of art. 17 of Law No. 189/2003 on the international legal assistance in civil and commercial matters, an authority entrusted with a letter rogatory may: hear witnesses or other parties involved, obtain documents, make expert examinations, achieve enquiries or obtain some other documents or information necessary for a court to rule on a specific case. However, considering this technical method, it is obvious that the videoconference may be used in most situations to hear witnesses, experts, parties in or other participants to the trial.

Switzerland: Numerus clausus des moyens de preuve selon le Code de procédure civile suisse. De plus, des restrictions ou conditions peuvent être octroyés dans l'autorisation sous le Chapitre II (art. 19 CLaH70).

United States of America: Per the previous answer and as explained in Part I question b), a voluntary witness under Chapter II can provide evidence in any format, on any terms, and using any means stipulated by the parties.

Venezuela: It lays down, in matters of approval, the principle of freedom of evidence. Its only limitation is that it is not expressly prohibited by the legal system and is not contrary to public order.

**c) Are there any specific restrictions on how evidence gathered via video-link can be handled and distributed, or do the usual rules for evidence obtained in person apply?**

Yes, there are specific restrictions.

Hungary: The hearing can be recorded (only sound or image and sound), on which the exact date and time must be indicated. The record must be kept separated from documents and kept for five years counted from the date of termination of proceedings. The record can be hears/viewed by the parties, the public prosecutor

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Belarus, Hungary, Lithuania and Poland

<p>and other persons involved in the proceedings, but no copy can be made to these persons. (See Section 7 of the Decree).</p> <p><u>Lithuania:</u> Paragraph 14 of The Resolution of the Judicial Council provides, that at the end of the hearing via video conference a representative of the requested institution, not later than other working day, submits to the requesting court the approval of the questioning via video conference. He also submits a signed text of an oath of a process participant and other evidence provided during proceedings.</p> <p>According to Paragraphs 16-18 of the Resolution of the Judicial Council, in the cases laid down by law or by the court decision, a video conference of a hearing may be recorded. Records are kept in accordance with the procedure established by legal acts.</p> <p><u>Poland:</u> Regulation of the Minister of Justice on the devices and technical means enabling taking of evidence from the distance in civil proceedings – issued on basis of Art. 235 of the Civil Proceedings Code.</p>	
<p><b><u>No, the normal rules for evidence apply.</u></b></p>	<p>[26]</p> <p>Brazil, China (Hong Kong SAR), China (Macao SAR), Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Greece, Israel, Korea (Republic of), Latvia, Malta, Mexico, Norway, Portugal, Singapore, Slovenia, South Africa, Sweden, Switzerland, United Kingdom (England and Wales), United States of America and Venezuela</p>
<p><i>Comments</i></p> <p><u>Australia:</u> This depends on each State and Territory:</p> <ul style="list-style-type: none"> <li>• <u>NSW:</u> A witness located in NSW cannot be compelled by any NSW court to give evidence directly to a foreign tribunal by video-link.</li> <li>• <u>WA:</u> There are specific restrictions on how any video-tape of evidence given by video-link can be handled and distributed. Under section 106MA of the <i>Evidence Act 1906</i> (WA), a person commits an offence who, without authority, has a visual recording of evidence in her or his possession, or supplies or offers to supply a visual recording of evidence to any person. A person also commits an offence who, without authority, plays, copies, erases or permits a person to copy or erase a visual recording of evidence. In the case of a public official, a person has authority to do anything prohibited by this section for a purpose connected</li> </ul>	



with the proceeding for which the recording was made or any resulting proceeding by way of an appeal. Any other person may have authority as conferred by a judge under ss 106K or 106RA of the *Evidence Act 1906* (WA).

Section 106MB of the *Evidence Act 1906* (WA) prohibits a person from broadcasting a visual recording of evidence or any part of such a recording except with approval of the Court and in accordance with any condition attached to the approval.

The usual rules for evidence apply in relation to evidence gathered via video-link that takes a different form.

- QLD: No - Please note that under the normal rules, there may be restrictions on the publication of names of minors or those associated with domestic violence proceedings.
- VIC: See answer to Part II (b) above.

Belarus: The CPC Article 185-1, the CCP Article 176-1.

Bulgaria: The national legislation does not provide specific rules on taking of evidence by video-link in the field of civil or commercial matters.

Croatia: The court shall decide, at its discretion, which facts it will find proved, after conscientious and careful assessment of all the evidence presented individually and as a whole and taking into consideration the results of the entire proceedings (Article 8. CPA).

Mexico: With regard to Article 23 of the Convention of the United States of Mexico, Mexico does not allow discovery has made a declaration complete petitions for the exhibition and transcription of documents, provided the following requirements:

- That the process has been initiated.
- That the documents are reasonably identified in terms of their date, content and other pertinent information; specifying those facts or circumstances that reasonably allow the requesting party to believe that the requested documents are known to the person from whom they are required or are or were in the possession or control or custody of the person.
- The direct relationship between the test or information requested and the pending process should be identified.

South Africa: Information must be given due evidential weight. In assessing the evidential weight, regard must be had to:

- (a) the reliability of the manner in which the evidence was generated, stored or communicated;
- (b) the reliability of the manner in which the integrity of the data message was maintained;
- (c) the manner in which its originator was identified.

Switzerland: Des restrictions ou conditions peuvent être octroyées dans l'autorisation sous le Chapitre II (art. 19 CLaH70).

United States of America: Generally, the usual rules for evidence obtained in person apply, but parties can stipulate to other terms.

**d) Are there any restrictions on the type of person who may be examined by video-link?****Yes. Please specify:**

France: Seules des personnes ayant la qualité de témoin peuvent être auditionnées par voie de vidéoconférence, c'est-à-dire sur des faits ou des questions qui auront dû être spécialement précisés dans la demande transmise par le tribunal requérant.

Hungary: See point b).

Korea (Republic of): Yes. Witnesses and experts.

Mexico: There are some restrictions when it comes to minors, adolescents, and people with disability.

Portugal: See answer on part II – b).

Romania: Letter rogatory rules allow that witnesses or other persons involved be heard (art. 17 of Law No. 189/2003 on the international legal assistance in civil or commercial matters).

However, in accordance with the provisions of art. 26 paragraph 2 of Law No. 189/2003 on the international legal assistance in civil and commercial matters, a letter rogatory may be refused if the person to be heard cannot testify because of certain interdictions prescribed by the Romanian law or when the documents to be transmitted or analysed by experts cannot be circulated.

At the same time, in accordance with the provisions of art. 315, art. 316 and art. 317 of the New Code of Civil Procedure, the following persons cannot be heard as witnesses: relatives and in-laws up to the third degree included; the spouse or the ex spouse, the fiancée or the civil partner; the persons being at enmity or in connection of interests with any of the parties; persons placed under interdiction by court order; persons convicted for perjury. However, the parties may agree, expressly or tacitly, that the persons mentioned hereinafter be heard as witnesses: relatives and in-laws up to the third degree included; the spouse or the ex spouse, the fiancée or the civil partner; the

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Belarus, France, Hungary, Korea (Republic of), Mexico, Portugal, Romania, South Africa, Sweden and United States of America

persons being at enmity or in connection of interests with any of the parties.

In lawsuits regarding parentage, divorce and other family relationships, it is possible for the relatives and in-laws up to the third degree included, except for the descendants.

The persons excused from testifying are: 1. ministers of religious cults, doctors/physicians, pharmacists, lawyers, notaries public, court-order enforcement officers, mediators, midwives and nurses, as well as any other professional under law-imposed obligation to keep the professional secret as regards the facts that have become knowledgeable in their line of work or while performing their professional tasks, even after their activity has come to an end; 2. judges, prosecutors and public servants, even after they no longer hold these positions, as regards the secret circumstances they have become knowledgeable of while holding that position; 3. Those who by their answers would expose themselves or their relatives or in-laws up to the third degree included or their spouse or ex spouse, their fiancé or civil partner to a penal punishment or to public contempt. These persons (except ministries of religious cults) would nevertheless be entitled to testify if they have been discharged from the obligation to keep the professional secret by the party interested in keeping the confidentiality thereof, unless the law provides otherwise. It will be also possible for judges, prosecutors and public servants to testify if the authority or institution within which they work or have worked, whichever of the two situations is applicable, gives them permission to do so.

South Africa: Minors and spouses.

Sweden: Under certain circumstances. This must be decided on a case-by-case basis.

United States of America: If examination of the individual is allowed, there may be additional limitations pursuant to law or procedural rules, for example, restrictions based on the age or competency of the witness to consent to provide evidence or his or her ability to speak on behalf of an organization or agency.

<p style="text-align: center;"><b><u>No</u></b></p>	<p style="text-align: center;">[22]</p> <p style="text-align: center;">Brazil, China (Hong Kong SAR), China (Macao SAR), Croatia, Cyprus, Czech Republic, Estonia, Finland, Germany, Greece, Israel, Latvia, Lithuania, Malta, Norway, Poland, Portugal, Singapore, Slovenia, Switzerland, United Kingdom (England and Wales) and Venezuela</p>
<p><i>Comments</i></p> <p><u>Australia:</u> This depends on each State and Territory:</p> <ul style="list-style-type: none"> <li>• <u>NSW:</u> A witness located in NSW cannot be compelled by any NSW court to give evidence directly to a foreign tribunal by video-link.</li> <li>• <u>WA:</u> No.</li> <li>• <u>QLD:</u> No. However, this may be a factor which will be considered in whether the Court exercises its discretion. For example, a person who is otherwise unable to attend Court for any reason.</li> <li>• <u>TAS:</u> No – although criminal matters are excluded.</li> <li>• <u>VIC:</u> There are likely to be restrictions if the person is under 18 years of age.</li> </ul> <p><u>Belarus:</u> The CCP Chapters 6 and 7.</p> <p><u>Bulgaria:</u> The national legislation does not provide specific rules on taking of evidence by video-link in the field of civil or commercial matters.</p> <p><u>China (Macao SAR):</u> It should be mentioned that Article 525 of the CPC stipulates that the following persons enjoy the prerogative of giving evidence first in writing if they prefer:</p> <ol style="list-style-type: none"> <li>a) The Chief Executive;</li> <li>b) The Secretaries, Members of the Executive Council and of the Legislative Assembly;</li> <li>c) Judges of the Court of Final Appeal and of the Court of Second Instance;</li> <li>d) Public Prosecutor-General;</li> <li>e) Commissioner Against Corruption, Commissioner of Audit, Commissioner-General of the Unitary Police Service and Director-General of the Macao Customs;</li> <li>f) Members of the management and disciplinary body of magistrates;</li> <li>g) High-ranking religious dignitaries;</li> <li>h) President of the representative body for lawyers;</li> <li>i) Persons enjoying international protection.</li> </ol> <p>The Chief Executive also enjoys the prerogative of being inquired at his residence or at his head office, as he chooses.</p>	

Croatia: However, videoconferencing will mainly be used to conduct evidence by hearing parties and witnesses, because there are certain factual and technical barriers when is required to obtain evidence insight in the document or on the spot.

Germany: Witnesses, experts and parties can be examined by video-link; see answer to question b.

Slovenia: But Article 144 of the CPC specifically states parties, witnesses, experts.

Switzerland: Des restrictions ou conditions peuvent être octroyés dans l'autorisation sous le Chapitre II (art. 19 CLaH70).

United Kingdom (England and Wales): Chapter II: Overseas posts may refuse to host a video-link session if the person is assessed to be a physical or security threat.

Venezuela: In case of videoconferences, the normal rules for evidences apply.

**e) Is it necessary to seek the consent of the parties to use video-link to take evidence?**

**Yes.** Please specify the conditions under which parties may refuse the use of video-link:

Estonia: If it is direct taking of evidence, it is on a voluntary basis, but for normal taking of evidence there are no grounds for refusing videoconference as such by the parties unless there are questions, whether this is the appropriate method to use in this concrete case (for example hearing a child of 2 years of age).

Romania: See the answer provided hereinabove.

South Africa: Parties are protected by the rights to remain silent as enshrined in the Constitution.

United Kingdom (England and Wales): Chapter I and Chapter II: The witness is free to refuse without conditions.

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Estonia, Mexico, Romania, Slovenia, South Africa, Switzerland and United Kingdom (England and Wales)

**No**

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Brazil, China (Hong Kong SAR), China (Macao SAR), Croatia, Cyprus, Czech Republic, Finland, France, Germany, Greece, Hungary, Israel, Korea (Republic of), Latvia, Lithuania, Malta, Norway, Poland, Portugal, Singapore, United States of America and Venezuela

*Comments*

Australia: This depends on each State and Territory:

- NSW: A witness located in NSW cannot be compelled by any NSW court to give evidence directly to a foreign tribunal by video-link.
- WA: No.
- QLD: A party may refuse consent if it is inconvenient to examine or cross-examine a witness via video link. This will depend on the nature of the evidence to be given. It is usual practice to seek the consent of the parties for the use of video-link procedures.
- TAS: No.
- SA: The use of the video-link is subject to the judicial officer's discretion (see 59F (1) of the *Evidence Act 1929* (SA)) but does not appear to require the consent of the parties to the dispute. That would ordinarily be a matter for determination by the foreign court.
- VIC: No. However, the Supreme Court is required to make an order.

Belarus: The matter is not regulated by the national law.

Brazil: The evidence can only be taken in Brazil if the request to do so is complied with by the Brazilian judicial authority.

Bulgaria: The national legislation does not provide specific rules on taking of evidence by video-link in the field of civil or commercial matters.

China (Macao SAR): As mentioned, there are no provisions specially regulating the procedures for the taking of evidence by video-link. However, it should be stressed that according to Article 442 of the CPC, all persons, being parties to the case or not, have the duty to cooperate in the discovery of the truth, answering the questions asked, submitting themselves to necessary inspections, providing what is requested and practicing the acts that are determined.

Croatia: The CPA does not contain a provision on this, however each party is obliged to provide facts and present evidence on which his or her claim is based or to refute the statements and evidence of his or her opponent (Article 219./1.CPA). In other words, if a party proposes to bring evidence through a video-link, a person who should be questioned in such a manner would not be able to oppose it.

Cyprus: If the parties do not agree, the court will decide whether to allow the use of video link.

France: Il appartient à la seule loi de l'Etat requérant de déterminer à quelles conditions ses tribunaux peuvent ordonner qu'une mesure d'instruction soit réalisée par vidéoconférence. L'autorité centrale française n'a pas à vérifier si les parties au litige devant le tribunal requérant devaient ou non consentir à ce que ce dernier l'audition par vidéoconférence d'une personne résidant en France.

Lorsque le tribunal requérant demande, sur le fondement du chapitre I, à pouvoir auditionner directement par vidéoconférence une personne résidant en France, le consentement préalable de cette dernière est nécessaire, aux termes de l'article 747-1 du code de procédure civile qui exclut toute forme de contrainte.

En cas d'exécution par le tribunal requis et dans l'hypothèse où celui-ci déciderait d'auditionner la personne par vidéoconférence, le consentement de cette dernière n'est pas nécessaire.

En cas d'exécution en application du chapitre II, l'exécution doit se faire sur une base volontaire ce qui suppose donc le consentement de la personne à entendre.

Germany: The requesting court shall decide whether the agreement of the parties is needed for the use of video-link to take evidence from abroad. The German court or the foreign consular or diplomatic agents or commissioners take the evidence directly or indirectly, once decision in this matter has been made.

Korea (Republic of): Courts will hear the opinion of the parties but are not bound by the opinions.

Lithuania: In the Code of Civil Procedure there are no special provisions regarding the consent of the parties to use video-link.

Singapore: However, each request will be considered on its facts. If there is a refusal of consent, it will be a factor that has to be taken into consideration.

Slovenia: For hearing of the parties, the parties must consent to the use of videoconference.

Sweden: In general no, but if the parties do not consent it might be inappropriate depending on the situation.

Switzerland: En Suisse, le recours à la liaison vidéo est seulement envisageable sous le Chapitre II de la CLaH70 (soumis à autorisation). Il est recommandé de requérir le consentement écrit de la personne visée par la requête, d'où il ressort qu'elle collabore de son plein gré, qu'elle sait qu'elle ne peut faire l'objet d'aucune mesure de contrainte, qu'elle ne peut être obligée de participer ou de comparaître et qu'elle est en droit de se prévaloir d'une dispense ou d'une interdiction de témoigner prévue soit par le droit de l'Etat requis soit par le droit de l'Etat requérant (art. 21 CLaH 70).

United States of America: Assuming the court in the Requesting State has determined to use video-link to directly obtain the evidence, then the United States requires that the witness provide such evidence voluntarily.

Venezuela: It is the court's decision, whether or not to take such evidence through videoconferences.

**f) Are there any restrictions on the location where the person should be examined (e.g. in a courtroom, on the premises of an Embassy or diplomatic mission)?**

**Yes.** Please specify:

Belarus: The CPC Article 268, the CCP Article 170 and 176.

Brazil: The evidence can only be taken in Brazil if the request to do so is complied with by the Brazilian judicial authority. The Brazilian judicial authority shall determine the location where the person should be examined.

China (Macao SAR): Although there are no provisions specially regulating the procedures for the taking of evidence by video-

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Belarus, Brazil, China (Macao SAR), Cyprus, Czech Republic, Estonia, France, Germany, Greece, Hungary, Israel, Korea (Republic of), Latvia, Lithuania, Malta, Mexico, Portugal, Romania, Singapore and South Africa

link, the hearing should be conducted in the court. Article 522 of the CPC provides for exceptional situations of hearings, such as: i) inquiry by letters rogatory, ii) hearing at the residence or at a special venue pursuant to Article 525 of the CPC.

In accordance with Article 523 of the CPC, the hearing may take place at a specific location, by initiative of the court or by request of the Parties, whenever adequate.

Articles 482 and 528 of the CPC also state that when it is shown that the witness is unable to appear in court by reason of illness, the court may specify the location, date and time for the person to give evidence.

Cyprus: In a courtroom.

Czech Republic: The person has to be examined in a courtroom equipped for video-links.

Estonia: The person has to be examined in a court.

France: l'audition doit se dérouler dans un lieu accessible au public : tribunal, ambassade ou consulat, voire sur demande et donc autorisation spéciale, dans tout autre lieu pourvu qu'il soit librement accessible.

Germany:

Chapter I: As a rule, only a court room, or another room which is administered by members of the judiciary may be used for such a broadcast.

Chapter II: The German Central Authorities may impose conditions to this effect when permitting the taking of evidence.

Greece: In a courtroom or the premises of a diplomatic mission.

Hungary: See Part III point e).

Israel: Yes, at the Israeli judge's discretion.

Korea (Republic of): We have remote witness rooms for video links which are established in the Court building. For now the witness has to be examined in the hearing room. But for the



expert testimony the video link facilities of a view of all the parties outside of the Court building can be used in an appropriate situation.

Latvia: If Latvia is the requested state a person has to be examined in Court.

Lithuania: Paragraph 2.3 of The Resolution of the Judicial Council establishes that a requested institution organises video conference upon request of a requesting court. A requested institution may be a court, a prosecutor's office or a subsidiary of the Prison Department under the Ministry of Justice of the Republic of Lithuania. Therefore, the person via video conference should be examined on the premises of those requested institutions. According to Paragraph 7 of The Resolution of the Judicial Council, a requesting court chooses a requested institution, taking into account a location of a proceedings participant and (or) possibilities of a proceedings participant to arrive to a requested institution.

Malta: If Malta is the requested state a person has to be examined in Court.

Portugal: The general rule is that the person must be heard by videoconference in a courtroom. However, experts from official services may be heard by videoconference at their workplace. Exceptionally, in the circumstances provided for in Article 520 of the Code of Civil Procedure, the court may hear a person by videoconference who is in a place other than a court.

Romania: See the answer provided hereinabove.

Singapore: If court assistance is sought in the taking of evidence, the examination will have to take place in a courtroom.

South Africa: Taking of evidence by video link is regarded as any normal court proceedings. As in the example it has to be in court or premises of the Embassy.

<b><u>No</u></b>	[10]  China (Hong Kong SAR), Croatia, Finland, Norway, Poland, Slovenia, Switzerland, United Kingdom (England and Wales), United States of America and Venezuela
<p><i>Comments</i></p> <p><u>Australia:</u> This depends on each State and Territory:</p> <ul style="list-style-type: none"> <li>• <u>NSW:</u> A witness located in NSW cannot be compelled by any NSW court to give evidence directly to a foreign tribunal by video-link.</li> <li>• <u>WA:</u> In relation to evidence taken by video-link pursuant to section 117 of the <i>Evidence Act 1906</i> (WA) - no. In relation to evidence taken by video-link for proceedings in "WA courts", pursuant to section 121 of the <i>Evidence Act 1906</i> (WA), the applicant's obligations are listed at Part III (e) above.</li> <li>• <u>QLD:</u> Yes – Courtroom.</li> <li>• <u>TAS:</u> No.</li> <li>• <u>VIC:</u> Yes – however it will depend on the facilities available in the Supreme Court and will usually be required to be in a Courtroom.</li> </ul> <p><u>Bulgaria:</u> A video-hearing should be done in a hearing room, situated in a building of the competent court.</p> <p><u>Croatia:</u> As a rule, the hearing is conducted in court, but no special restrictions are imposed on the place where the person is to be heard through the video-link.</p> <p><u>Finland:</u> In Finland, the video hearings are organized in the courts.</p> <p><u>Norway:</u> This will be decided by the Norwegian Court that receives the request.</p> <p><u>Poland:</u> Conf. Art. 151 § 2 of the Civil Proceedings Code.</p> <p><u>Slovenia:</u> Article 114a of the CPC provides that the transfer of sound and image is provided from the place where the procedural act is performed to the place where parties and their attorneys are located and vice versa; only district courts in Slovenia have facilities to perform videoconferences.</p> <p><u>Sweden:</u> It is a requirement that the hearing is held in accordance with applicable law and international agreements.</p> <p><u>Switzerland:</u> Pas d'exigences générales. Des restrictions ou conditions peuvent être octroyés dans l'autorisation sous le Chapitre II (art. 19 CLaH70).</p> <p><u>United States of America:</u> A voluntary witness in the United States can provide evidence in any location agreed upon by the parties.</p>	

<p><u>Venezuela</u>: There are no specific limitations, however, the evidence presented by the courts, must be practiced at its offices (Article 191 of the Code of Civil Procedure), or in the place enabled for videoconferencing. Embassies or diplomatic missions may conduct videoconferences at their offices, if they have the appropriate technological platform.</p>	
<p><b>g) Can a witness / expert be compelled to use video-links to give evidence?</b></p>	
<p><b><u>Yes</u></b>. If so, please specify what coercive measures may be used</p> <p><u>China (Hong Kong SAR)</u>: Pursuant to Order 39 Rule 5 of the Rules of the High Court (Cap. 4A), if a witness refuses or fails to attend the examination, the Court may make an order requiring that witness to attend or to answer any question. A person who willfully disobeys such order is guilty of contempt of court.</p> <p><u>China (Macao SAR)</u>: According to Article 442 of the CPC, all persons have the duty to cooperate in the discovery of the truth. Those who fail to render due cooperation shall be punished by a fine, without prejudice to the coercive means that are legally possible. Nevertheless, the duty of cooperation shall cease when it relates to: a) violation of the physical or moral integrity of persons; b) intrusion into private life, domicile, correspondence or other means of communication; c) breach of professional secrecy or of the duty of secrecy prescribed for civil servants, or of the secrecy of the Territory.</p> <p>In this regard, Article 519 of the CPC states the circumstances under which a witness may refuse or be excused from testifying.</p> <p>Likewise, according to Article 491 of the CPC, the expert witness shall be obliged to perform with diligence the function for which he was appointed, the judge being able to punish him by a fine when he breaches the duties of cooperation with the court; furthermore, the expert witness may be dismissed by the judge if he performs the task entrusted to him negligently, namely when he does not present or make it impossible, due to inertia, to present the expert report within the prescribed period.</p> <p><u>Cyprus</u>: If he has been officially summoned by the court, then the court might compel him to appear through an arrest warrant.</p>	<p>[13]</p> <p>China (Hong Kong SAR), China (Macao SAR), Cyprus, Czech Republic, Hungary, Israel, Korea (Republic of), Lithuania, Mexico, Norway, Poland, Romania and Singapore</p>

Czech Republic: Fine, summons, bringing before a court.

Hungary: Reimbursement of costs incurred, fine, warrant.

Israel: Fines, detention/ imprisonment, habeas corpus.

Korea (Republic of): A court shall, by its ruling, impose on the witness an administrative fine by the Article 311 of the Civil Procedure Act. A court may order a compulsory appearance of the witness who has failed to appear without any justifiable reasons by the Article 312 of the Civil Procedure Act.

Lithuania: In the Code of Civil Procedure there are no special provisions regarding this issue. However, the general rules for compelling a witness or expert to participate in the proceedings apply. Article 191(1) of the Code of Civil Procedure establishes that a person summoned to witness must appear before a court and give fair evidence. A person summoned to witness shall be liable under the law for non-fulfilment of witness's duties. A court may impose a fine of up to 300 euros for the unjustified refusal to testify. Article 215(1) of the Code of Civil Procedure states that if an expert fails to appear in a court upon a summon or refuses to conduct an expertise for the reasons found by the court non-substantial, the court may impose a fine on the expert up to 300 euros.

Mexico: Through Judicial Authority.

Norway: The normal rules for evidence apply. Dispute Act Chapter 24 and 25.

Poland: Applicable only under Chapter I: arrest up to 1 week or fine up to 3000 Polish zloty for unjustified absence of witness or his or her rejection to testify (Art. 276 in connection with Art. 163 of the Civil Proceedings Code);

Applicable only under Chapter I: fine for unjustified absence, delay in producing or rejection to produce the expert opinion (Art. 287 of the Civil Proceedings Code) or file the requested document (Art. 251 of the Civil Proceedings Code).

<p><u>Romania:</u> The Court may sanction by application of a judicial fine the failure of a witness to appear or his refusal to testify. A warrant for the witness to be brought in under escort may be issued against the witness who fails to appear after having received the first summons. In case of emergencies, the court may direct that witnesses be brought in under escort even from the first hearing.</p> <p>If the party refuses to answer the questions of fails to appear, the Court may deem that such circumstances have the value of a full testimony or only as an initial element of evidence to the benefit of the one who proposed the hearing).</p> <p><u>Singapore:</u> If an order for the attendance and examination of a witness granted under Order 66 of the Rules of Court, Chapter 322, Rule 5, Revised Laws of Singapore or Division 71 of the Family Justice Rules, Act 27 of 2014, Revised Laws of Singapore is breached, committal proceedings for the contempt of court can be taken out.</p>	
<p style="text-align: center;"><b><u>No. Please explain:</u></b></p> <p><u>Croatia:</u> The CPA has no provision for a witness to be forced to use video-links to give evidence.</p> <p><u>Estonia:</u> They can refuse to give testimony if they have a legal basis for it.</p> <p><u>France:</u> L'audition directe, notamment par vidéoconférence, par le tribunal requérant sur le fondement du chapitre I ne peut avoir lieu que sur base volontaire, sans contrainte possible contre la personne à entendre aux termes de l'article 747-1 du code de procédure civile. De la même façon, l'exécution d'une demande formée en application du chapitre II doit se faire sur une base volontaire. En cas d'exécution par le tribunal français requis, les règles de droit commun s'appliquent. Dans l'hypothèse où un témoin refuserait de comparaître, il reviendrait au tribunal français requis d'en tirer les conséquences. L'article 207 du code de procédure civile prescrit notamment que « Les témoins défaillants et ceux qui, sans motif légitime, refusent de déposer</p>	<p style="text-align: center;">[14]</p> <p style="text-align: center;">Belarus, Croatia, Estonia, France, Germany, Greece, Malta, Portugal, Slovenia, South Africa, Switzerland, United Kingdom (England and Wales), United States of America and Venezuela</p>

ou de prêter serment peuvent être condamnés à une amende civile d'un maximum de 10 000 euros. Celui qui justifie n'avoir pas pu se présenter au jour fixé pourra être déchargé de l'amende et des frais de citation. »

Germany:

Chapter I: Under German law, it is presumed that witnesses are under no obligation to agree to giving evidence by video-link. If the person to be examined does not agree to the use of video-link, he or she may travel to the court on the day of the hearing instead. The general provisions shall apply to the examination.

Chapter II rules out the use of compulsion.

Malta: Before giving evidence, the witness is warned by the Court that if s/he does not feel comfortable to give evidence then s/he should inform the requesting court of such fact.

South Africa: Constitutional rights.

Slovenia: There is no legal basis to compel the witness or expert to the use of video-link.

Switzerland: Chapitre II: Les personnes collaborent de leur plein gré et ne peuvent faire l'objet d'aucune mesure de contrainte (art. 21 CLaH70). La Suisse n'a pas fait de déclaration conformément à l'art. 18 CLaH70 et l'assistance par voie de contrainte ne peut pas être obtenue.

United Kingdom (England and Wales): See IV (e) above).

United States of America: A request for the direct taking of evidence by video-link under Chapter I of the Convention will not be executed by the United States Central Authority as it is not asking the United States to obtain the evidence in conformance with its own domestic laws. A witness can be compelled to provide evidence under Chapter I, but it will be a United States Government Attorney who will obtain the testimony by directly asking the witness the questions provided by the foreign court. A witness should be voluntary when providing evidence by video-link directly to a foreign court under Chapter II. Although U.S.

procedure allows an interested party to file a 28 U.S.C. § 1782(a) motion to request that a U.S. district court issue an order to compel a witness to provide evidence in aid of a foreign proceeding, it is unlikely a U.S. court will compel a witness to directly provide evidence by video-link to a foreign court.

Venezuela: There are no special rules in this matter. However, if a witness refuses to appear, he may be subject to a fine (Article 94 of the Code of Civil Procedure).

### *Comments*

Australia: This depends on each State and Territory:

- NSW: A witness located in NSW cannot be compelled by any NSW court to give evidence directly to a foreign tribunal by video-link.
- WA: Yes.
- QLD: Yes, by way of subpoena and court order. See further explanation in answer to question (h) below.
- TAS: No.
- VIC: The Court can compel a witness (section 59F (2) of the *Evidence Act 1929* (SA) and has the same powers in relation to the taking of evidence as the requesting Foreign Court. Note also that a witness cannot be compelled to give evidence if he or she could not be compelled in the originating foreign court.

Belarus: The CPC Articles 93, 94, 98, 196 and the CCP Articles 72, 179.

Bulgaria: The national legislation does not provide specific rules on taking of evidence by video-link in the field of civil or commercial matters.

Croatia: However, if a witness who has been orderly summoned fails to appear, and he or she does not excuse his or her failure to appear or without permission or any justified reason leaves the place where he or she is to be heard, the court may order for him or her to be forcibly brought back and to pay the costs that arise from this, and may impose a monetary fine of from 500.00 to 10,000.00 kunas (Article 248.CPA).

Hungary: In case of Chapter II use of coercive measures is not allowed – see Hungary’s declaration in relation to Article 18.

Latvia: According to Art 704 of the Civil Procedure Law in executing a request of a foreign country for taking of evidence a court shall ascertain whether the obstacles indicated in Section 106 of this Law exist, as well as explain the witnesses their right of refusal to testify in the cases provided for in Section 107 of this Law. In executing a request of a foreign country for taking of evidence a court shall, in accordance with Hague Convention 1970, explain the witnesses their right of refusal to testify also in accordance with the law of the country submitting the request.

Sweden: There are no specific rules or regulations in place governing the obligations of a witness or expert to give evidence by video-link. The normal rules for evidence apply.

**h) Please briefly outline the procedure/s, under Chapter I and Chapter II, for actually notifying or summoning the witness / expert to give evidence by video-link, including any references to relevant laws, regulations or practice.**

*Please also include, where applicable, the differences between notifying or summoning a willing witness / expert and notifying or summoning a witness / expert that is to be compelled.*

State	Chapter I		Chapter II
<u>Australia</u>	<u>NSW</u>	A witness located in NSW cannot be compelled by any NSW court to give evidence directly to a foreign tribunal by video-link.	-
	<u>WA</u>	Subsection 117(4) of the <i>Evidence Act 1906</i> (WA) allows the Court to make an order requiring any particular steps to be taken if those steps can be required to be taken in obtaining evidence in Supreme Court proceedings. The Court may therefore by subpoena/order, order a person to attend to give evidence as directed by the subpoena/order. The subpoena/ order must specify the date, time and place for attendance. If the witness/expert is in Western Australia, the subpoena/order must be served personally on the addressee. <sup>5</sup> An addressee need not comply with the requirements of a subpoena/ order to attend to give evidence unless conduct money has been handed or tendered to the addressee a reasonable	

<sup>5</sup> Order 36B rules 2(1) and 3(5) of the *Rules of the Supreme Court 1971* (WA)



		<p>time before the date on which attendance is required.<sup>6</sup></p> <p>A failure to comply with a subpoena/order without lawful excuse constitutes contempt of court.<sup>7</sup> The presiding judge may then make an order directing that the contemnor be arrested and brought before the Court as soon thereafter as the business of the Court permits, or may issue a warrant for the arrest of the contemnor. Upon hearing from the contemnor, the Court may punish or discharge her or him. Punishment may constitute imprisonment, a fine, or both.<sup>8</sup></p> <p>In practice, the situation has never arisen where someone has not turned up for an examination. There have only been two cases over the last 25 years where the witnesses said they were not going to appear, but once they were advised that if they did not respond to the Court Order and appear as directed, then they could be arrested and brought before the Court. When they were advised of this, they agreed to willingly attend and give their evidence.</p>	
	<u>QLD</u>	<p>Chapter 1 - Under rule 414 of the <i>Uniform Civil Procedure Rules 1999</i> (Qld), a party can file a request for a subpoena in a Queensland Proceeding to compel a person to attend court to give evidence or produce documents. If issued by the Court, the witness must attend Court on the date and</p>	

<sup>6</sup> Order 36B rule 6(1). (Note: it is not normal practice to hand over any conduct money for these matters) *Rules of the Supreme Court 1971* (WA).

<sup>7</sup> Order 36B rule 12(1) *Rules of the Supreme Court 1971* (WA).

<sup>8</sup> Order 55 *Rules of the Supreme Court 1971* (WA).

		time specified in the subpoena. Prior to the hearing, an application under Rule 392 must be made seeking leave of the Court for the witness to give evidence by video-link.	
	<u>VIC</u>	Pursuant to Court Order – Section 42 E (1) of the <i>Evidence (Miscellaneous Provisions) Act 1958</i> (VIC).	
<u>Belarus</u>	<p>Witnesses and experts are sent summons/notices to appear before court.</p> <p>Notices are sent by means of registered mail with return receipt, telephone message or telegram, SMS, by facsimile, Internet including e-mail, and other communication means that enable summons or notices registering.</p> <p>If a witness failed to appear in court he may be forced to do it except for some categories (minors, pregnant women, temporarily disabled).</p>		-
<u>Bulgaria</u>	<i>Comment:</i> The national legislation does not provide specific rules on taking of evidence by video-link in the field of civil or commercial matters.		
<u>China (Hong Kong SAR)</u>	Pursuant to Order 70 Rules 2 and 3 of the Rules of the High Court, the local agent (or Law Officer (International Law) where no local agent is appointed) shall apply to the Court of First Instance for an order summoning the witness to attend the examination by video link. The witness summons will then be served on the witness. There is no difference between summoning a willing witness or summoning a witness that is to be compelled.		N/A

<u>China (Macao SAR)</u>	According to Article 204 of the CPC, the notices intended to summon witnesses or expert witnesses shall be sent by post, under registration, indicating the date, place and purpose of the appearance.	-
<u>Croatia</u>	<p>There are no provisions in CPA that regulate giving evidence by video-link. Witnesses shall be summoned by service of a written summons containing the surname and name and occupation of the person summoned, the time and place of attendance, the matter in connection with which he or she is being summoned and an indication that he or she is being summoned as a witness. In the summons the witness shall be cautioned about the consequences of unjustified failure to appear (Article 248. CPA) and the right to repayment of expenses (Article 249. CPA).</p> <p>Witnesses who due to old age, illness or severe physical impairments are unable to consent to the summons shall be heard in their own home (Article 242. /2. CPA).</p>	There are no provisions in CPA that regulate giving evidence by video-link. Witnesses shall be summoned by service of a written summons containing the surname and name and occupation of the person summoned, the time and place of attendance, the matter in connection with which he or she is being summoned and an indication that he or she is being summoned as a witness. In the summons the witness shall be cautioned about the consequences of unjustified failure to appear (Article 248. CPA) and the right to repayment of expenses (Article 249. CPA). Witnesses who due to old age, illness or severe physical impairments are unable to consent to the summons shall be heard in their own home (Article 242. /2. CPA).
<u>Cyprus</u>	The Central Authority forwards the request to the appropriate court, which officially summons the witness in writing by informing him of the nature of the case and date and time that he should attend court.	-
<u>Czech Republic</u>	As soon as the Central Authority receives a request for taking of evidence, it will send an application asking the court to collect the necessary evidence. Once the evidence is collected, it will be forwarded to the Central Authority which will in turn send to the requesting Central Authority.	-

	<p>Differences between notifying or summoning a willing witness / expert and notifying or summoning a witness / expert that is to be compelled:</p> <p>The difference is rather two stages of one process.</p> <p>1) There is a general possibility to summon witness/expert to the court – this must always take place. The court summons a person in paper, in electronic form, per telefax or telephone or even orally during the oral hearing. The summons shall include information that if the person does not appear, the court can order bringing such a person before the court.</p> <p>2) If the witness/expert does not come to the court without any excuse, the presiding judge can have the person brought before the court. This stage can only take place in cases the summoned person does not appear before the court and at the same time does not provide a court with any excuse. The bringing before the court is carried out by Police of the Czech Republic.</p>	
<u>Estonia</u>	<p>The court summons a witness to a court session and serves a summons on him or her (§ 252 of Code of Civil Procedure). The interval between the date of service of summonses and the date of the court session shall be at least ten days (§ 343 (2) of Code of Civil Procedure). There are no specific rules for notifying or summoning the witness / expert to give evidence by video-link.</p>	No practice available.
<u>Finland</u>	<p>Usually, the Finnish court sends an invitation to the witness to give evidence in the court.</p> <p>The national rules on summoning the witnesses are regulated in Chapter 17 of the Code of the Judicial Procedure.</p>	-

<p><u>France</u></p>	<p>En cas de demande d'exécution directe par vidéoconférence, il appartiendra à la seule juridiction requérante de convoquer elle-même le témoin à entendre.</p> <p>En cas d'exécution indirecte, c'est-à-dire par la juridiction française territorialement compétente, la convocation de la personne à entendre relèvera de la seule compétence de cette juridiction conformément au droit français. En France, la convocation se fait par le service du greffe du tribunal, par lettre recommandée avec avis de réception. En cas de défaillance du témoin, le procès civil étant l'affaire des parties, il appartient à celle des parties qui y a intérêt de faire citer le témoin (par un huissier de justice).</p>	<p>Il appartient au seul commissaire ou agent diplomatique / consulaire désigné par le tribunal d'origine de convoquer la personne à entendre ; l'autorité centrale doit toutefois être tenue informée de la date et de l'heure prévue de l'audition prévue devant un commissaire, le ministère public pouvant au besoin y assister.</p>
<p><u>Germany</u></p>	<p>The competent court summons the witnesses and experts by means of a simple letter (Sec. 377 ZPO), unless the requested court determines that a particular type of service must be used. The persons to be connected by video-link shall be summoned to the location from which the video is to be transmitted. The summons must include the designation of the parties, the subject matter of the examination, the time and place of the hearing as well as the potential sanction in the case of failure to appear. As a rule, a summons period is not provided for by law.</p>	<p>In the event of the direct taking of evidence under Article 15, 16 or 17 of the Convention, summons may have to be carried out under the supervision of the German court with competence for mutual legal assistance and in consideration of Article 21(b) and (c) of the Convention.</p>
<p><u>Hungary</u></p>	<p>As requests covered by this Chapter concern indirect taking of evidence, Hungarian law applies in which there are no specific rules for such cases, only the location where the person must appear can be different than usual.</p> <p>The summons must contain the following information:</p>	<p>In case the request aims at direct taking of evidence by the requesting court, we apply Chapter II. All kinds of methods listed in Articles 15 to 17 require permission by the Ministry of Justice. One of the conditions we usually lay down is that a Hungarian court must assist which court then applies rules of Hungarian law. As coercive measures cannot be applied the part of the summons relating to</p>

	<ul style="list-style-type: none"> <li>- name of court, case number</li> <li>- name and litigation position of the parties</li> <li>- subject matter of the litigation</li> <li>- date, time and venue of the hearing</li> <li>- legal consequences of non-appearance</li> <li>- in case of a witness, the circumstances on which his/her testimony is needed.</li> </ul>	legal consequences of non-appearance refers to the voluntary nature of the person's participation.
<u>Israel</u>	The witness receives an invitation from the court Secretariat, in accordance with Civil Procedure Regulations (1984) 474 and 475.	N/A, see answer in part 1(d) above.
<u>Latvia</u>	As soon as the Central Authority receives a request for taking of evidence, it will file an application asking the court to collect the necessary evidence. The request will be attached together with the application. Once the evidence is collected, the evidence will be transcribed, forwarded to the Central Authority which will in turn send to the requesting Central Authority.	-
<u>Lithuania</u>	The general rules for notifying or summoning a witness or expert to give testimony apply. According to Article 133(1) of the Code of Civil Procedure, the witnesses and experts shall be called to a court by summons. Article 134 of the Code of Civil Procedure states that the following must be indicated in a summons: 1) the name of the addressee; 2) the name, composition, and precise address of the court; 3) the place and time of the court session or the performance of an individual procedural action; 4) the name of the case, to which he is being summoned; 5) procedural status of the person summoned; 6) a recommendation to the parties to the proceeding that they submit all the evidence they possess, on which their claims or replications are based; 7) that the person, who accepts the summons in the absence of the addressee, must deliver it to the addressee at the	No practice and particular procedure available. Usually legal representative appointed in the requested state notifies the address. Additionally, the Ministry of Justice informs the witnesses/experts about the time and place of the taking of evidence, and other conditions described in the Ministry's permission which is necessary under Chapter II.

	first possibility; 8) consequences of not appearing; 9) information that a court during preliminary court session has a right to begin an oral hearing and to end hearing of the case on the merits.	
<u>Malta</u>	As soon as the Central Authority receives a request for taking of evidence, it will file an application asking the court to collect the necessary evidence. The request will be attached together with the application. The court can decide to hear the evidence itself or it can appoint a judicial assistance to hear the evidence on the court's behalf. Once the evidence is collected, the evidence will be transcribed, forwarded to the Central Authority which will in turn send to the requesting Central Authority.	-
<u>Mexico</u>	<i>Comment:</i> Depends on the place where the evidence is required.	
<u>Norway</u>	<p>The national rules on summoning witnesses apply.</p> <p>In accordance with the Act relating to the Courts of Justice of 13 August 1915 no.5 (Court of Justice Act) Section 46, the request shall be carried out in accordance with Norwegian law. Notification of the parties shall not be necessary, unless such notification has been expressly demanded. If a special form for procedure is expressly requested, the request shall be complied with insofar as possible, provided that it is not prohibited under Norwegian law.</p> <p>The provisions in the Dispute Act, chapter 27 is also applicable. According to section 27-3, evidence shall be taken in accordance with the general provisions that apply to the relevant type of evidence as far as they are appropriate. Normally, the competent Court will summon the witness, and this summons shall be formally served, cf. the Dispute Act,</p>	There are no specific rules or regulations regarding chapter II of the Convention. Norway has made the following declaration to article 15 of the Convention: evidence can be taken by diplomatic officers or consular agents only if, upon application, prior permission to that effect has been granted. Such prior permission is given by the Norwegian Central Authority. Article 19 and 20 in the Convention will apply.

	<p>section 13-3 (1). The summons shall state the case and the purpose of the court hearing, and give the party such details as are necessary to comply with the duty to attend. The summons shall include brief details of any provisions on compensation for attendance and on the liability for non-attendance, cf. section 13-3 (3), cf. section 13-2 (4).</p> <p>A summons to a witness who is entitled to refuse to testify about the issues that are being examined may include a notice that attendance is unnecessary if the witness is determined to refuse to testify. If the witness gives notice sufficiently far in advance of the court hearing that he will refuse to give evidence, the summons shall be withdrawn if the refusal is found to be justified, cf. section 24-3 (2).</p>	
<u>Poland</u>	<p>Pursuant to Art. 149 § 2 of the Civil Proceedings Code, the summoned witness or expert should be notified of the hearing at least 1 week prior to the hearing. In urgent cases, this term may be shortened to 3 days advance. He or she is being notified of the rights and duties, including seeking reimbursement of lost income and travel costs as well fines for non-compliance (Art. 262 of the Civil Proceedings Code).</p>	-
<u>Portugal</u>	<p>When the Portuguese Central Authority receives a request for taking of evidence by videoconference, an application will be sent to the competent Requested Court asking for the said evidence, where the videoconference will take place. Once this has been done, the Requesting and Requested courts must agree with each other directly on the dates for conducting first the test and then the videoconference hearing.</p>	-



<p><u>Romania</u></p>	<p>According to art. 311 of the Code of Civil Procedure, when the Court approved that testimonial evidence be taken, it will order that witnesses be summoned and heard. Procedure applicable for fixing the hearing and for notifying the person to be heard of the date and venue thereof. The time interval that should be granted when the date of the hearing is established making it possible for the respective person to be notified in due time is at least 1 month – 3 months.</p> <p>The law applied in this case is Law No. 189/2003 on the legal assistance in civil and commercial matter, namely the provisions of art. 25, paragraph 3. The Romanian court shall inform the requesting judicial authority on the date and place where the letter rogatory is to be achieved. In accordance with the provisions of art. 261, paragraph 4 of the New Code of civil procedure, the Court entrusted by letter rogatory shall proceed to evidence taking in the presence of the parties or even in their absence, if they had been duly summoned, having the same competences as the court to which the case was referred as regards the proceedings to be followed.</p> <p>However, considering the existence of the procedures in the relationships with foreign legal institutions (notification procedure within the procedure of evidence –taking, we believe that the minimum term to be granted should be, in practice, of 1-3 months, within the margins of those prescribed for:</p> <ul style="list-style-type: none"> <li>- the completion of notification requests prescribed by the applicable EU Instrument (EC) Regulation No. 1393/2007 of the European Parliament and of the Council of November 13th, 2007 on the on the notification of judicial and extrajudicial documents in civil matters () or international (Hague</li> </ul>	<p>-</p>
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	<p>conventions or bilateral treaties), respectively to include at least a 1-3 month period necessary for the notification request to be completed effectively or for the notification by registered letter with confirmation of receipt.</p> <p>- the obligations of the requesting court to comply with the requests of the requested court as regards the provision of additional information or the payment of the down payment/deposit etc. Stipulated by the (EC) Regulation No. 1206/2001 of May 28th, 2001 on the cooperation between courts of member states in taking evidence in civil or commercial matters.</p> <p>The reasons would be those concerning the time to be allotted for any possible translations to be made of the correspondence with the requested court or with the witness, as well as the mailing time needed for the expedition abroad, the large amount of files, and, last but not least, the timetable of scheduled videoconferences.</p> <p>The procedures followed in summoning witnesses, experts, translators, interpreters or any other participants in the trial, as well as, when necessary, the notification of procedural acts addresses to any of the aforementioned persons shall be conducted in accordance with the common law provisions (art. 173 of the Code of civil procedure).</p> <p>Last but not least, according to art. 312 of the Code of civil procedure, it is possible for witnesses to be heard on the very day when this means of evidence was approved. On the date fixed for the evidence to be taken, the party may bring the witnesses approved even if such witnesses have not been summoned officially. If a party undertakes the obligation to present the witness on the date of the trial without being summoned, but for reasons he is</p>	
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	responsible for he fails to fulfil this obligation, the court shall order that the witness be summoned for a new hearing.	
<u>Singapore</u>	<p>The same procedures for notifying or summoning a witness applies, whether or not the evidence is given via video-link.</p> <p>Order 38 of the Rules of Court, Chapter 322, Rule 5, Revised Laws of Singapore and Division 33 of the Family Justice Rules, Act 27 of 2014, Revised Laws of Singapore provide generally on the procedure for the calling of witnesses.</p> <p>See also Order 66 of the Rules of Court, Chapter 322, Rule 5, Revised Laws of Singapore and Division 71 of the Family Justice Rules, Act 27 of 2014, Revised Laws of Singapore.</p>	Not applicable. We have declared that the whole of Chapter II shall not apply to the Republic of Singapore.
<u>Slovenia</u>	<p><i>Comments:</i> Witnesses shall be summoned invited by a writ of summons indicating: their name and surname, their occupation, the time and place of appearance, the matter in respect of which they are summoned, and the fact that they are being summoned as witnesses. The summons shall also state a warning as to the consequences of unjustified non-appearance (Article 241), and the right to refunding of costs (Article 242).</p> <p>Those witnesses who are prevented from complying with the summons due to their age, sickness or grave physical handicaps may be examined at the place of their residence. Witnesses shall be examined separately and in the absence of other witnesses who shall be examined subsequently. A witness shall be bound to give oral evidence.</p>	
<u>South Africa</u>	Section 40(2) of the Superior Courts Acts provides that whenever a request for the service on a person in the Republic on any civil process or citation received from any state or territory or court outside the Republic, is transmitted to the registrar of a Division by the Director-General of the Department, together with translation in English if the original is in another language, and an intimation that the Minister considers it desirable that effect should be given thereto, the Registrar must cause service of the said process or citation to be effected in	Same

	accordance with the rules by the sheriff or a deputy sheriff or any person specially appointed thereto by a judge of the court concern.	
<u>Sweden</u>	<i>Comment:</i> There are no specific rules or procedures for notifying or summoning a witness or expert to give evidence by video-link. The same procedures apply as when video-link is not used.	
<u>Switzerland</u>	En Suisse, le recours à la liaison vidéo n'est pas envisageable sous le Chapitre I de la CLaH70.	La convocation ou la citation est régie par l'art. 21 CLaH70. De plus, des restrictions ou conditions peuvent être octroyés dans l'autorisation (art. 19 CLaH70).
<u>United States of America</u>	The direct taking of evidence by video-link by a foreign court is not permissible under Chapter I. If a formal Letter of Request is submitted to the United States Central Authority and the witness refuses to voluntarily provide the evidence requested, a 28 U.S.C. § 1782(a) motion can be filed by a United States Government Attorney in U.S. district court to compel the witness to provide the evidence through a deposition or written interrogatories. Notification and summoning of the witness are done in conformance with Rule 45 of the Federal Rules of Civil Procedure.	Notification and summoning of a voluntary witness are done by the Requesting Authority or parties to the litigation.
<u>United Kingdom (England and Wales)</u>	Civil Procedure Rule 32.3 requires the permission of the court to be obtained. An order of the court is obtained by submitting a letter of request by use of the Model Form Evidence (Proceedings in other Jurisdictions) Act 1975 Section 2 permits the court to make an order for oral testimony provided such an order can be made by our court. The order is served on the witness either by use of court bailiffs or by instruction of private process servers by the requesting party or their agents in England & Wales. The order expressly states that the witness must consent to give evidence by video link.	Contact is usually made from the responsible representatives of the court directly to the parties concerned.

<u>Venezuela</u>	After receiving the letter rogatory by the Central Authority, the competent court, by means of a decree, orders the notification or summons, according to the ordinary rules (Art. 218 and subsequent, of the Venezuelan Code of Civil Procedure), expressly stating that the evidence will be presented through videoconference (Articles 857 and 395 of the Venezuelan Code of Civil Procedure). Once the date and time of the hearing at which the evidence will be presented by videoconference is established, the Central Authority shall be notified in order to inform the requesting State (see, for example, Art. 5 Venezuelan Approving Act Additional Protocol to the Inter-American Convention on the Taking of Evidence Abroad).	The Law of the official submitting the evidence applies, if it does not affect public order of Venezuela.
<b>i) The law of which State governs the use of privileges?</b> <i>See Articles 11 and 21(e) of the Convention</i>		
Chapter I	The law of the Requesting State.	<p>[13]</p> <p>China (Hong Kong SAR), Estonia, Finland, Germany, Hungary, Korea (Republic of), Norway, Poland, Romania, Singapore, Slovenia, United Kingdom (England and Wales) and Venezuela</p>
	The law of the Requested State.	<p>[25]</p> <p>Belarus, Brazil, China (Hong Kong SAR), China (Macao SAR), Croatia, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Korea (Republic of), Lithuania, Mexico, Norway, Poland, Portugal, Romania, Singapore, Slovenia, South Africa, United Kingdom (England and Wales), United States of America and Venezuela</p>
	The law of another state. Please specify:	<p>[2]</p> <p>Estonia and Hungary</p>

	<u>Estonia</u> : A person may refuse to participate in the taking of evidence or process operation, in case he has the right or commitment to it in accordance with the laws of his home State.	
Chapter II	The law of the State of Origin.	[12]  Estonia, Finland, France, Germany, Hungary, Lithuania, Norway, Portugal, Slovenia, Switzerland, United Kingdom (England and Wales) and Venezuela
	The law of the State of Execution.	[13]  Estonia, Finland, France, Germany, Greece, Hungary, Norway, Mexico, Slovenia, Switzerland, United Kingdom (England and Wales), United States of America and Venezuela
	The law of another State. Please specify:	
<p><i>Comments</i></p> <p><u>Australia</u>: Australia has not made any specific declarations regarding the use of privileges, however the following Australian States have responded to this question:</p> <ul style="list-style-type: none"> <li>• <u>NSW</u>: A witness located in NSW cannot be compelled by any NSW court to give evidence directly to a foreign tribunal by video-link.</li> <li>• <u>WA</u>: Law of the requested State, as provided for in section 118 of the <i>Evidence Act 1906</i> (WA). However, this section gives effect to privileges in similar proceedings in the place in which the requesting court exercises jurisdiction.<sup>9</sup> Section 118 of the <i>Evidence Act 1906</i> (WA) sets out the procedure for determining claims for privilege and contemplates evidence being withheld from the requesting court unless that court, on the matter being referred to it, dismisses the claim.<sup>10</sup></li> <li>• <u>QLD</u>: Chapter I – The law of the Requesting State and the law of the Requested State.</li> <li>• <u>TAS</u>: Part 2 <i>Evidence on Commission Act 2001</i> (TAS) deals with privilege. Section 6 provides that a person may not be compelled in (a) similar proceedings in Tasmania or (b) in similar proceeding in the place in which the requesting court exercises jurisdiction.</li> <li>• <u>SA</u>: The South Australian Court does have some power to allow the witness to decline answering some questions – section 59F (6) of the <i>Evidence Act 1929</i> (SA) but ultimately it would be for the Court.</li> <li>• <u>VIC</u>: The law of the Requesting State and the law of the Requested State, however it will also depend on any rights preserved in the Letter of Request by the Requesting State.</li> </ul>		

<sup>9</sup> Section 118(1) (b) of the *Evidence Act 1906* (WA).

<sup>10</sup> Section 118(3) of the *Evidence Act 1906* (WA).

Brazil: If any privilege under the law of the requesting State is invoked, it is to be decided by the Brazilian judicial authority. Generally, the evidence can still be taken and the information about the alleged privilege is informed to the foreign authority. CHAPTER II IS NOT APPLICABLE.

Bulgaria: The Republic of Bulgaria has submitted declaration on Article 11, para 2. As far as there is no specific regulation under the national legislation, the court should decide depending on the relevant case.

China (Macao SAR): Not applicable/ no comments.

Czech Republic: If any privilege under the law of the requesting State is invoked, it is to be decided by the Czech judicial authority.

Hungary: For Chapter I Article 11 applies. For Chapter II probably the application of both legal systems concerned would be set as a condition of permission, in addition to the voluntary nature.

Israel: This issue is not regulated by Israeli law, but we would assume that the requesting state's laws will be applied by the court.

Poland: Not applicable - pursuant to the reservation authorized by Article 33, Poland applies only Art. 15.

Sweden: Sweden has made no declaration to Art. 11.

Switzerland: En Suisse, le recours à la liaison vidéo n'est pas envisageable sous le Chapitre I de la CLaH70.

Conformément à l'art. 21 let. e CLaH70. La Suisse n'a pas fait de déclaration sous l'art. 11 al. 2 CLaH70.

United Kingdom (England and Wales): S.3 (1) Evidence (Proceedings in Other Jurisdictions) Act 1975 permits a witness to claim privilege from giving any evidence which he could not be compelled to give on any ground recognised under the law of England or under the law of the requesting court.

United States of America: The parties may stipulate to the laws that apply to arrangements made under Chapter II.

Venezuela: See Art. 12 Venezuelan Approving Act Inter-American Convention on Letters Rogatory.

PART V – USE OF VIDEO-LINKS UNDER CHAPTER I (LETTERS OF REQUEST) – LEGAL CONSIDERATIONS	
Legal Obstacles	
a) Does your State consider that there are legal obstacles to using video-link to assist in the taking of evidence under Chapter I of the Convention?	
<p><b><u>Yes.</u></b> Please specify:</p> <p><u>Bulgaria:</u> As mentioned above, the main obstacle is the lack of national legislation regulating these matters in details. Moreover, only some specific courts have at their disposal the necessary technical equipment and facilities to take evidence by video-link.</p> <p><u>France:</u> Le chapitre I de la Convention n'autorise pas, en lui-même, le tribunal requérant à exécuter directement la mesure d'instruction qu'il sollicite. Il permet uniquement à ce tribunal de demander la possibilité d'assister à l'exécution de la mesure par le tribunal requis, ce qui peut dans ce cas se faire par vidéoconférence. Ce n'est que dans l'hypothèse où, conformément à l'article 27, le droit de l'Etat requis le permettrait qu'une exécution directe peut être demandée, notamment par vidéoconférence en application du chapitre I.</p> <p><u>United States of America:</u> The United States Central Authority does not permit the direct taking of evidence by video-link by a foreign court under Chapter I of the Convention.</p>	<p>[3]</p> <p>Bulgaria, France and United States of America</p>
<p><b><u>No</u></b></p>	<p>[29]</p> <p>Belarus, Brazil, China (Hong Kong SAR), China (Macao SAR), Croatia, Cyprus, Czech Republic, Estonia, Finland, Germany, Greece, Hungary, Israel, Korea (Republic of), Latvia, Lithuania, Malta, Mexico, Norway, Poland, Portugal, Romania, Singapore, Slovenia, South Africa, Sweden, Switzerland, United Kingdom (England and Wales) and Venezuela</p>



*Comments*

Australia: The Special Commission has noted that the use of video-link and similar technologies is consistent with the current framework of the Convention. In addition, the following Australia States have responded to this question:

- NSW: Yes - See answer to questions in Part II (a) and (b) above.
- WA: No.
- QLD: No - However, please refer to comments made above that the use of video-link to receive evidence is subject to the discretion of the Court.
- TAS: No - Subject to relevant Supreme Court order - note *Supreme Court Rules 2000* Part 39 deals with procedure, examiner and manner of taking examination etc.
- VIC: Yes – A Court Order would need to be obtained.

Germany: As a rule, there are no legal obstacles to this.

Lithuania: But there is not that much practice by now.

Portugal: See answer on part II – b).

Sweden: Not in general. A decision to use video-link must however be made on a case-by-case basis.

Switzerland: En Suisse, le recours à la liaison vidéo n'est pas envisageable sous le Chapitre I de la CLaH70.

United Kingdom (England and Wales): Subject to the condition that the witness cannot be compelled to give evidence by video-link.

Direct and Indirect Taking of Evidence	
<b>b) Under Chapter I of the Convention, does your State allow for the direct taking of evidence by judicial personnel of the <i>requesting</i> State (i.e., the State in which the proceedings are pending)?</b>	
<b><u>Yes</u></b>	[16] China (Hong Kong SAR), Cyprus, Estonia, Finland, France, Greece, Israel, Malta, Poland, Portugal, Romania, Singapore, Slovenia, South Africa, Sweden and United Kingdom (England and Wales)
<b><u>No</u></b>	[14]

	Belarus, Brazil, China (Macao SAR), Croatia, Czech Republic, Germany, Hungary, Korea (Republic of), Latvia, Lithuania, Mexico, Switzerland, United States of America and Venezuela
<p><i>Comments</i></p> <p><u>Australia:</u> Australia has made a declaration that members of the judicial personnel of the requesting authority of another Contracting State may be present at the execution of a Letter of Request, subject to prior authorization by the judicial authority executing the Letter of Request. In addition, the following Australia States have responded to this question:</p> <ul style="list-style-type: none"> <li>• <u>NSW:</u> No - See answer to questions in Part II (a) and (b) above.</li> <li>• <u>WA:</u> Yes. Order 39, Rule 3 of the <i>Rules of the Supreme Court 1971</i> (WA) explicitly contemplates that, in making an order for evidence to be obtained in Western Australia under Section 117 of the Act, the Court may order “any fit and proper person nominated by the applicant, or any officer of the Court, or such other qualified person as the Court seems fit, to obtain the evidence”. Judicial personnel of the requesting State are capable of falling within this description.</li> <li>• <u>QLD:</u> No - The requirements under the <i>Evidence Act 1977</i> (Qld) allow only for lawyers of Queensland to obtain an order for evidence to be taken to give effect to a foreign request. The order requires the witness to attend a local court for the evidence to be taken by a lawyer before a local Magistrate.</li> <li>• <u>VIC:</u> No.</li> </ul> <p><u>Brazil:</u> The questions are asked by the Brazilian authority. The Requesting Authority may participate and ask questions to be considered by the Brazilian authority, who will decide which ones and how to ask them.</p> <p><u>Bulgaria:</u> The national legislation does not provide specific rules on taking of evidence by video-link in the field of civil or commercial matters.</p> <p><u>China (Hong Kong SAR):</u> Under Order 70 rule 4, Rules of High Court, court may order examination to be taken before any fit and proper person or before such other qualified person as to the court seems fit.</p> <p><u>China (Macao SAR):</u> Only indirect taking of evidence is allowed under the Macao SAR law.</p> <p><u>Croatia:</u> In accordance with Article 8 of the Convention, the Republic of Croatia states that the judicial staff of the requesting State may attend the execution of the request with the prior approval of the Ministry of Justice of the Republic of Croatia.</p> <p><u>Cyprus:</u> A judge of the requesting state might take evidence directly.</p> <p><u>Czech Republic:</u> Taking of evidence (e.g. examination of a witness/expert) is allowed to the judge only.</p> <p><u>France:</u> Cette possibilité est désormais prévue, sous certaines conditions, par les nouveaux articles 747-1 et 747-2 du code de procédure civile, tels qu'introduits par le décret 2017-892 du 6 mai 2017. L'exécution directe n'est possible que pour les auditions de témoins. L'autorisation préalable de l'autorité centrale française est nécessaire.</p>	

<p><u>Germany</u>: Germany only allows for the indirect taking of evidence if done via a German court.</p> <p><u>Korea (Republic of)</u>: Judicial personnel of the requesting State may participate in the process.</p> <p><u>Lithuania</u>: Unless the prior permission of the Ministry of Justice is obtained.</p> <p><u>Mexico</u>: Via the Mexican Judicial Authority.</p> <p><u>Norway</u>: Letters of request to the Central Authority is required.</p> <p><u>Poland</u>: Permission of the Polish Ministry of Justice is required.</p> <p><u>Romania</u>: See the answer from II a) hereinabove.</p> <p><u>Sweden</u>: Under certain circumstances in accordance with national law and international agreements.</p> <p><u>Switzerland</u>: En Suisse, le recours à la liaison vidéo n'est pas envisageable sous le Chapitre I de la CLaH70. Le juge suisse resterait maître de la procédure ; il serait la seule personne à pouvoir ordonner des mesures de contrainte.</p>	
<p><b>c) Under which provisions of Chapter I of the Convention is indirect taking of evidence by video-link possible in your State?</b></p>	
<p>Art. 9(1) – The judicial authority of the requested State obtains evidence (e.g., a witness / expert examination) which is located in a (distant) location within its own State.</p>	<p>[13]</p> <p>China (Hong Kong SAR), Cyprus, Czech Republic, Greece, Latvia, Malta, Poland, Singapore, Slovenia, South Africa, Sweden, United States of America and Venezuela</p>
<p>Art. 9(2) - As a special method or procedure. Please also outline whether any specific conditions must be satisfied.</p> <p><u>China (Macao SAR)</u>: There are no provisions specially regulating the taking of evidence by video-link.</p> <p><u>Mexico</u>: Every state has its own procedural law.</p>	<p>[6]</p> <p>China (Macao SAR), Hungary, Korea (Republic of), Mexico, Norway and United Kingdom (England and Wales)</p>
<p><u>Both</u></p> <p>Art. 9(2)</p>	<p>[10]</p> <p>Belarus, Brazil, Estonia, Finland, France, Germany, Israel, Lithuania, Portugal and Romania</p>

<p><u>Brazil</u>: Brazilian authorities generally provide assistance under any special method, as long as it is not prohibited by the domestic law.</p> <p><u>Germany</u>: All other requirements of the Convention must be complied with. Furthermore, the suggested type of video examination must be permitted in Germany, which is highly likely not to be the case, for example, in reference to a cross-examination by video-link.</p> <p><u>Israel</u>: The Israeli judge has discretion relating to this matter.</p> <p><u>Portugal</u>: As long as it is not incompatible with the internal law of the State of execution or is impossible of performance by reason of its internal practice and procedure or by reason of practical difficulties</p>	
<p><i>Comments</i></p> <p><u>Australia</u>: Australia has not made any Declarations in relation to Article 9 of the Evidence Convention; however the following Australia States have responded to this question:</p> <ul style="list-style-type: none"> <li>• <u>NSW</u>: The taking of evidence by a foreign tribunal by video-link from a witness located in NSW is not possible under Article 9 of the Convention.</li> <li>• <u>WA</u>: Both Art 9(1) and (2). However, to the extent any special method or procedure referred to in Art 9(2) requires the Court to order that any particular steps be taken; those steps must be capable of being required for the purposes of proceedings in the Supreme Court: subsection 117(4) of the <i>Evidence Act 1906</i> (WA).</li> </ul> <p><u>Bulgaria</u>: The national legislation does not provide specific rules on taking of evidence by video-link in the field of civil or commercial matters.</p> <p><u>Germany</u>: Two types of video-link are conceivable. On the one hand, the foreign court and the parties can receive/transmit the broadcast from abroad. On the other hand, the witnesses or experts in Germany do not have to appear at the court but can also receive/transmit the broadcast from/to there.</p> <p><u>Switzerland</u>: En Suisse, le recours à la liaison vidéo n'est pas envisageable sous le Chapitre I de la CLaH70.</p>	

### Legal Safeguards for Witness / Expert

#### **d) What are the legal safeguards in place for witnesses / experts in your State when evidence is taken by video-link under Chapter I (e.g. protective measures for the witness / expert, provision of interpretation, right to legal counsel, etc.)?**

##### Australia:

- NSW: A witness located in NSW cannot be compelled by any NSW court to give evidence directly to a foreign tribunal by video-link.
- WA: Under the *Witness Protection (Western Australia) Act 1996* (WA), the Commissioner of Police may decide to include a witness / expert in the State Witness Protection Program. If this occurs, the Commissioner must take such action as she or he considers necessary and reasonable to protect the witness's safety and welfare while also protecting the safety of police officers. Some examples of the actions this may include are listed in subsection 15(2) of the *Witness Protection (Western Australia) Act 1996* (WA). The Court may make an order anonymizing the witness/expert so that any identifying information, such as addresses, names etc. are removed from the transcript/deposition/orders etc. The public interest in open and transparent court processes should be considered before any such order is made. If a witness is a child, she or he may have near to her or him a support person while giving evidence. The court may also appoint a person it considers suitable and competent to act as a communicator for the child. See sections 106E and 106F of the *Evidence Act 1906* (WA). If a witness is declared a "special witness" under section 106R of the *Evidence Act 1906* (WA), the Court may direct that arrangements be made for a support person and/or a communicator. A witness/expert may have legal counsel present when giving evidence, but it is incumbent on the witness/expert to organize any such legal representation. The presiding judicial officer is ultimately responsible for determining whether a witness/expert requires an interpreter. However, the Court considers that, as officers of the court, lawyers have a duty to determine whether their witnesses/experts require interpreters. If an interpreter is required, the party calling the witness is responsible for any costs incurred in this regard (see below).<sup>11</sup>  
A witness/expert cannot be required to –  
a) state what documents relevant to the proceedings are or have been in the person's possession, custody or power; or  
b) produce any documents other than particular documents specified in the order and appearing to the court making the order to be, or likely to be, in the person's possession, custody or power.<sup>12</sup>
- QLD: There is a right to legal counsel and a right to an interpreter to facilitate the proceedings if the witness does not have a sufficient knowledge of the English language. An application for further protection measures can be made under the *Evidence Act 1977* (Qld) in certain circumstances, for example where the witness is a minor or would likely suffer severe emotional trauma or be intimidated and disadvantaged as a witness. See section 21A of the *Evidence Act 1977* (Qld).
- VIC: Interpreters provided and entitlement to legal representation.

Belarus: The CPC Articles 14, 95 and 189, the CCP Articles 20, 96-2.

<sup>11</sup> See Consolidated Practice Direction 9.13.

<sup>12</sup> See subsection 117(6) of the *Evidence Act 1906* (WA).

Brazil: Everybody has the right to a legal counsel in Brazil. If the person cannot pay for it, a legal counsel will be provided by the State. If a person is to be heard and needs interpretation, it will be provided. The relevant costs may be discussed with the requesting State. If a person is to be heard and needs protective measures, they will be provided accordingly.

Bulgaria: The national legislation does not provide specific rules on taking of evidence by video-link in the field of civil or commercial matters.

China (Hong Kong SAR): The general rule of privilege of witnesses shall apply. Witnesses are entitled to seek legal advice. Interpretation is provided if requested.

China (Macao SAR): The usual provisions related to the legal safeguards for witnesses and expert witnesses apply, such as provision of interpretation services, exemption from being expert witnesses or witnesses in certain circumstances, compensation for expenses and damages of witness (Articles 89, 547, 492 and 519 of the CPC) and the right to legal aid (Article 4A of Decree-law No. 21/88/M).

Croatia: The CPA does not contain a provision on this, but the person will be notified of this in the call for court hearing itself for that hearing.

Cyprus: The person to be examined presents to the court his identity card or passport and then he swears according to his faith that he will tell the court the truth. If the requesting court asks, the court will provide an interpreter. There is no need for a legal counsel to represent the witness. If protective measures are requested, these will be provided accordingly.

Czech Republic: In civil law, there are currently no special safeguards thus only general ones apply (right to an interpreter, right to a legal counsel, right to remuneration for witnesses etc.). A new amendment to the civil procedure code should introduce specific safeguards that already exist in criminal law procedure (see below). In criminal law, there are these general safeguards (including safeguards typical for criminal law such as the possibility to keep the witness in secret). On top of that, criminal procedure code contains further special safeguards regarding the video-link evidence such as right of any person to object to the quality of sound and/or picture.

Estonia: Same rules and regulations apply as when evidence is taken with the person physically present.

Finland: Chapter 17, Section 51 of the Finnish Code of Judicial Procedure (4/1734) provides for the following safeguards which however can be used under rare circumstances only:

"A party being examined as a witness, a witness or as an expert witness may be examined in the main hearing behind a screen or without the presence of a party or other person, if the court deems that this is appropriate and that such a procedure is necessary:

- (1) In order to protect the person being heard or a person related to him or her in the manner referred to in section 17, subsection 1 from a threat against life or health;
- (2) If the person being heard would otherwise not reveal what he or she knows in the matter; or
- (3) If a person disturbs or attempts to mislead the person being heard while the latter is speaking.

(2) The parties shall be reserved an opportunity to present questions to the person being heard.

(3) The Act on the Publicity of Court Proceedings in General Courts contains provisions on the hearing of a person without the presence of the public."

France: La comparution doit se faire sur une base volontaire, sans contrainte. La personne à entendre a le droit d'être accompagnée / ou représentée par son conseil, et à un service d'interprétation si nécessaire, pris en charge par les parties à la procédure pendante devant le tribunal requérant.

Germany: When evidence is taken under German law, the same legal safeguards must be in place as those for examinations conducted in person; e.g. an interpreter must be used for the taking of evidence at a German court if just one of the persons involved does not have a sufficient command of the German language. The witness is entitled to be represented by legal counsel of his own choosing. The requesting authority may apply for further measures in line with Article 9 paragraph 2 of the Convention.

Hungary: Upon request of the witness, his/her personal details, with the exception of his/her name, are only available to the judges, court staff and the public prosecutor. Interpretation is provided for the person heard if necessary and they have the right to legal counsel.

Israel: The matter is not regulated by law. So far there has not been a need for any such safeguards.

Korea (Republic of): Interpretation can be provided if it is necessary.

Latvia: In accordance with Art 704 of the Civil Procedure Law in executing a request of a foreign country for taking of evidence a court shall ascertain whether the obstacles indicated in Section 106 of this Law exist, as well as explain the witnesses their right of refusal to testify in the cases provided for in Section 107 of this Law. In executing a request of a foreign country for taking of evidence a court shall, in accordance with Hague Convention 1970, explain the witnesses their right of refusal to testify also in accordance with the law of the country submitting the request.

According to Paragraph 2 of Art 703 of the Civil Procedure Law if necessary, an interpreter shall participate in taking of evidence in Latvia or abroad, using technical means.

According to Paragraph 2 of Art 705 of the Civil Procedure Law the Ministry of Justice may request the competent authority of the foreign country to cover the costs of enforcement of request of a foreign country for taking of evidence which have incurred in accordance with Article 14(2) of Hague Convention 1970.

Lithuania: The general rules regarding rights of witnesses and experts apply. It is allowed for a witness to refuse to give evidence, in cases when witness evidence would constitute evidence against oneself, family members or close relatives. A witness may be examined in his place if he may not appear upon summoning to a court due to illness, old age, disability or other substantial reasons and a participant in proceedings, who initiated calling of the witness, may not ensure appearance of such witness to the court (Articles 191(2), 192(2) of the Code of Civil Procedure).

Article 214 of the Code of Civil Procedure establishes that an expert shall be entitled to examine the case material, participate in the hearing, give questions to parties, third persons or witnesses, and apply to the court for supplementation of the material required for

presentation of the expert opinion. An expert may refuse to produce expert opinion if the material presented to the expert is insufficient to produce the expert opinion or if the question given is beyond his qualifications or competence.

Article 11 of the Code of Civil Procedure establishes that court proceedings in the Republic of Lithuania shall be conducted in the official language. Persons, who do not speak the official language, are guaranteed the right to enjoy interpretation services. Costs of interpretation services during a court hearing shall be covered from the state budget.

Malta: The person to be examined may be requested by the Court to show his passport or identity card before giving his testimony. The witness will be notified prior to the sitting that he has to bring with him one of these documents. Furthermore, according to Article 111 of the Code of Organization and Civil Procedure 'A witness professing the Roman Catholic faith shall be sworn according to the custom of those who belong to that faith; and a witness not professing that faith shall be sworn in the manner which he considers most binding on his conscience.' Under Maltese law witnesses are not assisted by lawyers during the giving of evidence, however if the witness does not understand the language, s/he will be assisted by an interpreter.

Mexico: Legal assistance is not required for witnesses to make statements.

Norway: The same rules apply as when evidence is taken with the witness being physically present.

Poland: No specific rules for taking of evidence via video-link apply. Generally, hearing of witnesses should take place in Polish. Appearing persons have the right to request assistance of a professional lawyer. They are informed of the right to refuse testifying for reasons named in Art. 261 of the Civil Proceedings Code and the responsibility for false testimony (Art. 266). Special safeguards are guaranteed in case of hearing minor witnesses.

Portugal: Provision for interpretation.

Romania: The witness is entitled to be reimbursed travel, accommodation and meals expenses if he/she is from another town/city, as well as to compensations to cover the revenues that he would have obtained in his regular business/at his regular workplace if had not been summoned to appear as a witness, compensations that shall be determined based on his profession and on the effective duration of his absence thereof. Such financial compensations shall be covered by the party who proposed the witness and shall be determined, upon request, by the court, who shall issue an enforcement order in this respect (art. 326 of the Code of Civil Procedure). The expert has the same rights as the witness as regards the travel, accommodation and board expenses (art. 339, paragraph 3 of the Code of civil procedure).

Singapore: See section 4(5) of the Evidence (Civil Proceedings in Other Jurisdictions) Act, Chapter 98, Revised Laws of Singapore, as well as Order 66 of the Rules of Court, Chapter 322, Rule 5, Revised Laws of Singapore and Division 71 of the Family Justice Rules, Act 27 of 2014, Revised Laws of Singapore.

Slovenia: Internal rules governed by CPC apply (Art. 229-263 of the CPC): If, by giving a testimony, a person might violate his duty to keep official or military secret, he may not be examined as a witness as long as the competent authority releases him from such duty.

A witness may refuse testimony:



1. on what the party has confessed to him as their attorney;
2. on what the party or other person has confessed to him as their confessor;
3. on facts of which he has learnt as a lawyer or a doctor or in pursuance of other activity, if he is bound to protect the secrecy of what he learns in the practice of legal or medical profession or pursuing such other activity.

The stated persons shall be instructed by the presiding judge on their right to refuse testimony.

A witness may not refuse to testify on the grounds of protection of a business secret if the disclosure of certain facts is to the benefit of the public or some other person, provided that such benefit outweighs the damage caused by disclosure of the secret.

A witness may refuse to answer a particular question for justified reasons, especially if, by answering, he might expose himself, his relatives in direct line, irrespective of removals, or in lateral line up to three removals, or his spouse or extra-marital partner or an in-law up to two removals, regardless of whether the marriage has terminated or not, or his guardian or person under guardianship, or adopter or adoptee, to a serious disgrace, considerable financial loss or criminal proceedings.

A witness shall be instructed by the presiding judge on his right to refuse to answer the asked question.

On the ground of prevention of a financial loss, a witness may not refuse to testify on legal transactions which he has attended as an appointed witness; on acts concerning the matter in dispute which he has performed as a legal predecessor or representative of any of the parties; on facts relating to property relations in respect of a family community, a matrimony other form of extra-marital community; on facts relating to a birth, conclusion of a marriage and death; and such other facts as in respect of which he is bound to report of with competent authority or make a statement under special regulations.

The justifiability of reasons to withhold testimony or answers to particular questions shall be determined by the court before which the witness ought to testify. If necessary, the hearing of the parties shall be conducted before that.

A party calling a certain person as a witness shall state the facts on which such person should testify, and his name, address and occupation.

Witnesses shall be examined separately and in the absence of other witnesses who shall be examined subsequently. A witness shall be bound to give oral evidence. Prior to examination, a witness shall be advised of his duty to speak the truth and not to withhold anything, whereupon he shall be warned of the consequences of perjury. Thereafter, a witness shall be asked about his name and surname, his father's name, occupation, place of birth, age and his relationship to the parties. If a witness does not speak the language used in the proceedings, he shall be examined through an interpreter.

If a witness is deaf, the questions shall be asked in writing, while if he is dumb, he shall be requested to answer in the same manner. If a witness cannot be examined in the said manner, he shall be examined through an interpreter capable of communicating with him.

The court shall instruct the interpreter to make an accurate interpretation of questions asked to the witness and statements made by him.

A witness shall have the right to be refunded for travel costs, costs of food and accommodation for the loss of earning.

A witness shall claim the refund immediately after having been examined, or else he shall lose this right. The court shall be bound to advise the witness thereof. Similar provisions apply for experts (whoever is called in as an expert shall be bound to comply with the summons, and shall testify and give his findings and his opinion. The court shall exempt an expert, upon his motion, from such duty for the same reasons for which a witness may refuse to testify or answer a particular question. The court may exempt an expert, upon his motion, of this duty also for other justified reasons. The exemption may be requested also by an authorized person of the agency or organization where the expert is employed. An expert may be disqualified on the same grounds as are applicable to the disqualification of a judge or a lay judge; however, a person examined as a witness may nevertheless be called in as an expert.)

South Africa: When necessary witness protection is provided.

Sweden: The same rules and regulations apply as when evidence is taken with the person physically present.

Switzerland: En Suisse, le recours à la liaison vidéo n'est pas envisageable sous le Chapitre I de la CLaH70.

United Kingdom (England and Wales): Court can provide protective measures for witness if required, including permission for interpreters and for the witness to have their own legal representative present.

United States of America: N/A.

Venezuela: In some cases, safeguards measures may be used (see Act on Protection of Victims, Witnesses and other procedural subjects). The right to defense is guaranteed free of charge by public defenders, to those who request. In relation to language interpretation, there is an official list of interpreters accredited to the national government, whose service must be paid by the interested parties (see <http://www.mppriip.gob.ve/wp-content/PDF/listadoOctubre2015.pdf>).

### Presence

#### **e) Are the rules for the presence of the parties and their representatives when physically in a single location the same for when evidence is taken via video-link?**

*See Article 7 of the Convention*

**Yes**. If so, please specify if they are allowed to actively participate.

Belarus: The CPC Article 269, the CCP Article 100.

Brazil: Active participation is always subject to authorization by the Brazilian judicial authority.

[25]

Belarus, Brazil, China (Hong Kong SAR), China (Macao SAR), Cyprus, Czech Republic, Estonia, Finland, France, Germany, Greece, Israel, Latvia, Lithuania, Malta, Mexico, Poland, Portugal, Romania, Singapore, Slovenia, South Africa, Sweden, United Kingdom (England and Wales) and Venezuela

China (Hong Kong SAR): Subject to the rules of the requesting court, the parties or their legal representatives may actively participate via video link.

China (Macao SAR): As mentioned, there are no provisions specially regulating the taking of evidence by video-link. It should be noted that, in either case, evidence can only be taken by the competent authority of the Macao SAR when it is the Requested Party.

Czech Republic: There are no specific rules regarding the presence of the parties/their representatives when the evidence is taken via video-link.

Estonia: They are observers.

France: Oui, mais toujours sous l'autorisation et contrôle du juge chargé de l'exécution de la demande, conformément à l'article 740 du code de procédure civile, lequel dispose :

"Les parties et leurs défenseurs, même s'ils sont étrangers, peuvent, sur autorisation du juge, poser des questions ; celles-ci doivent être formulées ou traduites en langue française ; il en est de même des réponses qui leur sont faites".

Greece: They can only attend the examination which is directed solely by the judge.

Israel: The participation of the parties and their representatives depends on their request and the discretion of the Israeli judge.

Latvia: Judicial authority competent to execute the request.

Lithuania: In the Code of Civil Procedure there are no special provisions regarding this issue. The general rules for the presence of the parties and their representatives apply.

Malta: Lawyers assisting the parties can ask questions in examination as well as carry out cross-examination.

Poland: Yes.

Portugal: Yes, regarding the presence in the Portuguese court acting as requesting court.

Romania: Each witness shall be heard separately, the ones who have not been heard yet being not entitled to assist. The witness shall answer first the president's questions, and then, the questions asked after being previously approved by the president, by the party who proposed the said witness as well as by the opposing party (art. 321, paragraphs 1 and 3 of the Code of civil procedure).

The person appearing in person shall be asked by the president questions regarding each separate act. Subject to the approval of the president, each judge of the panel, the prosecutor – when he attends the trial -, as well as the opposing party may ask directly questions addressed to the person called to be heard (art. 352 of the Code of civil procedure).

Singapore: See the Evidence (Civil Proceedings in Other Jurisdictions) Act, Chapter 98, Revised Laws of Singapore, as well as Order 66 of the Rules of Court, Chapter 322, Rule 5, Revised Laws of Singapore and Division 71 of the Family Justice Rules, Act 27 of 2014, Revised Laws of Singapore on the manner of taking examination.

Slovenia: Yes.

South Africa: Constitutional rights as per normal court proceedings.

Sweden: There are no general rule against participation by the parties when video-link is used. Normal rules and regulations apply.

United Kingdom (England and Wales): Yes.

Venezuela: The parties and their attorneys can attend, participating, according to the normal rules for the presentation of evidences (see, for example, Art. 5 Venezuelan Approving Act Additional Protocol to the Inter-American Convention on the Taking of Evidence Abroad).

<b><u>No</u></b>	[3]  Croatia, Hungary and Korea (Republic of)
<p><i>Comments</i></p> <p><u>Australia</u>: Australia has not made any Declarations in relation to Article 7 of the Evidence Convention; however the following Australia States have responded to this question:</p> <ul style="list-style-type: none"> <li>• <u>NSW</u>: A witness located in NSW cannot be compelled by any NSW court to give evidence directly to a foreign tribunal by video-link.</li> <li>• <u>WA</u>: Yes. Subject to any ex-parte applications/hearings or any specific orders made by a presiding judicial officer, parties and their representatives will be allowed to actively participate.</li> <li>• <u>QLD</u>: Legal representatives are allowed to actively participate in legal proceedings in Queensland.</li> <li>• <u>VIC</u>: Yes. However, it would be subject to a Court order.</li> </ul> <p><u>Bulgaria</u>: The national legislation does not provide specific rules on taking of evidence by video-link in the field of civil or commercial matters.</p> <p><u>Croatia</u>: The CPA does not contain a provision on this, but in practice, technicians and court clerks need to be present before and in the course of time to ensure all technical condition for video conferencing.</p> <p><u>Hungary</u>: Only the (1) person heard, (2) other persons whose presence, in relation to the person heard is allowed or required by the law and (3) technical staff can be at the room used for the hearing by video link. All other persons involved are present in the courtroom from where the hearing is conducted.</p> <p><u>Switzerland</u>: En Suisse, le recours à la liaison vidéo n'est pas envisageable sous le Chapitre I de la CLaH70.</p> <p><u>United States of America</u>: N/A.</p>	
<p><b>f) Under Chapter I of the Convention, does your State allow for the cross-examination of a witness / expert by video-link by the representatives located in the requesting State (<i>i.e.</i>, the State in which the proceedings are pending)?</b></p>	
<b><u>Yes</u></b>	[20]  Brazil, China (Hong Kong SAR), Cyprus, Estonia, Finland, France, Greece, Hungary, Israel, Korea (Republic of), Latvia, Lithuania, Malta, Portugal, Romania, Singapore, Slovenia, South Africa, United Kingdom (England and Wales) and Venezuela

<b><u>No</u></b>	[7] Belarus, China (Macao SAR), Czech Republic, Germany, Mexico, Poland and United States of America
<p><i>Comments</i></p> <p><u>Australia:</u> Australia has not made any declarations in relation to this question; however, the following Australia States have responded to this question:</p> <ul style="list-style-type: none"> <li>• <u>NSW:</u> A witness located in NSW cannot be compelled by any NSW court to give evidence directly to a foreign tribunal by video-link. See answer to question in Part II (a) above.</li> <li>• <u>WA:</u> Yes.</li> <li>• <u>QLD:</u> No - The legal practitioner in the requesting State would need to be admitted to practice as a legal practitioner in the State of Queensland in accordance with the requirements of the <i>Legal Profession Act 2007</i> (Qld) in order to cross examine a witness.</li> <li>• <u>TAS:</u> Yes.</li> </ul> <p><u>Belarus:</u> The matter is not regulated by the national law.</p> <p><u>Brazil:</u> Any participation in the hearing is to be decided by the Brazilian judicial authority. Generally, questions to persons in Brazil may be authorized and will be made indirectly, through the Brazilian judicial authority.</p> <p><u>Bulgaria:</u> The national legislation does not provide specific rules on taking of evidence by video-link in the field of civil or commercial matters.</p> <p><u>China (Macao SAR):</u> Only indirect taking of evidence is allowed under the Macao SAR law.</p> <p><u>Croatia:</u> The Civil Procedure Act does not contain a provision on this.</p> <p><u>France:</u> Rien ne l'interdit en principe, pourvu que cette possibilité d'assistance par vidéoconférence ait été spécialement mentionnée dans la commission rogatoire. Le contre-interrogatoire se fera toujours sous l'autorisation et le contrôle du juge requis.</p> <p><u>Germany:</u> The current legal opinion is that this type of (video) examination is not compatible with German law.</p> <p><u>Hungary:</u> The judge (assistant judge) conducting the hearing has the discretion to allow that.</p> <p><u>Israel:</u> The Israeli judge has discretion on this issue.</p> <p><u>Latvia:</u> Any participation in the hearing is to be decided by the Latvian judicial authority.</p> <p><u>Poland:</u> The Polish legal system does not provide for an institution of "cross-examination". Taking of evidence is performed by the judge. Parties and their representatives are allowed to ask questions.</p>	

South Africa: Normal court proceedings.

Sweden: The same rules and regulations apply as when evidence is taken with the person physically present.

Switzerland: En Suisse, le recours à la liaison vidéo n'est pas envisageable sous le Chapitre I de la CLaH70.

United Kingdom (England and Wales): On condition that the witness agrees to give evidence by video-link; see IV (e) above).

Venezuela: It should be allowed in accordance with the spirit of Article 3, paragraphs f and g of the Convention, since they are who make the request.

**g) Does your State allow for the presence of the judicial personnel of the requesting State via video-link?**

*See Article 8 of the Convention*

*Please note that a declaration may be made under this provision.*

**Yes**. If so, please specify if they are allowed to actively participate:

Belarus: Pursuant to the declaration of the Republic of Belarus, in accordance with the Convention Article 8 the Officers of justice of another contracting state can be present at the execution of the letter of request concerning civil or commercial affairs with consent of the Supreme Court of the Republic of Belarus.

Brazil: Any participation in the hearing is to be decided by the Brazilian judicial authority. Generally, questions to persons in Brazil may be authorized and will be made indirectly, through the Brazilian judicial authority.

China (Hong Kong SAR): Subject to the rules of the requesting court, the judicial personnel of the requesting State may actively participate via video link.

Cyprus: They are allowed to set questions.

Czech Republic: Taking of evidence is allowed to the judge only.

Estonia: The judges of the requesting State have the right to participate in the process operation subject to the preceding consent of the Ministry of Justice of the Republic of Estonia.

[27]

Belarus, Brazil, China (Hong Kong SAR), Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Israel, Korea (Republic of), Latvia, Malta, Mexico, Norway, Poland, Portugal, Romania, Singapore, South Africa, Slovenia, Sweden, United Kingdom (England and Wales) and Venezuela

France: Le juge requérant peut assister à l'exécution par vidéoconférence, mais non y participer activement sinon sous le contrôle et dans les limites de ce que décidera le juge requis.

Germany: The members of the court abroad can be connected via video-link if this has been permitted by the Central Authority.

Hungary: They can request the judge (assistant judge) to ask specific questions or to allow them to address questions directly to the person heard.

Israel: Yes.

Latvia: According to Art 4 of the Law on the Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters (26.02.2009.) in accordance with Article 8 of the Convention in Latvia another Contracting State Representatives of the judiciary may be present at the execution, after receiving a permit from the Ministry of Justice.

Malta: The judicial personnel can actively participate.

Poland: Yes, permission of the Polish Ministry of Justice is required.

Portugal: The hearing is presided over by the requesting Judge assisted by his staff.

Romania: See the answer from Chapter II a).

Slovenia: No.

South Africa: For purpose of overseeing that the procedure was followed.

Sweden: The same rules and regulations apply as when evidence is taken with the person physically present.

Venezuela: It should be allowed in accordance with the spirit of Article 3, paragraphs f and g of the Convention, since they are who make the request.



<b><u>No</u></b>	[3] China (Macao SAR), Lithuania and United States of America
<p><i>Comments</i></p> <p><u>Australia</u>: Australia has made a declaration that members of the judicial personnel of the requesting authority of another Contracting State may be present at the execution of a Letter of Request, subject to prior authorization by the judicial authority executing the Letter of Request. In addition, the following Australian States have responded to this question:</p> <ul style="list-style-type: none"> <li>• <u>NSW</u>: See answer to question in Part II (a) above. If a local witness voluntarily agrees to give evidence by video-link in foreign proceedings, the law of NSW does not prohibit the giving of that evidence, and how the foreign proceedings are conducted.</li> <li>• <u>WA</u>: Yes and the judicial personnel of the requesting State would be allowed to actively participate in the video-link.</li> <li>• <u>QLD</u>: No.</li> <li>• <u>SA</u>: That would be a matter for the Court but 59F of the <i>Evidence Act 1929</i> (SA) when read in its entirety would appear to permit that happening.</li> </ul> <p><u>Bulgaria</u>: The national legislation does not provide specific rules on taking of evidence by video-link in the field of civil or commercial matters.</p> <p><u>Croatia</u>: Republic of Croatia declares that the judicial personnel of the requesting State may be present at the execution of a Letter of Request, with the prior authorisation of the Ministry of Justice of the Republic of Croatia.</p> <p><u>Lithuania</u>: Unless the prior permission of the Ministry of Justice of the Republic of Lithuania is obtained.</p> <p><u>Hungary</u>: Permission from the Central Authority is needed under Hungary's declaration, but it is always given if requested.</p> <p><u>Singapore</u>: We have allowed foreign judges/ judicial officers sitting in a foreign tribunal to take evidence directly via video link from a witness located in Singapore.</p> <p><u>Switzerland</u>: En Suisse, le recours à la liaison vidéo n'est pas envisageable sous le Chapitre I de la CLaH70.</p>	

PART VI – USE OF VIDEO-LINKS UNDER CHAPTER II (BY DIPLOMATIC OFFICERS, CONSULAR AGENTS AND COMMISSIONERS) – LEGAL CONSIDERATIONS	
<p><b>The questions in this Part are only for States that have not wholly excluded the application of Chapter II</b></p> <p>Please note that Chapter II may be subject to a reservation in whole or in part under Article 33. Check the reservations that your State has made under this Chapter in the status table, available on the <a href="#">Evidence Section</a> of the Hague Conference website.</p>	
<p><b>Legal Obstacles and Framework</b></p>	
<p><b>a) Does your State consider there to be any legal obstacles to the taking of evidence by video-link under Chapter II of the Convention?</b></p> <p><i>The Special Commission has noted that the use of video-link and similar technologies is consistent with the current framework of the Convention (C&amp;R No 55 of the 2009 SC meeting and C&amp;R No 20 of the 2014 SC meeting).</i></p>	
<p><u>Yes. Please specify:</u></p> <p><u>Australia:</u> There are practical obstacles and the Australian Department of Foreign Affairs and Trade has confirmed that Australian missions do not have the capacity to provide assistance with the taking of evidence via video-link (<i>i.e.</i> most missions do not have this technology). Further to this, the Central Authority rarely receives any requests relating to Chapter II of the Convention. On this basis, our responses are limited and would most likely be assessed on a case-by-case basis.</p> <p><u>Bulgaria:</u> On the ground of Article 33, the Republic of Bulgaria has excluded the application within its territory of the provisions of articles 16, 17, 18 and 19 of Chapter II under the Convention.</p> <p><u>Romania:</u> See the answer from Chapter II d).</p> <p><u>United States of America:</u> The United States permits the direct taking of evidence by video-link on a voluntary basis under Chapter II of the Convention, but such arrangements must be arranged for privately and do not involve the United States Central Authority.</p>	<p>[5]</p> <p>Australia, Bulgaria, Czech Republic, Romania and United States of America</p>

<b><u>No</u></b>	[18]  Belarus, Estonia, Finland, France, Germany, Greece, Hungary, Israel, Lithuania, Norway, Poland, Portugal, Slovenia, South Africa, Sweden, Switzerland, United Kingdom (England and Wales) and Venezuela
<p><i>Comments</i></p> <p><u>China (Macao SAR)</u>: Not applicable/no comments.</p> <p><u>Finland</u>: There is no prior approval needed by the Finnish authorities regarding requests under Chapter II and the Finnish authorities are not involved in these proceedings. Therefore, the answers given to questions related to Chapter II are of general nature only.</p> <p><u>Israel</u>: In Israel, the judicial and administrative authorities of the state of Israel are not generally involved in the taking of evidence under chapter II, and there is no centralized body that oversees the operation of chapter II.</p> <p>Outside Israel, there is no practice or regulation of taking of evidence by Israeli diplomatic or consular officers.</p> <p><u>Mexico</u>: This entire part does not apply in the Mexican legislation.</p> <p><u>Poland</u>: According to Polish consular services there is no possibility of processing outgoing requests under Chapter II.</p> <p><u>Portugal</u>: There are no legal obstacles to the use of videoconference.</p> <p><u>Singapore</u>: Not applicable. We have declared that the whole of Chapter II shall not apply to the Republic of Singapore.</p> <p><u>Slovenia</u>: There are only practical obstacles, since embassies and consulates have no technical possibilities or options to the taking of evidence by video link.</p> <p><u>Sweden</u>: Not in general but it must be decided on a case-by-case basis.</p>	
<b>b) Under which provisions of Chapter II of the Convention is taking of evidence by video-link possible in your State?</b>	
<u>Art. 15</u>	[18]  Australia, Belarus, Estonia, Finland, France, Germany, Hungary, Israel, Lithuania, Norway, Poland, Portugal, Romania, Sweden, Switzerland, United Kingdom (England and Wales), United States of America and Venezuela

<p><u>Art. 16</u></p>	<p>[14]</p> <p>Australia, Belarus, Estonia, Finland, France, Germany, Israel, Lithuania, Norway, Sweden, Switzerland, United Kingdom (England and Wales), United States of America and Venezuela</p>
<p><u>Art. 17</u></p>	<p>[13]</p> <p>Australia, Belarus, Estonia, Finland, France, Germany, Hungary, Israel, Lithuania, Sweden, Switzerland, United Kingdom (England and Wales) and United States of America</p>
<p><i>Comments</i></p> <p><u>Belarus:</u> According to the Articles 16 and 17 of the Convention the Republic of Belarus declared that the agents of diplomatic missions or consulates as well as authorized persons can take evidence concerning civil or commercial affairs within the Republic of Belarus without enforcement and with the authorization of the Supreme Court of the Republic of Belarus and pursuant to specified terms.</p> <p><u>Bulgaria:</u> N/A.</p> <p><u>China (Macao SAR):</u> Not applicable/no comments.</p> <p><u>Czech Republic:</u> Not applicable.</p> <p><u>Germany:</u> The declarations and reservations of the German authorities are to be taken into account.</p> <p><u>Hungary:</u> When not a commissioner but the requesting court (judge) intends to conduct the hearing we treat the request in accordance with Article 17.</p> <p><u>Norway:</u> Prior permission must be granted by the Central Authority.</p> <p><u>Poland:</u> Poland does not require permission for incoming requests under Art. 15. Except for Art. 15, Poland does not apply other provisions of Chapter II.</p> <p><u>Romania:</u> See the answer from Chapter II d).</p> <p><u>Singapore:</u> Not applicable. See response to Part VI(a).</p> <p><u>Slovenia:</u> Embassies and consulates have no technical possibilities, staff or options to the taking of evidence by video link.</p> <p><u>Sweden:</u> Provided that the taking of evidence is possible according to the Convention. There are no general rules against the use of video-link but it is difficult to say if it is practically possible in every case.</p>	

<p><u>Venezuela</u>: It does not proceed through Art. 17, since Venezuela made a reservation of the intervention in the obtaining of evidences by the commissioners of the court.</p>	
<p><b>c) Is prior permission from your State required when taking evidence under Chapter II of the Convention on the territory of your State?</b></p>	
<p><u>Yes. Please outline the procedure for seeking such permission, including any specific conditions that must be satisfied.</u></p> <p><u>Australia</u>: When taking evidence under Chapter II of the Convention, permission is required to be granted by the Secretary of the Attorney-General's Department. The request must include:</p> <ul style="list-style-type: none"> <li>• subject matter of the dispute</li> <li>• date of proceedings</li> <li>• details of the parties involved in the dispute</li> <li>• details of the person to be examined (including nationality), and</li> <li>• nature of the evidence to be sought.</li> </ul> <p>The request must be sent to the Central Authority.</p> <p><u>Belarus</u>: The preliminary authorization is requested from the Supreme Court of the Republic of Belarus in written manner.</p> <p><u>France</u>: Les demandes formées en application de l'article 16 ou de l'article 17 doivent d'abord être transmises à l'autorité centrale française aux fins d'autorisation préalable. Ces demandes doivent contenir les mentions requises au titre de l'article 3 de la Convention.</p> <p><u>Germany</u>: Requests for the taking of evidence are to be addressed to the Central Authority of the Land in question. The Central Authority examines the requests in terms of facts and law and informs the requesting authority on the decision it has reached. Conditions may be attached to permission being granted. Prior permission is not necessary in cases where the</p>	<p>[14]</p> <p>Australia, Belarus, France, Germany, Hungary, Israel, Lithuania, Norway, Portugal, Slovenia, South Africa, Sweden, Switzerland and Venezuela</p>

examination is carried out by diplomatic or consular agents and the person to be examined is a national only of the State of the requesting court.

Hungary: There is detailed internal legislation only for dealing with requests submitted under Article 17. The request for permission must be addressed to the Ministry of Justice in Hungarian, English, French or German and it has to contain the following information:

- designation and case number of the foreign court;
- name and address of the parties and their representatives;
- subject matter of the case;
- short description of the facts of the case;
- name and address of the commissioner;
- exact description of the judicial act to be carried out in Hungary;
- name and address of person whose assistance, involvement is necessary to carry out the judicial act.

The order or other equivalent document, duly legalized if applicable, ordering the commission must be attached to the request.

In case the request concerns hearing of a person, it can only be carried out under the supervision of the Hungarian district court on the competence territory of which the person to be heard has domicile or habitual residence. The person to be heard must be informed of (1) the voluntary nature of his/her participation and the lack of negative legal consequences, (2) the right to use their mother tongue, (3) the right to legal counsel as well as (4) Hungarian rules on privileges and duty to refuse to give testimony. Costs of interpretation are to be reimbursed by the commissioner. The Ministry of Justice can also set other conditions.

In case of a request submitted under Article 15 the rules relating to Article 17 would be applied mutatis mutandis.

Israel: Permission is required only under Articles 16 & 17.

Lithuania: The request for permission shall be submitted in writing to the Ministry of Justice. For more information please see Lithuanian reservation made under Articles 16 and 17 (available in English at HCCH webpage).

Norway: A formal request is sent to the Norwegian Central Authority. Permission must be granted in advance.

Singapore: Not applicable. See response to Part VI(a).

South Africa: Through the Central Authority.

Sweden: Permission is required under article 15 in accordance with the Swedish declaration to this article. Permission must be granted by the competent Swedish authority.

Switzerland: La demande étrangère d'obtention de preuves selon les arts. 15 à 17 de la CLaH70 est soumise, en Suisse, à autorisation préalable du Département fédéral de justice et police (DFJP). Elle doit toutefois être adressée en premier lieu à l'autorité centrale du canton où aura lieu l'acte d'instruction. Elle y compris ses annexes doivent être rédigées dans la langue officielle de ce canton. Après examen de la demande, l'autorité centrale cantonale transmet la demande à l'Office fédéral de la justice (OFJ) en indiquant, le cas échéant, si elle est opposée à l'octroi de l'autorisation ou si elle souhaite que l'autorisation soit assortie de certaines conditions. Lorsque les conditions et garanties de procédure selon l'art. 21 CLaH70 sont remplies, le DFJP accorde l'autorisation. Une avance des frais de procédure sera toutefois requise au préalable. Pour les conditions particulières veuillez consulter l'aide-mémoire de l'OFJ.

<https://www.rhf.admin.ch/dam/data/rhf/zivilrecht/wegleitungen/mbbeweiserhebung-commissioners-f.pdf>

<b><u>No</u></b>	[6] Estonia, Finland, Greece, Poland, United Kingdom (England and Wales) and United States of America	
<i>Comments</i> <u>Bulgaria</u> : N/A. <u>China (Macao SAR)</u> : Not applicable/no comments. <u>Czech Republic</u> : Not applicable. <u>Germany</u> : When granting permission, the Central Authority must ensure compliance with any prohibition from giving testimony or being examined which the person providing the information is not entitled to waive (under German law). Examples of this are the bans on examining German functionaries without the prior approval of the authority for which they work, or examining doctors without their being released from their duty of confidentiality. <u>Portugal</u> : The national legal framework applies to both chapters I and II with the necessary adaptations (from chapter II Portugal accepts only Article 15). <u>Singapore</u> : Not applicable. See response to Part VI(a). <u>United States of America</u> : Prior permission from the United States Central Authority is not required for a witness who consents to voluntarily provide evidence by video-link directly to the foreign court.		
<b>d) Please indicate who administers the oath or affirmation and how perjury and contempt are dealt with when evidence is taken under Chapter II of the Convention on the territory of your State.</b>		
State	Administration of the oath or affirmation:	Dealing with perjury and contempt:
<u>Australia</u>	For taking evidence generally under Chapter II, Australia supports the approach under the Convention being that a Consul or Commissioner may administer an appropriate oath or affirmation in order to take evidence, provided that this is not incompatible with the law of the State of Execution or contrary to any permission granted.	N/A



	Consideration should also be given to any limitations or rules imposed by the State of Origin.	
<u>Bulgaria</u>	N/A	N/A
<u>China (Macao SAR)</u>	Not applicable/no comments.	Not applicable/no comments.
<u>Czech Republic</u>	-	Not applicable.
<u>Estonia</u>	The consular or diplomatic officer dealing with the issue if the requesting court cannot do it themselves.	The consular or diplomatic officer dealing with the issue if the requesting court cannot do it themselves.
<u>Finland</u>	The state of origin.	The state of origin.
<u>France</u>	Ces questions relèvent de la seule compétence du commissaire ou de l'agent diplomatique / consulaire désigné dans la demande émise par le tribunal requérant.	Ces questions demeurent de la seule compétence du tribunal requérant.
<u>Germany</u>	Foreign diplomatic or consular agents or commissioners of the requesting court may record oaths or affirmations in Germany as long as this is not contrary to the German law of civil procedure or orders contained in the permission.	Taking of evidence pursuant to Articles 15, 16, 17 of the Convention is also considered to be evidence taken in Germany. However, such taking of evidence may be carried out according to the law of the requesting State if not prohibited by the law of the requested State and no conditions are attached which prohibit or otherwise prevent it. It is therefore possible to base a decision on contempt and perjury on the law of the requesting State if that State has ordered its evidentiary and criminal law to have such an extended extraterritorial scope. It is to be noted, however, that the concept of contempt only exists to a limited extent in German law.
<u>Greece</u>	The judge.	-

<u>Hungary</u>	Not known in the Hungarian legal system, thus it is governed by the law of the State of origin.	It is also to be governed by the law of the State of origin.
<u>Israel</u>	N/A, see answer in section a) above.	N/A, see answer in section a) above.
<u>Lithuania</u>	Diplomatic officer/consular agent or duly appointed commissioner (his representative).	Diplomatic officer/consular agent or duly appointed commissioner (his representative).
<u>Poland</u>	No information available.	No information available.
<u>Singapore</u>	Not applicable. See response to Part VI(a).	Not applicable. See response to Part VI(a).
<u>South Africa</u>	The presiding officer.	The presiding officer.
<u>Sweden</u>	The same rules and regulations apply as when evidence is taken with the person physically present.	The same rules and regulations apply as when evidence is taken with the person physically present.
<u>Switzerland</u>	Cela dépend des actes qui ont été requis et autorisés (art. 21 let. a et let. d CLaH70). La personne chargée peut être une personne compétente pour un tel acte conformément a) aux lois du canton où a lieu l'exécution, ou b) aux lois de l'Etat requérant. Les déclarations sous serment sont inadmissibles uniquement si elles contreviennent à l'ordre public. Une personne ne peut pas être contrainte à faire des déclarations sous serment.	Les dispositions suivantes du Code pénal suisse pourraient (p.ex.) entrer en ligne de compte :  Art. 292 Insoumission à une décision d'autorité  Art. 306 Fausse déclaration d'une partie en justice  Art. 307 Faux témoignage, faux rapport, fausse traduction en justice  Code pénal suisse : <a href="https://www.admin.ch/opc/fr/classifiedcompilation/19370083/index.html">https://www.admin.ch/opc/fr/classifiedcompilation/19370083/index.html</a>
<u>United Kingdom (England and Wales)</u>	The Diplomatic Officer, Consular Agent or Commissioner.	The requesting court, within the limits of their own jurisdiction.

<u>United States of America</u>	A voluntary witness can provide evidence in any format and on any terms stipulated by the parties. If not otherwise stipulated, the oath should be administered in the United States and comport with the laws of the United States. See Rule 28 of the Federal Rules of Civil Procedure.	If the oath is administered pursuant to the laws of the United States of America, then perjury or contempt issues will also be dealt with in accordance with U.S. law.
<u>Venezuela</u>	The oath and declaration shall be carried out by the diplomatic or consular official and shall be regulated by its domestic Law.	Contempt and false testimony are regulated by the Law of the State of origin.
<b>Direct and Indirect Taking of Evidence</b>		
<b>e) Diplomatic and consular agents are usually located in the State where the witness / expert resides. It may be, however, that a witness / expert is located in a neighboring country or in a place distant from the Embassy or Consulate. In these circumstances, does your State consider it possible to use video-link to obtain evidence under Chapter II of the Convention?</b>		
<p><u>Yes. Please specify:</u></p> <p><u>Finland:</u> Yes if the witness is located in a place distant from the Embassy or Consulate, but in the requested state.</p> <p><u>France:</u> Rien n'interdit à ce que l'agent diplomatique/consulaire désigné exécute la commission rogatoire par vidéoconférence; la possibilité de recourir à cette formalité doit alors être mentionnée dans la demande d'autorisation, le cas échéant, adressée à l'autorité centrale française.</p> <p><u>Hungary:</u> Only when the person to be heard is in Hungary, while the foreign Embassy or Consulate is situated outside of Hungary but it is accredited to Hungary.</p> <p><u>Switzerland:</u> Seulement lorsque le témoin ou l'expert ainsi que l'agent diplomatique ou consulaire se trouvent en Suisse.</p>		<p>[9]</p> <p>Finland, France, Greece, Hungary, Portugal, Switzerland, United Kingdom (England and Wales), United States of America and Venezuela</p>

<p><u>United States of America:</u> The witness, however, must be in the United States and must voluntarily agree to provide evidence by video-link directly to the foreign court.</p>	
<p><b><u>No</u></b></p>	<p>[7] Estonia, Finland, Germany, Lithuania, Romania, Slovenia and South Africa</p>
<p><i>Comments</i></p> <p><u>Bulgaria:</u> N/A.</p> <p><u>China (Macao SAR):</u> Not applicable/no comments.</p> <p><u>Czech Republic:</u> Not applicable.</p> <p><u>Finland:</u> No if the witness is located in another state (in a neighbouring country) than the requested state.</p> <p><u>Israel:</u> N/A, see answer in section a) above.</p> <p><u>Lithuania:</u> Evidence shall be taken by a diplomatic officer or consular agent only within the premises of the embassy or consular institution of the State which he/she represents.</p> <p><u>Norway:</u> The possibility for a diplomatic or consular agent located in Norway to obtain evidence from a person residing in another country than Norway depends on the rules and regulations of that other country.</p> <p><u>Poland:</u> No information available.</p> <p><u>Portugal:</u> When the courts/authorities involved agree, the witness is Portuguese and also agrees with that.</p> <p><u>Romania:</u> See the answer from Chapter II d).</p> <p>The Romanian diplomatic or consular agent may also conduct procedural acts in the field regulated by the Convention outside the premises of the said diplomatic/consular mission but within the range of his consular jurisdiction, provided this does not contravene to the regulations of the state of residence. Furthermore, according to art. 7 of the Vienna Convention of 1963 on consular relationships, "The requesting State may, after having duly notified the interested states, if neither of the said states manifested their express opposition thereto, to appoint a consular post from a certain country to assume the exercise of consular functions in another country".</p> <p><u>Singapore:</u> Not applicable. See response to Part VI(a).</p> <p><u>Slovenia:</u> Embassies and consulates have no technical possibilities, staff or options to the taking of evidence by video link.</p>	

Sweden: If we have understood the question correctly, the possibility for a diplomatic or consular agent located in Sweden to obtain evidence from a person residing in another country than Sweden depends on the rules and regulations of that other country.

United Kingdom (England and Wales): Usually video evidence is taken via commercial suppliers which may be distant from the Embassy.

### Legal Safeguards for Witness / Expert

#### **f) What are the legal safeguards in place for witnesses / experts in your State when evidence is taken by video-link under Chapter II (e.g. protective measures for the witness / expert, provision of interpretation, right to legal counsel, etc.)?**

Bulgaria: N/A.

China (Macao SAR): Not applicable/no comments.

Czech Republic: Not applicable.

Estonia: The consular and diplomatic officers can take evidence in a matter coherent with the Code of Civil Procedure - thus all the same safeguards as pointed out earlier.

Finland: These are governed by the law of the requesting state.

France: La personne auditionnée a le droit d'être assistée de son conseil, et de bénéficier d'un interprète le cas échéant. Conformément aux dispositions du chapitre II, cette audition est insusceptible de contrainte et doit avoir lieu sur une base volontaire.

Germany: Articles 11 as well as 20 and 21 of the Convention, especially letters b, c and d, already contain protective measures which are to be considered by the requesting State. In addition, if permission is required the German Central Authority may set specific conditions for ensuring that the requirements set out by the German law of civil procedure are met. Compliance with any such conditions may, in the case of the examination being carried out by a commissioner, be ensured by the presence of a member of the judiciary while evidence is being taken.

Hungary: See point c). Other safeguards provided for by the law of the State of origin are not excluded, if compatible with Hungarian law.

Israel: N/A, see answer in section a) above.

Lithuania: Evidence shall be taken in the Lithuanian or another language understandable to the person giving evidence or taking of evidence and shall be accompanied by a translation into the Lithuanian or another language understandable for such person.

The document concerning the taking of evidence written in the language understandable to the person giving evidence shall be signed by this person. The copy of such document shall be forwarded to the Ministry of Justice of the Republic of Lithuania.

The person shall be informed about his/her right to legal counsel.

Poland: No information available.

Singapore: Not applicable. See response to Part VI(a).

South Africa: Witness protection.

Sweden: If a security issue arise an analysis is made of what protective measures should be taken in the specific case.

Switzerland: Voir art. 20 art 21 et art.11 CLaH70. Après avoir obtenu l'autorisation, l'organisation et l'exécution de l'obtention de preuve par liaison vidéo est de la responsabilité de l'autorité requérante / de l'agent diplomatique ou consulaire / du commissaire. Les autorités suisses n'apportent pas d'assistance ou des services. Des restrictions ou conditions peuvent être octroyés dans l'autorisation (art. 19 CLaH70).

United Kingdom (England and Wales): Depends on circumstances. Witness would be covered by the normal Embassy security but Embassy/ Consulate would not take any responsibility outside diplomatic premises.

United States of America: Witnesses in the United States can avail themselves of any privilege, duty, or defense available to them under the laws of the United States, which may include the privilege against self-incrimination, attorney-client privilege, the right to due process, or the right to counsel.

Venezuela: In some cases, it can applied legal safeguards measures (See Act of Protection for Victims, Witnesses and other process subjects). The right to defense is guaranteed, free of charge by public defenders, if required by the interested party.

### Presence

#### **g) Under the law of your State, who may be present via video-link when evidence is taken by diplomatic and consular agents?**

*Please tick all that apply.*

The parties.

[10]

Estonia, France, Germany, Greece, Lithuania, Portugal,  
Switzerland, United Kingdom (England and Wales), United States  
of America and Venezuela

<u>The parties' representatives.</u>	[11]  Estonia, France, Germany, Greece, Lithuania, Portugal, South Africa, Switzerland, United Kingdom (England and Wales), United States of America and Venezuela
<u>Judicial personnel.</u>	[8]  Estonia, Germany, Lithuania, Portugal, Switzerland, United Kingdom (England and Wales), United States of America and Venezuela
<u>Someone else. Please specify:</u> <u>Germany:</u> Counsel of the witness and interpreter, if applicable	[3]  Bulgaria, Germany and Switzerland
<p><i>Comments</i></p> <p><u>Bulgaria:</u> All parties and stakeholders eligible to attend.</p> <p><u>China (Macao SAR):</u> Not applicable/no comments.</p> <p><u>Czech Republic:</u> Not applicable.</p> <p><u>Finland:</u> These are governed by the law of the requesting state.</p> <p><u>Hungary:</u> As assistance of a Hungarian court is required, a judge or assistance judge as well as possible court staff must be present under the Hungarian court, but any other aspect is to be governed by the law of the State of origin.</p> <p><u>Israel:</u> N/A, see answer in section a) above.</p> <p><u>Poland:</u> Not applicable. According to Polish consular services there is no possibility of processing outgoing requests under Chapter II.</p> <p><u>Portugal:</u> Exactly the same as in the national cases (parties, their representatives, judicial staff, anyone else authorised by the Judge).</p> <p><u>Singapore:</u> Not applicable. See response to Part VI(a).</p> <p><u>Slovenia:</u> In practice: embassies and consulates have no technical possibilities, staff or options to the taking of evidence by video link, so they would probably suggest to the requesting authority to contact the competent central authority to take the evidence via video link in accordance with Chapter I.</p> <p><u>Sweden:</u> The use of video-link does not affect the legal application of the articles of the Convention.</p>	

<p><u>Switzerland</u>: Pour le personnel judiciaire et d'autres personnes: Si la présence a été requise et autorisée.</p> <p><u>United States of America</u>: A voluntary witness can provide evidence on any terms stipulated by the parties. Note, generally, depositions in the United States are open to the public and judicial personnel.</p>	
<p><b>h) Under the law of your State, who may be present via video-link when evidence is taken by commissioners?</b></p> <p><i>Please tick all that apply.</i></p>	
<p><u>The parties.</u></p>	<p>[8]</p> <p>Estonia, France, Germany, Greece, Lithuania, Switzerland, United Kingdom (England and Wales) and United States of America</p>
<p><u>The parties' representatives.</u></p>	<p>[9]</p> <p>Estonia, France, Germany, Greece, Lithuania, South Africa, Switzerland, United Kingdom (England and Wales) and United States of America</p>
<p><u>Judicial personnel.</u></p>	<p>[6]</p> <p>Estonia, Germany, Lithuania, Switzerland, United Kingdom (England and Wales) and United States of America</p>
<p><u>Someone else. Please specify:</u></p> <p><u>Germany</u>: Counsel of the witness and interpreter, if applicable; judicial representative of the requested State (see answer under point f)</p>	<p>[3]</p> <p>France, Germany and Switzerland</p>
<p><i>Comments</i></p> <p><u>Bulgaria</u>: N/A</p> <p><u>China (Macao SAR)</u>: Not applicable/no comments.</p> <p><u>Czech Republic</u>: Not applicable.</p> <p><u>Finland</u>: These are governed by the law of the requesting state.</p>	



France: Le ministère public peut assister à l'exécution de la commission rogatoire par voie de commissaire, afin de s'assurer que les principes directeurs du procès sont respectés. Il ne s'agit donc pas d'une comparution.

Hungary: See point g) above.

Israel: N/A, see answer in section a) above.

Poland: No information or practice available.

Singapore: Not applicable. See response to Part VI(a).

Slovenia: In practice: embassies and consulates have no technical possibilities, staff or options to the taking of evidence by video link, so they would probably suggest to the requesting authority to contact the competent central authority to take the evidence via video link in accordance with Chapter I.

Sweden: The use of video-link does not affect the legal application of the articles of the Convention.

Switzerland: Pour le personnel judiciaire et d'autres personnes: Si la présence a été requise et autorisée.

United States of America: A voluntary witness can provide evidence on any terms stipulated by the parties. Note, generally, depositions in the United States are open to the public and judicial personnel.

Venezuela: Venezuela made a reservation of the intervention in the obtaining of evidences by the commissioners of the court.

#### Applicable Law

##### i) The law of which State governs the administration of an oath or affirmation when evidence is taken by video-link under Chapter II?

The law of the State of Origin.	[8] Estonia, France, Germany, Hungary, Lithuania, Slovenia, Switzerland and Venezuela
The law of the State of Execution.	[7] Estonia, Greece, Lithuania, Slovenia, Switzerland, United Kingdom (England and Wales) and United States of America
It depends on whether evidence is taken by consular or diplomatic agent or a commissioner.	[3]

	Lithuania, South Africa and Switzerland
<p><i>Comments</i></p> <p><u>China (Macao SAR)</u>: Not applicable/no comments.</p> <p><u>Czech Republic</u>: Not applicable.</p> <p><u>Germany</u>: Taking an oath is always voluntary under Chapter II. Conditions regarding oaths or affirmations laid down by the German authority granting permission must be complied with.</p> <p><u>Israel</u>: N/A, see answer in section a) above.</p> <p><u>Poland</u>: No information available.</p> <p><u>Singapore</u>: Not applicable. See response to Part VI(a).</p> <p><u>Slovenia</u>: In practice: embassies and consulates have no technical possibilities, staff or options to the taking of evidence by video link, so they would probably suggest to the requesting authority to contact the competent central authority to take the evidence via video link in accordance with Chapter I.</p> <p><u>Sweden</u>: The use of video-link does not affect the legal application of the articles of the Convention.</p> <p><u>Switzerland</u>: Cela dépend des actes qui ont été requis et autorisés (art. 21 let. a et let. d CLaH70). La personne chargée peut être une personne compétente pour un tel acte conformément a) aux lois du canton où a lieu l'exécution, ou b) aux lois de l'Etat requérant. Les déclarations sous serment sont inadmissibles uniquement si elles contreviennent à l'ordre public. Une personne ne peut pas être contrainte à faire des déclarations sous serment.</p> <p><u>United States of America</u>: The parties may stipulate to the laws that apply to arrangements made under Chapter II. If not otherwise stipulated, the oath should be administered in the United States and comport with the laws of the United States. See Rule 28 of the Federal Rules of Civil Procedure.</p>	
<b>j) The law of which State governs perjury and contempt when evidence is taken by video-link under Chapter II?</b>	
The law of the State of Origin.	<p>[8]</p> <p>Estonia, France, Germany, Hungary, Lithuania, Slovenia, United Kingdom (England and Wales) and Venezuela</p>
The law of the State of Execution.	<p>[5]</p>

	Estonia, Lithuania, Slovenia, Switzerland and United States of America
It depends on whether evidence is taken by consular or diplomatic agent or a commissioner.	[3] Lithuania, South Africa and Switzerland
<p><i>Comments</i></p> <p><u>Bulgaria</u>: Applicability of the law is determined on a case by-case basis.</p> <p><u>China (Macao SAR)</u>: Not applicable/no comments.</p> <p><u>Czech Republic</u>: Not applicable.</p> <p><u>Germany</u>: Offences regarding testimonies under German law ought not to be an issue as the witness testifies before a foreign authority and not a German one.</p> <p><u>Israel</u>: N/A, see answer in section a) above.</p> <p><u>Poland</u>: No information available.</p> <p><u>Singapore</u>: Not applicable. See response to Part VI(a).</p> <p><u>Slovenia</u>: In practice: embassies and consulates have no technical possibilities, staff or options to the taking of evidence by video link, so they would probably suggest to the requesting authority to contact the competent central authority to take the evidence via video link in accordance with Chapter I.</p> <p><u>Sweden</u>: The use of video-link does not affect the legal application of the articles of the Convention.</p> <p><u>Switzerland</u>: Cela pourrait dépendre des actes qui ont été requis et autorisés. Sans préjudice de l'application du droit de l'Etat d'origine sur son territoire.</p> <p><u>United Kingdom (England and Wales)</u>: The requesting court, within the limits of their own jurisdiction.</p> <p><u>United States of America</u>: The parties may stipulate to the laws that apply to arrangements made under Chapter II. If the oath is administered pursuant to the laws of the United States, then perjury or contempt issues will also be dealt with in accordance with U.S. law.</p>	

PART VII – PRACTICAL CONSIDERATIONS		
COMMON TO BOTH CHAPTERS		
Notice		
a) What does your State consider to be the minimum amount of time required between the request and the actual hearing in order to make the arrangements to take evidence by video-link?		
State	Chapter I	Chapter II
<u>Australia</u>	The minimum length of time for most Australian Courts would be three months if taking evidence via video-link is permitted in the relevant State/Territory. However, this will depend on a case-by-case basis.	-
<u>Belarus</u>	Six months after the request received.	-
<u>Brazil</u>	180 days beforehand. Urgent requests may be examined.	-
<u>Bulgaria</u>	-	It depends on the specific case and circumstances.
<u>China (Hong Kong SAR)</u>	3 months.	-
<u>China (Macao SAR)</u>	Until now, the Macao SAR has no such experience.	Not applicable / No comments.
<u>Cyprus</u>	One month.	-

<u>Czech Republic</u>	6 months beforehand. Urgent requests may be examined.	Not applicable.
<u>Estonia</u>	Depends on the situation, but by the time the request reaches the court, at least 1 month should be left. However the longer the period, the more the possibility that the court has a room available, which has the necessary equipment.	-
<u>Finland</u>	Two months.	-
<u>France</u>	Cela dépend de la charge de travail de la juridiction française chargée d'exécuter la mesure d'instruction, ou de prêter assistance à son exécution directe par le tribunal requérant.	-
<u>Germany</u>	Complicated cases can take between two and three months.	We have no practical experience of this.
<u>Hungary</u>	No such deadline set, but practically 60 days would be enough in most cases.	No such deadline set, but practically 60 days would be enough in most cases.
<u>Israel</u>	Within weeks.	N/A, see answer in part 6(a) above.
<u>Korea (Republic of)</u>	1 month.	-
<u>Lithuania</u>	According to Paragraph 5 of The Resolution of the Judicial Council, the request for a video conference must be submitted no later than 14 calendar days before the date of the proposed video conference day. This provision applies to the national courts, so, taking into consideration the fact, that coordination of international video conference may last longer, minimum amount of time between the	2 months.

	request and video conference shall be more than 14 days (but no less than 1 month recommended).	
<u>Malta</u>	One month.	-
<u>Mexico</u>	90 days, approximately.	90 days, approximately.
<u>Norway</u>	At least three months from the time the request is received by the Central Authority.	-
<u>Poland</u>	2 months (depending on the availability of relevant equipment at given court and schedules of interested persons).	Not applicable. According to Polish consular services there is no possibility of processing outgoing requests under Chapter II.
<u>Portugal</u>	One to three months in advance. Less in case of justified urgency.	-
<u>Singapore</u>	Please see Part XV of the Supreme Court's Practice Directions and Paragraph 161A of the Family Justice Court's Practice Directions on the use of the Technology Facilities in the Supreme Court, including on the prescribed timelines. The request should be made as early as possible to allow for sufficient time to process the request and make the necessary arrangements, including ensuring the availability of the requested facilities and to carry out a testing of the video-link facilities if such is required.	Not applicable. See response to Part VII(a).
<u>Slovenia</u>	At least one month.	In practice: embassies and consulates have no technical possibilities, staff or options to the taking of evidence by video link, so they would probably suggest to the requesting authority to contact the competent central authority to take the evidence via video link in accordance with Chapter I.

<u>South Africa</u>	3 months.	3 months.
<u>Sweden</u>	The use, or non-use, of video-link does not affect the time limits for execution of the procedure.	Same.
<u>Switzerland</u>	En Suisse, le recours à la liaison vidéo n'est pas envisageable sous le Chapitre I de la CLaH70.	La requête en vue d'autorisation devrait être déposée 2 mois avant la date proposée. Après avoir obtenu l'autorisation, l'organisation et l'exécution de l'obtention de preuve par liaison vidéo est de la responsabilité de l'autorité requérante / de l'agent diplomatique ou consulaire / du commissaire. Les autorités suisses n'apportent pas d'assistance ou des services.
<u>United Kingdom (England and Wales)</u>	28 days.	This varies - usually about two months. It is normally significantly quicker in countries which have already given blanket permission to take video evidence rather than where a new specific request is made.
<u>United States of America</u>	N/A.	A voluntary witness can provide evidence on any terms stipulated by the parties. Therefore, the time requirement is dependent on the parties involved. However, a reasonable amount of time, customarily a minimum of 10 days, is encouraged.
<u>Venezuela</u>	15 working days.	15 working days.
<b>Interpretation Services</b>		
<b>b) Who is responsible, under Chapter I and Chapter II, for the use of interpretation services and who arranges these services in your State when video-link is used?</b>		
State	Chapter I	Chapter II
<u>Australia</u>	If video-link is permissible in the relevant State or Territory, it would be the Requested State responsible for arranging the interpretation services.	-

<u>Belarus</u>	The requesting authority	-
<u>Brazil</u>	The Brazilian judicial authority may decide that it is necessary to receive payment from the requesting State for interpretation services. The Central Authority may be contacted for the arrangement of interpretation.	-
<u>Bulgaria</u>	-	The national legislation does not provide specific rules on taking of evidence by video-link in the field of civil or commercial matters.
<u>China (Hong Kong SAR)</u>	Party calling the witness.	-
<u>China (Macao SAR)</u>	Article 89 of the CPC stipulates that: 1. One of the official languages shall be used in proceedings. 2. When a person who does not know or does not master the language of communication has to intervene in the proceedings, a suitable interpreter shall be appointed, without charge on that person, even though the entity who presides over the act or any of the participants in the proceedings knows the language used by that person; the interpreter shall take an oath of allegiance.	Not applicable / No comments.
<u>Croatia</u>	Judicial authority and the persons who are competent to arrange the services.	-
<u>Cyprus</u>	The requested court will provide the interpreter for the witness unless the requesting court wishes to appoint an interpreter.	Not applicable.



<u>Czech Republic</u>	The requested court will ensure that an interpreter will be appointed to assist the witness in case of language difficulties.	Not applicable.
<u>Estonia</u>	They can be arranged by the requested court, but the fees have to be covered by the requesting court. If they are or may be needed, this has to be informed before the session takes place.	-
<u>Finland</u>	The courts need to decide this on a case by case basis.	-
<u>France</u>	En cas d'exécution par le tribunal requis, celui-ci désignera si nécessaire un interprète. En cas de demande d'audition directe acceptée par l'autorité centrale française, la désignation d'un interprète est de la responsabilité du tribunal requérant.	Ces questions relèvent de la seule responsabilité du tribunal requérant et du commissaire / agent diplomatique ou consulaire désigné.
<u>Germany</u>	The requesting court; in the unusual case that the court providing legal assistance and taking the evidence needs an interpreter to communicate with the person to be examined it is the court providing legal assistance that does this.	The requesting court.
<u>Greece</u>	The parties.	The parties.
<u>Hungary</u>	Requested Hungarian court (unless other practical arrangement is made after consultation with the requesting court).	Requesting court/diplomatic, consular agent/commissioner, in accordance with the law of the State of origin.
<u>Israel</u>	The requested court and the Administration of Courts.	N/A, see answer in part 6(a) above.

<u>Korea (Republic of)</u>	Each court can arrange the interpretation services.	-
<u>Latvia</u>	<p>According to Paragraph 2 of Art 703 of the Civil Procedure Law if necessary, an interpreter shall participate in taking of evidence in Latvia or abroad, using technical means.</p> <p>According to Paragraph 2 of Art 705 of the Civil Procedure Law the Ministry of Justice may request the competent authority of the foreign country to cover the costs of enforcement of request of a foreign country for taking of evidence which have incurred in accordance with Article 14(2) of Hague Convention 1970.</p>	-
<u>Lithuania</u>	Usually the interpretation services are arranged by the requesting court, but the courts tend to cooperate and, if possible, arrange an interpreter by themselves (sometimes interpreter works in the court, therefore these services do not cost extra money).	Requesting state.
<u>Malta</u>	The requested court will ensure that an interpreter will be appointed to assist the witness in case of language difficulties.	-
<u>Mexico</u>	Depends in each case.	-
<u>Norway</u>	The competent court makes arrangements with an interpreter.	-
<u>Poland</u>	This issue is not regulated by Polish law. The requesting and requested court can make agreements that suit them best from case to case.	Not applicable. According to Polish consular services there is no possibility of processing outgoing requests under Chapter II.

<u>Portugal</u>	The Requested Court ensures that an interpreter will be pointed to assist the witness in case of language difficulties.	-
<u>Romania</u>	The requesting Court is responsible to provide the interpreters in accordance with the provisions of art. 27 of Law No. 189/2003 of the international legal assistance in civil and commercial matters. The requested Romanian court may offer its support, as the case may be, in obtaining an interpreter in Romania, by providing the court with a list of official interpreters.	-
<u>Singapore</u>	See Order 66 of the Rules of Court, Chapter 322, Rule 5, Revised Laws of Singapore and Division 71 of the Family Justice Rules, Act 27 of 2014, Section 813, Revised Laws of Singapore. The arrangements for the examination are to be made by the solicitor having conduct of the matter.	Not applicable. See response to Part VII(a).
<u>Slovenia</u>	In practice, the requesting court and requested court make arrangements each time, sometimes the requesting court insists that they will arrange for interpretation.	In practice, embassies and consulates have no technical possibilities, staff or options to the taking of evidence by video link, so they would probably suggest to the requesting authority to contact the competent central authority to take the evidence via video link in accordance with Chapter I.
<u>South Africa</u>	The requested State.	-
<u>Sweden</u>	The use, or non-use, of video-link does not affect the legal application of the articles of the Convention.	The use, or non-use, of video-link does not affect the legal application of the articles of the Convention.
<u>Switzerland</u>	En Suisse, le recours à la liaison vidéo n'est pas envisageable sous le Chapitre I de la CLaH70.	Après avoir obtenu l'autorisation, l'organisation et l'exécution de l'obtention de preuve par liaison vidéo est de la responsabilité de l'autorité requérante / de l'agent diplomatique ou consulaire / du

		commissaire. Les autorités suisses n'apportent pas d'assistance ou des services.
<u>United Kingdom (England and Wales)</u>	The applicant/parties.	The applicant/parties.
<u>United States of America</u>	N/A	The use of interpretation services must be arranged for by the parties involved.
<u>Venezuela</u>	The interested party, and exceptionally when this is requested by the Court, will be counted on free interpreter.	The origin State's Law will be applied.
<b>c) Are professional accredited interpreters required in your State, and where can relevant contact details be found?</b>		
<p><b><u>Yes. Please specify:</u></b></p> <p><u>Brazil:</u> The Brazilian judicial authority may decide if the need for an accredited interpreter can be waived. These interpreters are registered in each State by the commercial registers. A list of the registers can be found at <a href="http://drei.smpe.gov.br/assuntos/juntas-comerciais">http://drei.smpe.gov.br/assuntos/juntas-comerciais</a>.</p> <p><u>Croatia:</u> A witness who does not speak the language in which the proceedings are being conducted shall be heard through an interpreter (Article 245. CPA).</p> <p><u>Czech Republic:</u> Interpreters must be listed on a list maintained by the Czech Ministry of Justice. The list is available online.</p> <p><u>Estonia:</u> <a href="http://www.vandetolgid.ee/en/">http://www.vandetolgid.ee/en/</a>.</p> <p><u>France:</u> La liste des interprètes agréés est disponible auprès de la Cour d'appel compétente. Cela ne concerne que le cas d'exécution par le tribunal requis.</p>		<p>[18]</p> <p>Belarus, Brazil, Croatia, Czech Republic, Estonia, France, Germany, Greece, Hungary, Korea (Republic of), Mexico, Poland, Romania, Singapore, Slovenia, South Africa, United Kingdom (England and Wales) and Venezuela</p>

La liste des experts agréés par la Cour de cassation ainsi que celles des experts établies par les cours d'appels sont disponibles sur la page web de la Cour de Cassation :

[www.courdecassation.fr/informations\\_services\\_6/listes\\_experts\\_judiciaires\\_8700.html](http://www.courdecassation.fr/informations_services_6/listes_experts_judiciaires_8700.html)

Germany: A database providing information on the officially authorised, appointed and sworn translators and interpreters in the individual Länder of the Federal Republic of Germany (German-English):

<http://www.gerichts-dolmetscher.de/start.jsp>

or <http://www.justiz-dolmetscher.de>

Greece: In each court there is a relevant catalogue of accredited interpreters.

Hungary: If the court has its seat in Budapest, interpretation is carried out by the Hungarian Office for Translations and Attestation Ltd (hereinafter: "OFFI", which evidently employs interpreters with the necessary qualifications). In case the OFFI does not have an interpreter in the given language or the court has its seat outside of Budapest, a qualified interpreter registered in the competence territory of the court is employed. In case interpretation cannot be ensured in any way described above a capable person with knowledge of the given language must be employed. In case interpretation cannot be ensured at a court outside of Budapest in any of the ways above, the OFFI must provide interpretation. OFFI's website is [www.offi.hu](http://www.offi.hu).

There are three different levels of interpreters. Interpreters ("tolmács"), specialized interpreters ("szaktolmács" who are specialized in a certain field) and conference interpreters ("konferenciatolmács"). All three can be someone with the corresponding higher education degree or interpreter can be a person who successfully passes an interpreter exam, specialized interpreter can be a person who has any higher education degree and successfully passes a specialized interpreter exam and conference interpreter can be someone who is already a

specialized interpreter and successfully passes a conference interpreter exam.

Korea (Republic of): Every court has its own list of accredited interpreters.

Mexico: The higher courts of the states provide this service. Although this service is not for free.

Poland: The list of competent Polish court interpreters (tłumacz przysięgły), compiled by the Minister of Justice, is available at [www.ms.gov.pl/pl/lista-tlumaczy-przysieglych/search.html](http://www.ms.gov.pl/pl/lista-tlumaczy-przysieglych/search.html). The Polish court may also assign an interpreter ad hoc.

Romania: When one of the parties or persons who are to be heard does not speak Romanian, the court will use an accredited translator or interpreter. If the parties so agree, the judge or the clerk may perform the role of an interpreter or translator. The translator and interpreter must be a duly accredited professional. In case there is no interpreter and translator for a specific language, it is possible to resort to the services of reliable persons who can speak the respective language (art. 225 and art. 150 of the Code of civil procedure).

Singapore: Interpreters who assist with the witness examination in the Supreme Court must be court-certified. The relevant contact details can be found at <http://www.supremecourt.gov.sg/services/court-services/interpretation-services>

Slovenia: The Ministry of Justice of the Republic of Slovenia appoints interpreters, the list can be found here:

- <https://spvt.mp.gov.si/tolmaci.html>
- [https://e-justice.europa.eu/content\\_find\\_a\\_legal\\_translator\\_or\\_an\\_interpreter-116-SI-en.do?clang=sl](https://e-justice.europa.eu/content_find_a_legal_translator_or_an_interpreter-116-SI-en.do?clang=sl)
- [https://e-justice.europa.eu/content\\_find\\_a\\_legal\\_translator\\_or\\_an\\_interpreter-116-si-en.do?member=1](https://e-justice.europa.eu/content_find_a_legal_translator_or_an_interpreter-116-si-en.do?member=1)

<p><u>South Africa:</u> The courts have a data base for such.</p> <p><u>United Kingdom (England and Wales):</u> Chapter I: HMCTS language services provides two accredited suppliers for litigants in person:</p> <p>The Big Word provides services for:</p> <ol style="list-style-type: none"> <li>1) Face to face, telephone, and video interpretation; and,</li> <li>2) Service for written translation and transcription. <a href="https://en-gb.thebigword.com/solutions/interpreting">https://en-gb.thebigword.com/solutions/interpreting</a></li> </ol> <p>Clarion UK provide services for non-spoken language <i>i.e.</i> British sign language, lip speak etc. <a href="http://www.clarion-uk.com/moj-home/">http://www.clarion-uk.com/moj-home/</a></p> <p>Other accredited interpreters can be identified from the following websites <a href="http://www.nrpsi.org.uk/">http://www.nrpsi.org.uk/</a>; <a href="http://www.iti.org.uk/">http://www.iti.org.uk/</a></p> <p><u>Venezuela:</u> They are interpreters recognized by the Venezuelan Ministry of Internal Affairs, Justice and Peace (see <a href="http://www.mpprijp.gob.ve/wp-content/PDF/listadoOctubre2015.pdf">http://www.mpprijp.gob.ve/wp-content/PDF/listadoOctubre2015.pdf</a>).</p>	
<p style="text-align: center;"><b><u>No</u></b></p>	<p style="text-align: center;">[11]</p> <p style="text-align: center;">China (Hong Kong SAR), China (Macao SAR), Cyprus, Finland, Israel, Lithuania, Malta, Norway, Portugal, Switzerland and United States of America</p>
<p><i>Comments</i></p> <p><u>Australia:</u> This depends on each Australia State and Territory:</p> <ul style="list-style-type: none"> <li>• <u>NSW:</u> Video-link is unable to be used for the purpose of a NSW Court giving effect to a request under Chapter 1. See answer to the questions in Part II (a) and (b) above.</li> <li>• <u>WA:</u> Interpreters must comply with the competency requirements contained in 9.13(9) of the Consolidated Practice Directions.</li> </ul> <p>An interpreter will be prima facie competent if she or he holds a National Accreditation Authority for Translators and Interpreters Ltd credential as a Professional Interpreter, or holds a nationally accredited Advanced Diploma in Interpreting.</p>	

If an interpreter does not have one of these qualifications, the presiding judicial officer needs to be satisfied the interpreter is competent and has read and understood the Court's Protocol for the Use of Interpreters at 9.13.1 of the Consolidated Practice Directions.

If a party proposes to use an interpreter who does not hold one of these credentials, that party must cause the interpreter to make an affidavit in which the interpreter:

- (a) sets out their qualifications as an interpreter;
- (b) sets out their experience as an interpreter; and
- (c) deposes that they have read and understood the Court's Protocol for the Use of Interpreters and agree to abide by it.

The Supreme Court is able to arrange for an interpreter for a party to attend, to be paid for by the party, but pursuant to the Court's service provision contract: Consolidated Practice Direction 9.13.7.

- QLS: Yes.
- SA: There are a range of accredited interpreters but note arrangements for interpreters are usually made by the parties, although the Court could assist in that process. If an interpreter is required, this would add to the lead in time but if 28 days' notice was given, that should suffice.
- VIC: Yes - Interpreters provided and entitlement to legal representation.

Bulgaria: The Ordinance № H-1 of 16.05.2014 on the court translators envisages that in the district and administrative courts, as well as in the specialized criminal court, there are maintained registers containing lists of specialists approved for court translators. The Supreme Court of Cassation and the Supreme Administrative Court, the Supreme Cassation Prosecutor's Office, the Supreme Administrative Prosecutor's Office and the National Investigation Service shall, as necessary, establish separate lists of court translators for the needs of their activities.

Croatia: In practice, court interpreters are located where the person in need of an interpreter is located, that is, in the place of the requested court. Data on the judicial interpreters can be found on the following page: [www.sudacka-mreza.hr/tumaci.aspx](http://www.sudacka-mreza.hr/tumaci.aspx).

Estonia: If no professional accredited interpreter is not available for this language, other kind of interpreter may also be used under the discretion of the parties and both courts.

Israel: Interpreters that have been selected through a tender may be available if the Israeli Judge sees fit.

Lithuania: There are no list of accredited interpreters, but Article 240 of the Civil Procedure Code of the Republic of Lithuania establishes, that before carrying out his duties, the interpreter shall hold his hand on the Constitution of the Republic of Lithuania and swear as follows: "I, (name), swear to perform the duties of the interpreter in good faith, by using all my competencies". After the oath, the interpreter shall sign the text of the oath and it shall be attached to the case file. The interpreter shall be warned that for breaking the oath he/she shall be liable under the procedure prescribed by the Criminal Code of the Republic of Lithuania.

Norway: The court uses an accredited interpreter if possible.

Romania: the list of accredited translators and interpreters authorized by the Ministry of Justice is available at <http://old.just.ro/MeniuStanga/Listapersoanelorautorizate/Traducatori/tabid/129/Default.aspx>



and on the site E-Justice la [https://e-justice.europa.eu/content\\_find\\_a\\_legal\\_translator\\_or\\_an\\_interpreter-116-ro-ro.do?member=1](https://e-justice.europa.eu/content_find_a_legal_translator_or_an_interpreter-116-ro-ro.do?member=1).

Sweden: An authorized interpreter should be used in legal proceedings in Swedish courts if possible. If not possible another suitable person can be used according to Chapter 5 Section 6 of the Swedish Procedural Code.

Switzerland: En Suisse, le recours à la liaison vidéo n'est pas envisageable sous le Chapitre I de la CLaH70. La réponse se réfère au Chapitre II CLaH70. En ligne générale, la règlementation dans ce domaine est de la compétence des cantons.

United Kingdom (England and Wales): Chapter II: The applicant/parties would have to source this information.

United States of America: The type of interpretation services used must be stipulated by the parties involved. Generally, professional accredited interpreters are not required in the United States.

**d) Under the law of your State, is interpretation to be simultaneous or consecutive when a witness / expert is examined via video-link?**

Simultaneous.

[2]

Mexico and South Africa

Consecutive.

[9]

Czech Republic: There is no special regulation as regards interpretation via video-link - the general interpretation rules thus apply and these set forth consecutive interpretation.

Finland: Usually, consecutive interpretation is used.

China (Hong Kong SAR), Czech Republic, Finland, Hungary, Israel, Korea (Republic of), Malta, Singapore and Venezuela

*Comments*

Australia: This depends on each Australia State and Territory:

- NSW: Video-link is unable to be used for the purpose of a NSW Court giving effect to a request under Chapter 1. See answer to the questions in Part II (a) and (b) above.
- WA: Generally, if the witness is not hearing impaired, the consecutive interpreting method is used. However, for hearing impaired people, simultaneous AUSLAN interpretation is used.<sup>13</sup>
- QLD: Consecutive.

<sup>13</sup> See Consolidated Practice Direction 9.13.1(13).

- SA: This was taken to mean the situation of expert witnesses giving evidence together or consecutively. Usually, it is done consecutively here in SA but there are instances where experts will give evidence concurrently but this would involve ensuring the video link had multiple connections.
- VIC: Consecutive.

Belarus: Any variant is acceptable.

Brazil: There is no legal requirement for either. If simultaneous interpretation is not possible or available, consecutive interpretation can be considered sufficient.

Bulgaria: The national legislation does not provide specific rules on taking of evidence by video-link in the field of civil or commercial matters.

China (Macao SAR): It should be decided on a case-by-case basis.

Croatia: The Civil Procedure Act does not contain a provision on this.

Cyprus: There is no legal requirement. Interpretation can be either simultaneous or consecutive.

Estonia: Both.

France: Aucune préférence.

Germany: Both are possible.

Lithuania: Usually, consecutive interpretation is recommended. Using this technique makes it easier to get the necessary explanations and, if necessary, interpose to ensure translation accuracy.

Norway: The interpretation might be simultaneous or consecutive.

Poland: This issue is not regulated by Polish law. In common practice – consecutive.

Romania: Both interpretations are possible:

- consecutive (the translator is next to the speaker and translates approximately after each phrase or sentence), and
- simultaneous (translation made relatively synchronically with the translated text).

Slovenia: There is no special rule regarding the way interpreters translate examination of witness/expert, the judge decides on that.

In practice, consecutive interpretation is more often used.

Sweden: This is not governed by Swedish law.

Switzerland: Pas d'informations disponibles.

<p><u>United Kingdom (England and Wales)</u>: Can be either.</p> <p><u>United States of America</u>: The type of interpretation services used must be stipulated by the parties involved. Generally, the United States does not require a particular type of interpretation method.</p>	
<p><b>e) Where may the interpreter be located when a witness / expert is examined via video-link?</b></p> <p><i>Please tick all that apply.</i></p>	
<p><u>In the room with the witness / expert.</u></p>	<p>[25]</p> <p>Belarus, China (Hong Kong SAR), China (Macao SAR), Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Israel, Lithuania, Malta, Mexico, Norway, Poland, Portugal, Romania, Singapore, Slovenia, United Kingdom (England and Wales), United States of America and Venezuela</p>
<p><u>In the room with those conducting the examination.</u></p>	<p>[18]</p> <p>Belarus, China (Macao SAR), Croatia, Cyprus, Estonia, Finland, France, Germany, Israel, Lithuania, Norway, Poland, Portugal, Romania, Singapore, Slovenia, United Kingdom (England and Wales) and United States of America</p>
<p><u>Elsewhere in the requesting State (Chapter I) / State of Origin (Chapter II).</u></p>	<p>[4]</p> <p>Croatia, Germany, Lithuania and United States of America</p>
<p><u>Elsewhere in the requested State (Chapter I) / State of Execution (Chapter II).</u></p>	<p>[5]</p> <p>Croatia, Germany, Korea (Republic of), Norway and United States of America</p>
<p><u>In a third State.</u></p>	<p>[1]</p> <p>Croatia</p>
<p><u>Other. Please specify:</u></p>	<p>[3]</p>

<p><u>Brazil</u>: The Brazilian judicial authority may decide on this issue.</p> <p><u>Czech Republic</u>: The Czech judicial authority may decide on this issue another way.</p> <p><u>Latvia</u>: The Latvian judicial authority may decide on this issue.</p>	Brazil, Czech Republic and Latvia
<p><i>Comments</i></p> <p><u>Australia</u>: This depends on each Australia State and Territory:</p> <ul style="list-style-type: none"> <li>• <u>NSW</u>: Video-link is unable to be used for the purpose of a NSW Court giving effect to a request under Chapter 1. See answer to the questions in Part II (a) and (b) above.</li> <li>• <u>WA</u>: 9.1.13.1 of the Consolidated Practice Directions contemplates that the interpreter would be in the room with the witness/expert. However, the Court may make orders allowing for different arrangements to be made under section 117 of the <i>Evidence Act 1906</i> (WA).</li> <li>• <u>QLD</u>: In the courtroom in which the proceedings are being conducted.</li> <li>• <u>VIC</u>: In the room with those conducting the examination.</li> </ul> <p><u>Bulgaria</u>: The national legislation does not provide specific rules on taking of evidence by video-link in the field of civil or commercial matters.</p> <p><u>Croatia</u>: No special restrictions are imposed on the place where the interpreter should be located when a person is to be heard through the video-link, but in practice, court interpreters are located where the person in need of an interpreter is located, that is, in the place of the requested court.</p> <p><u>Finland</u>: There are no rules as to where the interpreter should be located. Normally, the interpreter is in the requesting or requested court.</p> <p><u>Germany</u>: If the examination is conducted by a German court (Chapter I) the interpreter may only remain in another place within the requesting State. Moreover, simultaneous audio-visual transmission of the examination to the courtroom must take place (Sec. 185 Subsec. 1a Gerichtsverfassungsgesetz – Courts Constitution Act).</p> <p><u>Hungary</u>: The above answer relates only to Chapter I when Hungarian law applies.</p> <p><u>Korea (Republic of)</u>: The provisions concerning expert witness applies to the interpreters (Art. 143 of the Civil Procedure Act) and interpretation service also can be given by the video links.</p> <p><u>Poland</u>: This issue is not regulated by Polish law. The above answer reflects current practice. Depending on the circumstances, the Polish court may allow different arrangements.</p> <p><u>Slovenia</u>: Article 102 of the CPC provides that parties and other persons involved in the proceedings shall have the right to use their own language in all acts of procedure they perform in court. If the proceedings are not conducted in the language of a party or of other</p>	

persons involved in the proceedings, they shall be afforded, upon a motion filed to this effect or when the court finds that they do not understand the Slovenian language, oral translation of statements made at the hearing and written translation of documents used as evidence. There are no provisions regulation the location of the interpreter (so all above options are theoretically possible), so it is up to the judge to decide regarding that question.

Sweden: This is not governed by Swedish law. The judge in charge of the proceedings must decide this on a case-by-case basis in collaboration with the parties and the requesting state.

Switzerland: En Suisse, le recours à la liaison vidéo n'est pas envisageable sous le Chapitre I de la CLaH70. La réponse se réfère au Chapitre II CLaH70. En théorie, toutes les variantes sont imaginables. Cela dépend des actes qui ont été requis et autorisés. Après avoir obtenu l'autorisation, l'organisation et l'exécution de l'obtention de preuve par liaison vidéo est de la responsabilité de l'autorité requérante / de l'agent diplomatique ou consulaire / du commissaire. Les autorités suisses n'apportent pas d'assistance ou des services.

United States of America: The location of the interpreter should be determined by the parties involved. Generally, there is no restriction on where the interpreter must be located.

### Reporting and Recording

#### f) Is a written report of the video-link hearing or testimony prepared?

Yes. Please specify by whom.

Please also outline the specific rules or regulations, if any, which are applicable to the handling/storage/distribution of the report.

Brazil: The Brazilian judicial authority may decide on this issue.

China (Hong Kong SAR): Transcript of proceedings would be prepared upon request and approved by the court.

Croatia: By the Court. The soundtrack will also be transmitted in writing within eight days of recording (article 126.c/1. CPA).

The decision on the tone recording shall be decided by the court, either ex officio or at the proposal of the parties. The method of storing and transmitting tons of recordings, technical conditions and recording methods is prescribed by the Rules of Court ("Official Gazzete" 37/14, 49/14, 08/15, 35/15, 123/15, 45/16, 29/17, 33/17 and 34/17).

[22]

Belarus, Brazil, China (Hong Kong SAR), Croatia, Cyprus, Czech Republic, France, Germany, Hungary, Israel, Korea (Republic of), Malta, Mexico, Norway, Poland, Romania, Singapore, Slovenia, South Africa, Sweden, United Kingdom (England and Wales) and Venezuela

Cyprus: This is usually prepared by the assistant of the judge in the requesting state.

Czech Republic: Court reporter. General rules on reports from oral hearing apply. Thus as a rule, if the audio-video recording is taken, there is no need to prepare a written report. On the other hand, the possibility to prepare a written report is not affected, hence if the court itself finds it useful, it can prepare a written report as well. Contrary to the "ordinary" oral hearing, in cases of video-link such a written report is not to be signed by the witness/expert.

France: En cas d'exécution par le tribunal requis, conformément aux articles 219 et suivants du code de procédure civile, les dépositions des témoins sont consignées dans un procès-verbal daté et signé par le juge, ainsi que par le greffier qui l'a établi. Le tribunal requérant peut solliciter dans sa demande qu'il soit procédé, comme formes spéciales, à l'enregistrement audio et/ou vidéo de l'audition, sous réserve de l'autorisation du tribunal requis, d'une part, et de la prise en charge des coûts y afférents par les seules parties, d'autre part.

Germany: The report is, as a rule, prepared by the German court as long as evidence is taken pursuant to Chapter I.

Hungary: By Court staff.

Israel: By the Israeli judge. Article 68a(a) of the Courts Law-1984

Korea (Republic of): A brief report of the Clerk (the protocol by the junior administrative officer). Interested parties can request the protocol (reading or copying). Protocol shall, if requested by an interested party, be read to him/her or be made available for his/her perusal.

Malta: This will be prepared by the judicial assistant / deputy registrar who would have been appointed by Court. The report will be in the file together with the request.

Norway: The court will either take a record of the examination or give a written report from the examination.

Poland: Applicable only under Chapter I: By the Polish court. Art. 157, 158 §2 and §4-of the Civil Proceedings Code;

Regulation of the Minister of Justice on the sound or sound and vision recording from public hearings in civil proceedings, issued on basis of Art. 158 of the Civil Proceedings Code.

Romania: The testimony or hearing thus made is recorded in the end-of-session report by the court clerk. The clerk participating to the hearing has the obligation to take notes on the hearing, which will be then endorsed by the president of the court panel. The parties may require that such notes be read out and, if necessary, that corrections be made therein. After the end of the court session, each of the participants to the trial are entitled to receive, upon request, a copy of the clerk's notes. Any contestation against the clerk's notes may be filed no later than the next trial date. Court sessions will be recorded by the court. Upon request, and on their own expense, the parties may obtain a digital copy of the court session recording as regards their case. (art. 231 of the Code of civil procedure).

The statement made by the witness shall be set down in writing by the court clerk, after dictation made by the president or by the delegated judge, and it shall be signed on each page and at its end by the judge, court clerk and witness, after the last one has been duly advised on the contents thereof (art. 323 of the Code of civil procedure).

If experts are able to express their opinion forthwith, they will be heard and their opinion will be recorded in a report, the provisions of art. 323 being applied accordingly (art. 334 of the Code of civil procedure).

As to the findings and to the measures taken on the spot, the court shall draw up a report in which the parties' arguments or objections will be recorded, report which shall be signed by those present. Drawings, plans, sketches or photographs made/taken of the spot shall be attached to the said report and shall be

signed by the parties attending the hearing (art. 347 of the Code of civil procedure).

Answers to the interrogatory shall be recorded on the same sheet of paper containing the questions. The interrogatory shall be signed on each page by the president, court clerk, the persons who proposed them as well as by the party who answered them after having been informed on the contents thereof (art. 354 of the Code of civil procedure).

The court may approve that the hearing take place at the residence of the person summoned to be heard, conducted by a delegated judge, if there are well-grounded reasons preventing the respective person to appear in court. In this case, the answers to the questions shall be recorded in the presence of the opposite party or in her absence, if such party has been summoned but failed to appear. A party whose residence is situated within the jurisdiction of another court shall be heard by virtue of letter rogatory (art. 357 of the Code of civil procedure).

An accurate record of the testimony shall be made by a person agreed upon by the parties, record which will be signed on each page and at its end by the parties' lawyers, by its author as well as by the witness, after he has been duly advised on the contents thereof. If the testimony has been recorded in short-hand, it shall be transcribed. Both the short-hand version and the transcription thereof shall be signed and entered in the file.

If the testimony has been recorded by audio-video means, it may be then transcribed upon request of an interested party, in accordance with the legal provisions. The transcription of such recorded material shall be signed and entered in the file (art. 377 of the Code of civil procedure).

Singapore: If court assistance is sought in the taking of evidence, the testimony is transcribed through Notes of Evidence certified by the Assistant Registrar. An application can be made for a copy of the Notes upon payment of such fees as may be prescribed. An application may also be made for Digital Transcription Services of the hearing on the taking of evidence.



<p><u>Slovenia</u>: The judge. CPC Article 122: A (written) record is made of every procedural act performed in the hearing.</p> <p><u>South Africa</u>: By the presiding officer.</p> <p><u>Sweden</u>: Usually by the judge or a law clerk. Handling, storage and distribution of such documents is regulated by the Swedish Public Access to Information and Secrecy Act.</p> <p><u>United Kingdom (England and Wales)</u>: If the examination is conducted in a court, recording facilities are provided but the applicant/parties are responsible for the costs of transcription. Alternatively the requesting party may instruct their own shorthand writers to attend in court and transcribe the evidence. If held in other premises, including Embassy or Consular Offices, the applicant/parties must arrange audio recording and transcription.</p> <p>Chapter I: CPR 34.19 requires the examiner to send the deposition to the Central Authority unless the court orders otherwise. The Central Authority then provides a certificate identifying the letter of request, the order of the court for examination and the deposition of the witness. These will be sent to the requesting court.</p> <p><u>Venezuela</u>: Chapter I: It is always recorded in court minutes, according to the general rules on evidence (See Art. 188 of the Venezuelan Code of Civil Procedure), and it is sent to the Central Authority.</p> <p>Chapter II: The law of the State of origin shall apply.</p>	
<p style="text-align: center;"><b><u>No</u></b></p>	<p style="text-align: center;">[7]</p> <p style="text-align: center;">China (Macao SAR), Estonia, Finland, Greece, Lithuania, Portugal and United Kingdom (England and Wales)</p>
<p><i>Comments</i></p> <p><u>Australia</u>: This depends on each Australia State and Territory:</p>	

- NSW: Video-link is unable to be used for the purpose of a NSW Court giving effect to a request under Chapter 1. See answer to the questions in Part II (a) and (b) above.
- WA: There is capacity to prepare a written report of the hearing or testimony. An order may be made to this effect under section 117 of the *Evidence Act 1906* (WA) and Order 39 rule 3 of the *Rules of the Supreme Court 1971*.

If an order is made that there be a deposition of any person examined under Order 38 Rule 11, the following rules apply:

- a) the examiner must read and authenticate the deposition by her or his signature; and
- b) the examiner must indorse on the deposition a note signed by her or him of the time occupied in taking the examination and the fees received by her or him in respect thereof.

The authenticated deposition must then be sent to the Principal Registrar of the Supreme Court, who, upon receiving the deposition, must give a certificate in Form No 31 sealed with the seal of the Court annexing thereto and identifying the request, the order for examination

- QLD: Yes - A transcript of the proceeding is obtained through Auscript.
- TAS: Yes - *Supreme Court Rules 2000* - s975 - examination to be forwarded to the Registrar.
- SA: Yes.
- VIC: Yes – Transcript Service providers arranged by the Requested State.

Bulgaria: The national legislation does not provide specific rules on taking of evidence by video-link in the field of civil or commercial matters.

China (Hong Kong SAR): Only if the taking of evidence is held by the Court.

China (Macao SAR): According to Article 447 of the CPC, if the taking of evidence by video-link occurs before the court hearing, all statement or testimony is recorded. If recording is impossible, the statement or testimony shall be reduced to writing, with the wordings dictated by the judge.

If the use of video-link occurs during the court hearing, the court may, ex officio or upon request, order the audio-video recording of the hearing (Article 448 of the CPC).

Moreover, pursuant to Article 487 of the CPC, the statement shall always be reduced to writing, even if it has been recorded, in the part in which there is confession of the deponent, or in which he narrates facts or circumstances that imply indivisibility from the confessional declaration.

Estonia: It is not prepared by the requested court unless this has specifically been requested by the requesting court.

Germany: If evidence is taken pursuant to Chapter II, the requesting court determines in accordance with its own law whether a report is to be compiled or not, unless the requested State has set appropriate conditions referring thereto when granting permission.

Hungary: The above answer relates only to Chapter I when Hungarian law applies.

Lithuania: According to Paragraphs 16-18 of The Resolution of the Judicial Council, in the cases laid down by law or by the court decision, a video conference of a hearing may be recorded. By the decision of a court, a record of a video conference may be equated with a sound recording or attached to the minutes. Records are kept in accordance with the procedure established by legal acts.

Also, the general rules for the recording of a court hearing apply. Article 168(1) of the Code of Civil Procedure establishes that each oral hearing of the case shall be recorded, except in cases provided for in this Code. A record of a hearing shall be considered the minutes of a hearing and shall form an integral part of the proceedings.

Romania: There is no videoconference report from a technical point of view.

Slovenia: Article 125 of the CPC: If a record is not drawn up in writing, the copy of the record shall be made in three (3) days. In the subsequent three days, the parties shall have the right to inspect the copy of the record and to object to the correctness thereof.

Sweden: A written report does generally not include a transcript of the testimony but is a minute of the meeting.

Switzerland: En Suisse, le recours à la liaison vidéo n'est pas envisageable sous le Chapitre I de la CLaH70. La réponse se réfère au Chapitre II CLaH70. Cela dépend des actes qui ont été requis et autorisés. Après avoir obtenu l'autorisation, l'organisation et l'exécution de l'obtention de preuve par liaison vidéo est de la responsabilité de l'autorité requérante / de l'agent diplomatique ou consulaire / du commissaire. Les autorités suisses n'apportent pas d'assistance ou des services.

United Kingdom (England and Wales): Chapter II: Consular officers are not directly involved in taking the evidence by video-link; they provide only the technological means for the witness to take part in the court proceedings. Any transcripts would need to be arranged by the applicant/parties.

United States of America: Whether a written report of the video-link hearing or testimony is prepared must be stipulated by the parties involved.

**g) Are facilities and equipment made available in order to record the hearing or testimony?**

**Yes, with audio and video.**

Belarus: The CPC Article 175 and the CCP Article 189.

Hungary: The above answer relates only to Chapter I when Hungarian law applies.

Poland: Regulation of the Minister of Justice on the sound or sound and vision recording from public hearings in civil proceedings.

Slovenia: Article 125a of the CPC.

[17]

Belarus, Brazil, Bosnia & Herzegovina, China (Macao SAR), Croatia, Cyprus, Czech Republic, Hungary, Latvia, Lithuania, Mexico, Poland, Romania, Slovenia, South Africa, Sweden and Venezuela

The president of the panel may order audio or visual recording of the hearing and notifies the parties and other participants at the hearing. The recording must contain following information: the address and composition of the court, the place, the date and the hour of the hearing, the matter in dispute and names of the parties or other persons, their legal representatives or attorneys.

Besides that the recording contains data identifying the person whose statement is being recorded and information on what grounds/features the person is giving statement. If statements of several persons are recorded, it must be clear from the recording who gave the statement.

In the record of the hearing it must be noted that the hearing was recorded with a device for audio or visual recording, who ordered the recording and that the parties and other participants in the hearing were informed that recording was being made, that the recording was reproduced at the request of the party and the location where of the recording is stored if the recording is not enclosed to the record of the hearing. The record of the hearing is handled electronically.

A transcript of an audio recording is made within three (3) days' time of its occurrence. The president of the panel must review, validate and attach the recording to the minutes of the hearing.

The party has the right to inspect and to object to any irregularities in the transcript in the transcript in three days' time after the transcript is made. The president of the panel decision regarding any objections is made by the presiding judge without the hearing.

Audio and video recordings are stored by the court as long as the case file is stored. The existence and the content of the minutes is automatically recorded in the information system.

Sweden: Handling, storage and distribution of such recordings is regulated by the Swedish Code of Judicial Procedure and the Swedish Public Access to Information and Secrecy Act.

<b><u>Yes, only with video.</u></b>	[0]
<b><u>Yes, only with audio.</u></b> <u>China (Hong Kong SAR):</u> In accordance with the Judiciary IT Security Policy and Guidelines. <u>Malta:</u> The recording is distributed only to the parties involved in the case. <u>Singapore:</u> Please see the Supreme Court's Practice Directions and the Family Justice Court's Practice Directions on the procedures to apply for a record of the proceedings to be made.	[7] China (Hong Kong SAR), Finland, Korea (Republic of), Malta, Portugal, Singapore and United Kingdom (England and Wales)
<b><u>No, but the recording of hearings/testimonies is permitted.</u></b>	[5] Estonia, France, Germany, Norway and United Kingdom (England and Wales)
<b><u>No, because the recording of hearings/testimonies is not permitted under internal law.</u></b>	[1] Greece
<p><i>Comments</i></p> <p><u>Australia:</u> This depends on each Australia State and Territory:</p> <ul style="list-style-type: none"> <li>• <u>NSW:</u> Yes, under internal law, but not for the purposes of Chapter 1 of the Convention.</li> <li>• <u>WA:</u> Yes, with audio and video.</li> <li>• <u>QLD:</u> Yes, only with audio. The Court has facilities which audio records the evidence. This recording is made only for the purpose of producing a written transcript of the proceedings. No person is permitted to record in the courtroom.</li> <li>• <u>TAS:</u> Yes – with audio and video.</li> <li>• <u>SA:</u> The standard practice is for a written transcript to be produced.</li> <li>• <u>VIC:</u> Yes, with audio and video – a transcript and record of the evidence is provided to the Court and the Requesting State.</li> </ul> <p><u>Bosnia &amp; Herzegovina:</u> The Criminal Procedure Laws on all levels in Bosnia and Herzegovina prescribe that witness hearings may be recorded with audio or audio-visual devices in all phases of the procedure. The hearing has to be recorded in cases involving minors who are not sixteen years of age yet, and who are adversely affected by a crime, as well as when there are grounds for fear that it will not be possible to interview the witness at the main trial.</p>	

All actions taken during the criminal procedure are generally recorded with an audio or audio-visual device. The person to be interviewed is informed of this in advance by the prosecutor, or an authorised official, and is informed of the right to request a playback of the recording in order to check his/her statement.

All prosecutor's offices have equipment which enables audio recording and playback of audio recordings when taking witness statements in the investigation phase in criminal cases. All courts in Bosnia and Herzegovina have equipment which enables audio recording and playback of audio recordings from hearings in criminal cases. Furthermore, the Court of Bosnia and Herzegovina, the Cantonal Court in Sarajevo, Bihać, Tuzla, Zenica, Novi Travnik and Mostar, the District Courts in Banja Luka, Doboј, Bijeljina, Istočno Sarajevo and Trebinje, and the Basic Court in Brčko District BiH have equipment which provides the following features:

- Image and sound transfer from a separate room for witnesses into the court room and vice versa,
- Image and sound distortion for witness identity protection;
- Transcription of court hearings,
- image and sound distribution and presentation within the court room;
- image and sound recording and archiving onto adequate electronic media;
- graphic presentation of evidence within the court room and the separate room for witnesses.

Procedural actions in other types of cases are not recorded with audio or audio-visual devices.

Brazil: Please contact the Central Authority beforehand to consult about this possibility in a specific court around the country.

Bulgaria: The Supreme Judicial Council has the necessary technical equipment and in case of need, this equipment may be provided at the disposal of the courts;

Further information for the technical video equipment which is at the disposal of the courts can be found on the following webpage:  
[www.vss.justice.bg/en/page/view/2081](http://www.vss.justice.bg/en/page/view/2081)

China (Hong Kong SAR): Only if the taking of evidence is held by the Court.

Croatia: However, in some legal bodies that enforce the Convention there could be some technical issues that could present an obstacle for using video-link assist.

Germany: Recording may be permitted if all parties concerned agree and the equipment is available (Sec. 128A Subsec. 3 ZPO (Zivilprozessordnung – Code of Civil Procedure)).

Israel: The recording of hearings/ testimonies may be permitted by the judge according to Article 68b of the Law of courts. However, in practice this is very rare.

Latvia: Please contact the Central Authority beforehand to consult about this possibility in a specific court around the country.

Lithuania: The records of video conference are stored in the central video conferencing facility managed by the National Courts Administration in accordance with the procedure established by legal acts. Upon request or in the absence of an opportunity to store the records of video conference in a central video conferencing facility managed by the National Courts Administration, the video

conference records are transferred to the storage media and added to the case file (Paragraph 18 of The Resolution of the Judicial Council).

Poland: Parties may also apply to be allowed private recording of audio and video on basis of Art. 162(1) of the Civil Proceedings Code.

Portugal: Hearings by videoconference are always recorded by the court's audio recording system, in accordance with the provisions of Article 155 of the Portuguese Code of Civil Procedure.

Slovenia: All courts (local court included) have audio recording possibilities, videoconferences are always connected to audio recording, but as already stated above, videoconferences are possible only at all district courts in Slovenia.

Switzerland: Non. En Suisse, le recours à la liaison vidéo n'est pas envisageable sous le Chapitre I de la CLaH70. La réponse se réfère au Chapitre II CLaH70. Cela dépend des actes qui ont été requis et autorisés. Après avoir obtenu l'autorisation, l'organisation et l'exécution de l'obtention de preuve par liaison vidéo est de la responsabilité de l'autorité requérante / de l'agent diplomatique ou consulaire / du commissaire. Les autorités suisses n'apportent pas d'assistance ou des services.

United Kingdom (England and Wales): If the examination takes place in court, the recording is stored digitally and a CD of the recording may be requested on payment of a fee. Any party may request a transcript, on payment of the transcription fees. If the examination takes place outside a court, including in an Embassy or Consular Offices, it is for the applicant/parties to arrange any handling/storage/distribution of the recording.

United States of America: All arrangements must be made privately between the parties.

### Documents and Exhibits

#### **h) What arrangements are to be made for showing or referring to documents or exhibits when taking evidence by video-link?**

##### Australia:

- NSW: Video-link is unable to be used for the purpose of a NSW Court giving effect to a request under Chapter 1. See answer to the questions in Part II (a) and (b) above.
- WA: The Court may make orders in relation to the appropriate arrangement pursuant to section 117 of the *Evidence Act 1906* (WA) and Order 39 rule 3 of the *Rules of the Supreme Court 1971*. The normal practice is for any documents or exhibits that are tendered to the Court during an examination is that they are identified by the Court and marked accordingly and are then annexed to the transcript of the examination.
- QLD: Any documents or exhibits required to be shown during the evidence must be supplied with the Letter of Request.
- VIC: The documents would need to be produced to the witness in advance of the hearing.

Belarus: According to the Part 4 of the CPC Article 185-1 evidence presented at court hearing with video conferencing is sent to the competent court during the day next to the day of hearing. According to the Part 4 of the CCP Article 176-1 evidence presented at

court hearing concerning commercial affairs and organizing video conferencing is sent to the economic court during the day next to the day of hearing.

Brazil: Please contact the Central Authority in this regard. As an example, in some cases, there can be an additional video channel specifically for showing documents or making presentations.

Bulgaria: The national legislation does not provide specific rules on taking of evidence by video-link in the field of civil or commercial matters.

China (Hong Kong SAR): The documents or exhibits could be projected to the screen for the witness to view at the video-link examination. Alternatively, the documents or exhibits could be sent to Hong Kong SAR in advance for the witness to view in the room of examination. In either case, it is the party calling the witness who is responsible for the arrangement.

China (Macao SAR): Since the Macao SAR has no such experience until now, there is no special arrangements on this issue.

Croatia: A transcript of tonal recordings may be requested by the party within eight days of the day the soundtrack was made (article 126.c/4. CPA). The court shall decide, at its discretion, which facts it will find proved, after conscientious and careful assessment of all the evidence presented individually and as a whole and taking into consideration the results of the entire proceedings (Article 8. CPA).

Cyprus: In some instances these might be forwarded and printed in advance.

Czech Republic: Any document that will be referred to during the taking of evidence is to be attached with the request. All documents shall be printed in good quality.

Estonia: There is a possibility to connect a computer to the conferencing device.

Finland: The documents can *e.g.* be scanned and sent by email to the court where the witness is and then be shown to the witness.

France: Aucun aménagement possible lorsque la demande est exécutée par le tribunal requis; il n'est pas permis de "présenter" ni "produire" des documents par vidéoconférence. Dans tous les autres cas, ces aménagements doivent être de la responsabilité du tribunal requérant et/ou du commissaire ou agent diplomatique/consulaire désigné.

Germany: The requirements vary considerably: Not all Länder meet the requirements relating to technical equipment (the availability of a document camera). Therefore, in most cases, it is a requirement that the documents or evidence which is provided are enclosed with the request (as a certified copy). If the requesting court asks the person to be examined to bring and present to the video examination specific documents or evidence, the reservation made by Germany with regard to Art. 23 of the Convention is to be taken into account.

Hungary: To verify his/her identity, the person heard shows his/her ID card or other official document suitable for identification to the judge or assistant judge through the video camera. Specific camera for use for documents can be also deployed.

Israel: Documents must be sent via e-mail.



Korea (Republic of): Electronic Data Processing System which means electronic equipment of a system with data processing capability used to make, submit, serve or manage electronic documents necessary for the procedures under the Act on the Use, etc. of Electronic Documents in Civil Litigations Act. Fax and Email can be used to show or refer the documents.

Latvia: Please contact the Central Authority in this regard.

Lithuania: A person, interviewed by video conference can submit evidence (documents) to the court by post, fax, via the Lithuanian court electronic services portal e.teismas.lt, through the representative of the requested institution, who participates in the video conference, or by other methods, provided by legal acts (Paragraph 13-1 of The Resolution of the Judicial Council).

Malta: Any document that will be referred to during the taking of evidence is to be attached with the request. It is imperative that all documents are printed in good quality and photos are to be sent in colour.

Mexico: Every document has to be translated to Spanish.

Norway: There exists no regulations about this, the judge will decide how to do this in each case.

Poland: This issue is not regulated by Polish law specifically for video-links. Generally, the documents presented during court hearings should be translated into Polish and legible when presented to the judge, conf. Art. 243 (1)- 257 of the Civil Proceedings Code; §7.2 and §7.3.c. of Regulation of the Minister of Justice on the sound or sound and vision recording from public hearings in civil proceedings, provide, that the testifying person should be visible and can be heard in the recording.

Portugal: Either they are sent to the requested court or exhibited electronically during the hearing.

Romania: See the answer to VII f) hereinabove.

Singapore: A visualizer is used as source feed for such content sharing.

Slovenia: Document camera.

South Africa: Information to be shared amongst states.

Sweden: Provided there are no legal obstacles for this, they can either be sent to the witness/expert or be shown to the camera.

Switzerland: En Suisse, le recours à la liaison vidéo n'est pas envisageable sous le Chapitre I de la CLaH70. La réponse se réfère au Chapitre II CLaH70. Cela dépend des actes qui ont été requis et autorisés. Après avoir obtenu l'autorisation, l'organisation et l'exécution de l'obtention de preuve par liaison vidéo est de la responsabilité de l'autorité requérante / de l'agent diplomatique ou consulaire / du commissaire. Les autorités suisses n'apportent pas d'assistance ou des services

United Kingdom (England and Wales): If the examination takes place in court, the technology does not presently support document sharing. In all examinations under Chapter I and II this would have to be organised by the requesting party.

United States of America: Customarily in the United States, in order to increase his or her familiarity, a witness is provided documents and exhibits in advance. Parties, however, may stipulate to any suitable arrangement.

<u>Venezuela</u> : Security measures and measures of control to the evidences. Exhibition and explanation in camera of documentary data of the documents.	
<b>UNDER CHAPTER I</b>	
<b>Practical Obstacles</b>	
<b>i) Does your State consider that there are practical obstacles to using video-link to assist in the taking of evidence under Chapter I of the Convention?</b>	
<p style="text-align: center;"><b><u>Yes</u></b></p> <p><u>Australia</u>: There are a number of practical obstacles for Australian States and Territories taking evidence via video-link. The main difficulty is the time difference between the requesting State and Australia. This can be a number of hours depending on the foreign country and this can cause problems if the difference is outside courts normal hours of operation. There may also be difficulties with the technology, support resources and equipment capabilities.</p> <p><u>France</u>: Décalage horaire entre l'Etat d'origine et l'Etat requis ou contraintes calendaires.</p> <p><u>Germany</u>: Incompatibility of the systems connected, bad reproduction quality and time difference.</p> <p><u>Greece</u>: Lack of money.</p> <p><u>Hungary</u>: At this moment not all Hungarian courts are properly equipped.</p> <p><u>Poland</u>: Quality of transmission, compatibility of systems.</p> <p><u>Switzerland</u>: Manque d'équipements.</p> <p><u>United States of America</u>: Direct taking of evidence by video-link by a foreign court is not permissible under Chapter I.</p>	<p style="text-align: center;">[10]</p> <p>Australia, France, Germany, Greece, Hungary, Mexico, Poland, Switzerland, United States and Venezuela</p>

<u>Venezuela:</u> In Venezuela there are no videoconference rooms in all judicial circuits.	
<b><u>No</u></b>	[20]  Brazil, China (Hong Kong SAR), Croatia, Cyprus, Czech Republic, Estonia, Finland, Israel, Korea (Republic of), Latvia, Lithuania, Malta, Norway, Portugal, Romania, Singapore, Slovenia, South Africa, Sweden and United Kingdom (England and Wales)
<p><i>Comments</i></p> <p><u>Bulgaria:</u> As mentioned above, only some specific courts have the necessary technical equipment and facilities to take evidence by video-link. Generally, in case of need, courts should require such equipment to be additionally provided by the Supreme Judicial Council.</p> <p>Another obstacle is the lack of national legislation regulating these matters in details.</p> <p><u>China (Macao SAR):</u> Although the taking of evidence by video-link is not prohibited under the Macao SAR law, the Macao SAR has no such experience until now, no accurate comments can be provided.</p> <p><u>Croatia:</u> However, in some legal bodies that enforce the Convention there could be some technical and money issues that could present an obstacle for using video-link assist.</p> <p><u>Slovenia:</u> There were cases when the contact information of the technical personnel was not correct and therefore some difficulties arose.</p> <p><u>Sweden:</u> Not in general.</p>	
<b>Identification of All Relevant Actors</b>	
<b>j) What is the procedure for verifying the identity of the parties, the witness / expert, and all relevant actors in your State when video-link is used under Chapter I?</b>	
<p><u>Australia:</u></p> <ul style="list-style-type: none"> <li>• <u>NSW:</u> Video-link is unable to be used for the purpose of a NSW Court giving effect to a request under Chapter 1. See answer to the questions in Part II (a) and (b) above.</li> <li>• <u>QLD:</u> Each party in the courtroom must announce their appearance at the start of the hearing. Each witness is then required to state their full name and occupation at the start of giving evidence.</li> </ul>	

- VIC: Evidence is to be given on oath or affirmation.

Belarus: According to the Part 2 of the CPC Article 275 the chief justice identifies appeared persons, verifies their identifying papers, powers of legal entities heads and the same of their representatives. According to the Part 2 of the CCP Article 176 the judge of the commercial court (the chief justice) checks the persons appeared in court and taking part in the case, their representatives and other participants of a commercial affair as well as their identifying and confirming powers papers.

Brazil: The Brazilian judicial authority will identify all relevant local actors and ask for the requesting authority to do the same.

Bulgaria: The national legislation does not provide specific rules on taking of evidence by video-link in the field of civil or commercial matters.

China (Hong Kong SAR): The identity card or travel document of the witness will be examined before he gives evidence.

China (Macao SAR): The usual provisions related to the procedures for the taking of evidence apply.

Croatia: The witness will be asked to state his or her name, surname, and the name of his or her father, occupation, address, place of birth, age and relationship to the party (article 243/3. of Civil Procedure Act). The same rule appropriately applies when other parties/experts are going to make a statement at the courts.

Cyprus: The person to be examined will be asked to bring some form of identification with him.

Czech Republic: The person to be examined may be requested by the Court to show his passport or identity card before giving his testimony. The witness will be notified prior to the sitting that he has to bring with him/her one of these documents.

Estonia: The authority taking the evidence identifies the parties according to the rules applying to their conduct.

Finland: The court personnel will usually verify the identity of the parties/witness/expert at the beginning of the hearing.

France: En cas d'exécution par le tribunal requis, la procédure est celle prévue par le droit français: la personne doit justifier de son identité.

Germany: The procedures vary depending on the requested courts. In some places, measures to establish identity are only carried out when the requesting authority explicitly requests this, in others this is only when doubts exist regarding the identity of the person to be examined. The identity of a person is verified using an official identity document [such as an ID card or passport].

Hungary: See point h) above. [To verify his/her identity, the person heard shows his/her ID card or other official document suitable for identification to the judge or assistant judge through the video camera. Specific camera for use for documents can be also deployed.]

Israel: The witness/expert must present an identification document.

Korea (Republic of): Showing ID Card or any other ways that the judge deems appropriate.

Latvia: The Latvian judicial authority will identify all relevant local actors and ask for the requesting authority to do the same. According to Paragraph 3 of Art 703 of the Civil Procedure Law a court shall confirm the identity of the persons involved and ensure the performance of taking of evidence in Latvia.

Lithuania: Paragraph 3 and Paragraph 5 of the Description state that a process participant, who wishes to participate in the hearing via video conference, submits a request to the court and attaches a copy of the identity document approved in accordance with the procedure established by legal acts. Paragraph 7 of the Description establishes that, in accordance with Article 239(2) of the Code of Civil Procedure, when identifying the persons who arrived at the hearing, a process participant, who participates in the hearing via video conference, introduces himself/herself and displays the identity document. The identity document should be displayed in a way that the court can compare it with a copy of the identity document approved in accordance with the procedure established by legal acts, which was submitted to the court.

Malta: The person to be examined may be requested by the Court to show his passport or identity card before giving his testimony. The witness will be notified prior to the sitting that he has to bring with him one of these documents.

Mexico: The requested authority verifies the identity of the witness by means of an official ID.

Norway: Normally a witness/expert will be asked to show identification papers when they appear in court.

Poland: Relevant actors participating in the video-link are being identified on basis of valid and up to date identification documents.

Portugal: The person to be examined may be requested by the Court to present his/her identification before giving testimony.

Romania: In accordance with the provisions of art. 318 of the Code of civil procedure, before the statement is made the president shall ask the witness to state his surname, forename(s), profession, residential address and age; if he is a relative or in-law of any of the parties and the degree of such relationship; if he is in the service of any of the parties. The president shall next advise the witness on the duty to take an oath and on the significance of the oath.

Singapore: Verification with a Photo Identification document (e.g. Identity Card/Passport/Driving Licence) will be required.

Slovenia: Identification document is presented (ID, passport...), the judge establishes identity, and invited party/witness/expert can approach the court only with an invitation.

South Africa: Proof of identity document or passport is required.

Sweden: The same procedures apply as when the parties, the witness/expert and all relevant actors are physically present in Court.

Switzerland: En Suisse, le recours à la liaison vidéo n'est pas envisageable sous le Chapitre I de la CLaH70.

United Kingdom (England and Wales): The parties give all evidence under oath or affirmation, including their identity.

United States of America: N/A

<u>Venezuela</u> : Presentation of identification document of the witness/expert; exhibition in front of the camera and certification by the authorities present at the event.	
<b>Standard Forms</b>	
<p><b>k) Do the authorities of your State use a standardised request form under Chapter I that makes specific reference to the use of video-links?</b></p> <p><b>The use of the <a href="#">Model Form</a> of the Evidence Convention is recommended when taking evidence under Chapter I.</b></p> <p><i>While the Model Form has no explicit reference to the use of video-link, a request to this effect may be included in item 13 of the Form.</i></p>	
<p style="text-align: center;"><b><u>Yes. Please specify:</u></b></p> <p><u>Belarus</u>: The standardised form used makes no reference to video-link.</p> <p><u>Singapore</u>: Please see Part XV of the Supreme Court's Practice Directions and Paragraph 161A of the Family Justice Court's Practice Directions on the applicable procedures and standard forms to be used.</p> <p><u>Slovenia</u>: Only for technical issues and contact information of the technical personnel a form is used.</p> <p><u>South Africa</u>: Form used by Telkom.</p> <p><u>Venezuela</u>: It is use the standard application form recommended by the Hague Conference.</p>	<p style="text-align: center;">[6]</p> <p>Belarus, Mexico, Singapore, Slovenia, South Africa and Venezuela</p>
<p><u>The standardised form makes no reference to video-link.</u></p>	<p style="text-align: center;">[6]</p> <p>Brazil, Cyprus, Czech Republic, Estonia, Portugal, Romania</p>

<p><u>No standardised form is used.</u></p>	<p>[15]</p> <p>Bulgaria, China (Hong Kong SAR), China (Macao SAR), Croatia, Finland, France, Germany, Greece, Hungary, Israel, Korea (Republic of), Lithuania, Norway, Poland, United Kingdom (England and Wales)</p>
<p><i>Comments</i></p> <p><u>Australia:</u> The standard Hague Model Form should be used when requesting evidence via video-link. Victoria, Tasmania and Western Australia have indicated that a further form is available for completion when video-link has been requested.</p> <p><u>Brazil:</u> The Model Form is encouraged, but it is not a formal requirement.</p> <p><u>Bulgaria:</u> Practice reveals that Model Form is used rarely.</p> <p><u>China (Hong Kong SAR):</u> Para. 6 of the Practice Direction 29:</p> <p>Before applying for use of the Technology Court, the party or parties wishing to apply should :-</p> <p>(a) Consult the Judiciary website at <a href="http://www.judiciary.gov.hk">http://www.judiciary.gov.hk</a> to obtain all relevant, up to date information, or simply click link below:</p> <p><a href="http://www.judiciary.gov.hk/en/crt_services/tech crt.htm">http://www.judiciary.gov.hk/en/crt_services/tech crt.htm</a>;</p> <p>(b) Make preliminary inquiries with the Clerk of Court in the High Court (contacting the Court Suite Manager at 2825 4610) as to the availability of the Technology Court over the period broadly covering the likely hearing date or dates in question; and,</p> <p>(c) Consult all other parties involved in such hearings.</p> <p><u>Malta:</u> The Maltese Central Authority never received a request for taking of evidence under the 1970 Hague Convention.</p> <p><u>Romania:</u> There is no standardised form in use. The form used is the one recommended by the Hague Conference on Private International Law.</p> <p><u>Switzerland:</u> En Suisse, le recours à la liaison vidéo n'est pas envisageable sous le Chapitre I de la CLaH70 (ni comme Etat requérant, ni comme Etat requis).</p> <p><u>United States of America:</u> N/A.</p> <p><u>Venezuela:</u> The Additional Protocol of The Inter-American Convention on Letter Rogatory and the Additional Protocol to the Inter-American Convention on the Taking of Evidence Abroad, also have standard applications forms.</p>	

**I) Does your State require the inclusion of any particular practical or technical information from the requesting State in the request in order to conduct / arrange a witness / expert examination by video-link under Chapter I? (e.g. contact details for IT support, technical specifications, etc.)**

**Yes.** Please specify:

Brazil: It is important that the requesting State provide for the transmission protocol that is intended to be used, contact details for technical questions, as well as all of the practical information, where applicable, as IP addresses, "room" numbers, or any other routing information.

Bosnia & Herzegovina: IT support contact details, and the public IP address of the other side sending the video call.

China (Macao SAR): The Requesting Party is suggested to include in its request the particular practical or technical information as detailed as possible so as to facilitate the taking of evidence by video-link.

Cyprus: Contact details for technicians, technical specifications, whether they will require the use of translation services.

Czech Republic: It is important that the requesting State provide for the contact details for technical questions, as well as all of the practical information.

Finland:

- Full contact details of the person in charge of organizing the hearing and for testing the connection and who can be contacted during the hearing.

- Necessary technical specifications.

In Finland, there is a form in use for completing the necessary technical information.

Hungary: To be determined in a case-by-case basis. IP address is necessary in all cases.

[16]

Brazil, Bosnia & Herzegovina, China (Macao SAR), Cyprus, Czech Republic, Finland, Hungary, Israel, Lithuania, Malta, Mexico, Romania, Singapore, Slovenia, South Africa and Venezuela



<p><u>Israel</u>: Contact details including e-mail and telephone number.</p> <p><u>Lithuania</u>: Usually contact information of IT specialists, technical specifications of video conference equipment are requested to submit.</p> <p><u>Malta</u>: (a) time zone; (b) appointment for testing (date and time); (c) fixed IP; (d) details of technical contact person.</p> <p><u>Romania</u>: the coordinates of the courts involved; the court that initiated the request; the date and time of the hearing; equipment model; IP/ISDN; the coordinates of the person responsible from a technical point of view (IT); phone number of the person responsible from a technical point of view (IT); e-mail of the person responsible from a technical point of view.</p> <p><u>Singapore</u>: Please see Part XV of the Supreme Court's Practice Directions and Paragraph 161A of the Family Justice Court's Practice Directions on the applicable procedures and standard forms to be used.</p> <p><u>Slovenia</u>: Technical specifications, IT support, contact details of technical personnel.</p> <p><u>South Africa</u>: Interpreters and experts.</p> <p><u>Venezuela</u>: Contact details of the computer service personnel in charge, and technical specifications.</p>	
<p style="text-align: center;"><b><u>No</u></b></p>	<p style="text-align: center;">[8]</p> <p style="text-align: center;">China (Hong Kong SAR), Estonia, France, Germany, Korea (Republic of), Norway, Poland and United Kingdom (England and Wales)</p>
<p><i>Comments</i></p> <p><u>Australia</u>: This depends on each State and Territory:</p> <ul style="list-style-type: none"> <li>• <u>NSW</u>: Video-link is unable to be used for the purpose of a NSW Court giving effect to a request under Chapter 1. See answer to the questions in Part II (a) and (b) above.</li> <li>• <u>WA</u>: The Supreme Court's Video Link Booking Request Form requires the following information when organizing a video link:</li> </ul>	

- a) location of the other site;
  - b) contact person at the other site;
  - c) phone and fax number at the other site;
  - d) email at the other site;
  - e) other site IP (no cost); and
  - f) other side ISDN.
  - QLD: Yes – Need to know what system the requesting state is using *e.g.* linking up to IP address. QLD does not currently use Skype.
  - TAS: Yes - Technical specifications, remote officer for facilitation and ensuring an appropriate environment of remote party.
  - VIC: Yes and this would need prior approval by the Court.
- Belarus: This question is not regulated by the national law. In reality it is desirable to present technical specifications as well as to realize preliminary connection and transmission quality testing.
- Bosnia & Herzegovina: The HJPC provides this answer only on behalf of the courts and prosecutor's office of BH.
- Bulgaria: The national legislation does not provide specific rules on taking of evidence by video-link in the field of civil or commercial matters.
- China (Hong Kong SAR): The technical information can be provided by subsequent correspondences.
- Croatia: There is no prescribed rule that would require additional information, but when negotiating the date of the hearing between the court that filed the request and the requested court it is possible that an agreement would be needed to resolve some technical issues so that the hearing could be successfully held and in practice those questions are most commonly solved judges by electronic mail.
- Estonia: The technical specifications, IT support contact details etc. have to be sent at one point, but they do not necessarily have to be included in the request form.
- Germany: If necessary, all required practical or technical information (*e.g.* contact details of the person responsible for technical issues and IP-address) are to be transmitted upon additional request. The requesting authority should assess in advance whether the person to be examined is willing to testify via video-link.
- Poland: Such information is not required by law, but it would be highly appreciated to include:
1. the proposed date and time of the video-link, with substitute proposals or information on method to establish such date and time (including periods of equipment booking, availability of judges, witnesses, parties, official public holidays in requesting country etc.);
  2. contact details of the IT support and technical staff;
  3. contact details of the court, allowing immediate communication;
  4. technical specifications of equipment and connection;

5. proposed language of video-link and testimony;
6. information, whether the requesting court will provide for interpretation;
7. expected length of video-link and time for specific witnesses or experts to appear;
8. list of summoned persons, including information on the place they are expected be present at (requested court, requesting court);
9. proposal for arrangements with regard to recording or preparing of the written minutes.

Switzerland: En Suisse, le recours à la liaison vidéo n'est pas envisageable sous le Chapitre I de la CLaH70.

United Kingdom (England and Wales): The requesting court must submit the Model Form.

United States of America: N/A.

### Costs

#### m) Are there any costs associated with the taking of evidence via video-link under Chapter I in your State?

**Yes**. Please provide an approximate estimate of these costs and/or specify the criteria used to determine these costs.

Brazil: The Brazilian judicial authority will decide on a case by case basis if costs are to be borne by the requesting State and which are those costs.

China (Hong Kong SAR): The costs depend on the type of call (e.g. IP call or ISDN call) used and which side is dialling out the call.

Cyprus: The court will decide on a case to case basis.

Estonia: Any costs which may arise - interpretation, technical support etc.

Germany: A proportion of the costs for the purchase, maintenance and operation of the equipment is incurred; currently these costs are mostly borne by the German authorities conducting the examination. In addition to this, telecommunications charges are incurred. According to the Convention, such charges and costs are considered to be costs

[17]

Brazil, China (Hong Kong SAR), Cyprus, Estonia, Germany, Greece, Hungary, Israel, Korea (Republic of), Lithuania, Malta, Mexico, Poland, Romania, Singapore, South Africa and United Kingdom (England and Wales)

relating to the taking of evidence and not merely legal assistance costs.

Greece: They could occur.

Hungary: If the competent court has its seat outside of Budapest, mobile equipment is used which is provided by an external service provider for 213360 HUF + VAT per occasion.

Israel: The cost of the telecommunication services used.

Korea (Republic of): Costs for the internet or telephone.

Lithuania: If ISDN is used for the video-link, the requesting state shall cover the costs of these services. These costs depend on the link price depending on the state to which video link is made to.

Malta: A €100 fee must be paid that covers up to the first two hours of the conference; A €50 fee per hour must be paid for any subsequent hours; An hourly technician fee of €58 is also applicable.

Poland: If any costs are expected, the requesting authority will be notified in advance.

Romania: Costs cannot be estimated as they vary depending on the time needed and on the country. They should be paid by bank transfer, to the account of the court of appeal, as a secondary credit release authority or in the account of the municipal court, as a tertiary credit release authority.

The costs associated with the achievement of the video-link, those for making such connection available in the requesting state, the remuneration of interpreters and the indemnities paid to witnesses and experts, as well as travel expenses incurred by travelling to the requested state shall be reimbursed by the requesting foreign court to the requested Romanian court.

Singapore: Please see Part XV of the Supreme Court's Practice Directions and Paragraph 161A of the Family Justice Court's Practice Directions on the applicable fees.

<u>South Africa:</u> Telkom costs and Judicial costs e.g. sheriff for service of subpoenas.	
<b>No</b>	[5]  Croatia, Finland, Portugal, Slovenia and Venezuela
<p><i>Comments</i></p> <p><u>Australia:</u> This depends on each State and Territory:</p> <ul style="list-style-type: none"> <li>• <u>NSW:</u> Video-link is unable to be used for the purpose of a NSW Court giving effect to a request under Chapter 1. See answer to the questions in Part II (a) and (b) above.</li> <li>• <u>WA:</u> Yes, generally there are costs for a video link examination being AUD\$160.50 booking fee plus AUD\$84.50 per hour or part of an hour. A party must also pay to the Court the expense of the telecommunications charges incurred by the Court but as these would fall under Article 14, it could be the case that they are exempt from taxes and costs of any nature, except for the costs of experts and or interpreters unless this request for a video-link examination is considered to be a special procedure. See <i>Evidence (Video and Audio Links Fees and Expenses) Regulations 1999</i> (WA).</li> <li>• <u>QLD:</u> Yes - There will be the costs of court room hire and also there may be staff wages dependent upon when service is required e.g. after hours.</li> <li>• <u>TAS:</u> Yes – this is subject to the external remote locations costs which vary.</li> <li>• <u>SA:</u> Yes – however it is difficult to estimate costs as it depends on what is required (video and audio transcript, interpreter etc.).</li> <li>• <u>VIC:</u> Yes – see Supreme Court of Victoria Video-link Application Guide.</li> </ul> <p><u>Bulgaria:</u> Such information is not available at the moment because of the lack of the national rules on taking of evidence by video-link in the field of civil or commercial matters.</p> <p><u>China (Hong Kong SAR):</u> Practice Direction 29:</p> <p>16. Where facilities provided in the Technology Court are to be used in conjunction with services and/or materials provided by commercial entities (such as telecommunications carriers providing Video Conferencing services or providers of real time court reporting and transcription services), it shall be the responsibility of each party wishing to avail himself of such services and/or materials to make appropriate contractual arrangements directly with such commercial entities and directly to meet their charges.</p> <p>17. The current charging arrangements applicable to the use of courtrooms will apply to the use of Technology Court. In this connection, it should be noted that non-Judiciary bodies which wish to apply for the use of the Technology Court will have to demonstrate that the proposed event cannot be held in a venue other than the Technology Court.</p> <p><u>China (Macao SAR):</u> Since the Macao SAR has no such experience until now, no accurate comments can be provided.</p> <p><u>Croatia:</u> In the Republic of Croatia, a fee is not charged for videoconferencing.</p>	

Czech Republic: The Czech judicial authority shall decide on this issue.

Finland: See the answer to question n).

Mexico: It will depend on the kind of legal expert involved in the case.

Portugal: No costs are charged for the use of videoconferencing.

Slovenia: Regular costs regarding the travel expenses of the witness/experts, translators.

Sweden: It is difficult to say in advance if there are any costs associated with the taking of evidence via video-link under Chapter I. We are unfortunately unable to give a general answer to this question.

Switzerland: En Suisse, le recours à la liaison vidéo n'est pas envisageable sous le Chapitre I de la CLaH70.

United Kingdom (England and Wales): We cannot provide an estimate as the cost would depend on the circumstances of each case.

United States of America: N/A.

Venezuela: In Venezuela the access to justice is free.

**n) Who is responsible for bearing the costs occasioned by the use of video-link under Chapter I in your State?**

*See Art. 14(2) of the Evidence Convention*

<u>The moving party (requesting the use of video-link).</u>	[10] Brazil, China (Hong Kong SAR), Croatia, Cyprus, Estonia, France, Mexico, Singapore, United Kingdom (England and Wales) and Venezuela
<u>The requesting authority (in the requesting State).</u>	[19] Belarus, Brazil, China (Hong Kong SAR), China (Macao SAR), Cyprus, Czech Republic, Estonia, France, Germany, Greece, Hungary, Korea (Republic of), Lithuania, Malta, Poland, Portugal, Romania, Slovenia and United Kingdom (England and Wales)
<u>The requested authority (in the requested State).</u>	[3] Greece, Israel and Venezuela

<p><u>Other. Please specify:</u></p> <p><u>Bosnia &amp; Herzegovina:</u> The video system in courts and prosecutor's offices in BH uses IP technology and has no costs for establishing video links.</p> <p><u>Israel:</u> So far, as a gesture of goodwill, Israel has borne the costs occasioned by the use of video link.</p> <p><u>South Africa:</u> Section 40(1) of the Superior Courts Acts provides that except where the Minister directs otherwise, no fees other than disbursements shall be recovered from any State, Territory or Court on whose behalf any service has been performed.</p>	<p>[3]</p> <p>Bosnia &amp; Herzegovina, Israel and South Africa</p>
<p><i>Comments</i></p> <p><u>Australia:</u> This will generally be the moving party (<i>i.e.</i> the person requesting the use of the video-link).</p> <p><u>Brazil:</u> The Brazilian judicial authority will decide on a case by case basis if costs are to be borne by the requesting State and which are those costs.</p> <p><u>Bulgaria:</u> Such information is not available at the moment because of the lack of the national rules on taking of evidence by video-link in the field of civil or commercial matters.</p> <p><u>Croatia:</u> Pursuant to Article 153 of the Civil Procedure Act, when a party proposes evidence, he or she shall be obliged, by order of the court, to pay, in advance, the amount needed to cover the costs to be incurred in relation to the introduction of evidence. When evidence is proposed by both parties or when it is ordered by the court sua sponte, the court shall order that the amount needed to cover the costs be deposited by both parties in equal parts. If the court ordered hearing of evidence sua sponte, it may order that the amount be deposited by only one of the parties.</p> <p><u>Finland:</u> The judicial assistance by the Finnish courts is generally free of charge for the foreign requesting court.</p> <p>The Finnish court will not charge for organizing the video link as such, but the court may ask the requesting court to arrange for the interpretation.</p> <p>According to the Act on international judicial assistance and on the recognition and enforcement of judgments in the area of civil and commercial law (426/2015), a person who is obliged to appear or to fulfil a task in a Finnish court based on a request for judicial assistance from a foreign court, can ask the parties to compensate the costs occurred in relation to the request. The court executing the request must record the request for a compensation of the costs and forward it to the requesting court.</p> <p><u>Greece:</u> The requested authority may cover the expenses under certain circumstances.</p>	

Hungary: At the end it is up to the law of Requesting State to determine who bears the costs.

Lithuania: Also see answer to Q p) of this part.

Poland: Art. 1135(1) § 3 of the Civil Proceedings Code.

Slovenia: Equipment for video conference is rented.

Sweden: Please see above at m).

Switzerland: En Suisse, le recours à la liaison vidéo n'est pas envisageable sous le Chapitre I de la CLaH70.

United Kingdom (England and Wales): If costs are incurred (for example an interpreter or transcriber) these would be paid directly by the requestor or moving party.

United States of America: N/A

Venezuela: The cost generated by the use of equipment for videoconferencing is assumed by the State, since access to justice is free in Venezuela. However, the use of interpreters must be paid by the requesting party.

**o) How are these costs generally expected to be paid and/or reimbursed?**

<u>Payment in cash.</u>	[3] China (Hong Kong SAR), Singapore and Venezuela
<u>Payment by (credit) card.</u>	[2] Singapore and Venezuela
<u>Electronic/wire transfer.</u>	[17] Brazil, Croatia, Czech Republic, Estonia, France, Germany, Hungary, Korea (Republic of), Lithuania, Malta, Mexico, Poland, Romania, Singapore, Slovenia, South Africa and Venezuela
<u>Other. Please specify:</u> <u>China (Hong Kong SAR)</u> : By cheque and bank draft drawn in Hong Kong SAR. <u>Israel</u> : So far, Israel has not sought reimbursement.	[3] China (Hong Kong SAR), Israel and United Kingdom (England and Wales)



*Comments*

Australia: This depends on each State and Territory:

- NSW: Video-link is unable to be used for the purpose of a NSW Court giving effect to a request under Chapter 1. See answer to the questions in Part II (a) and (b) above.
- WA: Costs can be paid by electronic fund transfer, International cheque/bank cheque, International money order all of which can be banked in Australia.
- QLD: Payment by credit card and electronic/wire transfer (prefer EFT).
- TAS: Electronic/wire transfer.
- VIC: Payment by credit card or electronic/wire transfer.

Bulgaria: Such information is not available at the moment because of the lack of the national rules on taking of evidence by video-link in the field of civil or commercial matters.

China (Macao SAR): There are no specific rules on this issue.

Croatia: The Civil Procedure Act does not contain a provision on this, it depends on the disposition of the party making the payment.

Romania: See answer from VII m) hereinabove.

Sweden: There are no general principles on this matter.

United Kingdom (England and Wales): See above. The requested authority would not be involved as the costs would be paid direct.

United States of America: N/A

Venezuela: The method of payment must be agreed between the requesting party and the service provider.

**p) Who pays for the interpretation services under Chapter I in your State when video-link is used and how are these costs to be paid and/or reimbursed?**

Australia:

- NSW: Video-link is unable to be used for the purpose of a NSW Court giving effect to a request under Chapter 1. See answer to the questions in Part II (a) and (b) above.
- WA: The moving party. If a party organizes a private interpreter, it is incumbent on the party to organize payment. If the Court arranges an interpreter for the party, the party needs to pay a deposit of 75% of the estimated cost of the interpreter to the Court. Payment may be made by electronic fund transfer, International cheque/bank cheque, International money orders all of which can be banked in Australia.
- QLD: The moving party (requesting the use of the video link).
- TAS: Party to proceeding.

- VIC: The Requested State pays for interpreter service, this is not reimbursed.

Brazil: The Brazilian judicial authority will decide on a case by case basis if costs are to be borne by the requesting State and which are those costs.

Bulgaria: Such information is not available at the moment because of the lack of the national rules on taking of evidence by video-link in the field of civil or commercial matters.

China (Hong Kong SAR): Party calling the witness.

China (Macao SAR): There are no specific rules on this issue.

Croatia: Pursuant to Article 153 of the Civil Procedure Act, when a party proposes evidence, he or she shall be obliged, by order of the court, to pay, in advance, the amount needed to cover the costs to be incurred in relation to the introduction of evidence. When evidence is proposed by both parties or when it is ordered by the court sua sponte, the court shall order that the amount needed to cover the costs be deposited by both parties in equal parts. If the court ordered hearing of evidence sua sponte, it may order that the amount be deposited by only one of the parties.

Cyprus: The moving party will pay, e.g. the translator on a private agreement. The use of technical services, if it's minimal, it is not charged.

Czech Republic: The Czech judicial authority usually pays the fees of translators or interpreters in court proceedings but it may decide on this issue other way.

Estonia: Either the moving party or the requesting authority. Can be paid by electronic / wire transfer.

Finland: If the interpretation is organized by the requested Finnish court and the interpreter is present in the Finnish court, the Finnish court generally pays for the interpretation.

The Finnish court may ask the requesting court to arrange for the interpretation.

France: Les sommes dues aux interprètes sont à la charge de l'autorité étrangère (article 748 du code de procédure civile).

Germany: The requesting court pays by bank transfer.

Hungary: We require the requesting court to arrange for the payment to the Hungarian court, but it is up to the law of the Requesting State to determine who effects the payment.

Israel: Up to this date the costs have been paid by the Administration of Courts.

Korea (Republic of): The requested state pays for the interpretation services and it can be reimbursed by the requesting authority under the Convention Art. 14.

Lithuania: Usually the interpretation services are arranged by the requesting court, but the courts tend to cooperate and, if possible, arranges an interpreter by themselves (sometimes interpreter works in the court, therefore these services does not cost extra money).

If there are some costs, the interpretation services are paid by requesting court via electronic means, according to the bill, provided by the interpreter.

Mexico: The interpretation services are paid by the moving party; the reimbursing via electronic/wire transfer.

Poland: In general -the requesting authority (in the requesting State).

Romania: See answer from VII m) hereinabove.

Singapore: The arrangements for the examination are to be made by the solicitor having conduct of the matter.

Slovenia: Usually the requesting authority of the requesting State.

South Africa: As per article 14.

Sweden: We cannot see that the use of video-link would effect the allocation of costs for interpretation services.

Switzerland: En Suisse, le recours à la liaison vidéo n'est pas envisageable sous le Chapitre I de la CLaH70.

United Kingdom (England and Wales): The requesting party/authority would make payment direct.

United States of America: N/A

Venezuela: The requesting party must pay it. The method of payment must be agreed between the requesting party and the service provider.

## UNDER CHAPTER II

*Only for States that have not excluded in whole the application of Chapter II*

## Practical Obstacles

**q) Does your State consider that there are practical obstacles to using video-link to assist in the taking of evidence under Chapter II of the Convention?**

**Yes**. Please specify:

France: Tout dépend de l'équipement disponible auprès du commissaire désigné, ou du poste diplomatique ou consulaire désigné par le tribunal requérant.

Greece: Lack of technical means.

[7]

Czech Republic, Estonia, France, Greece, Romania, Slovenia and South Africa

<p><u>Romania</u>: See the answer from Chapter II d).</p> <p><u>Slovenia</u>: No equipment available at the premises of embassies.</p>	
<p><b>No</b></p>	<p>[13]</p> <p>Belarus, Bulgaria, Finland, Germany, Hungary, Lithuania, Poland, Portugal, Sweden, Switzerland, United Kingdom (England and Wales), United States of America and Venezuela</p>
<p><u>Australia</u>: The Australian Department of Foreign Affairs and Trade has confirmed that Australian missions do not have the capacity to provide assistance with the taking of evidence via video-link (<i>i.e.</i> most missions do not have this technology). Therefore the practical considerations and how they would be addressed is unknown.</p> <p><u>Bulgaria</u>: There are no practical obstacles to using video-link, but the procedure is excluded by the law.</p> <p><u>Estonia</u>: Currently in most representations the video-conference equipment is located in secured areas, where non-officials are not allowed. However there is currently the possibility of holding video-link through Skype in the representations and in the future there will probably be equipment also available in the public areas.</p> <p><u>Finland</u>: Finnish authorities are not involved in these proceedings.</p> <p><u>Israel</u>: In Israel, the judicial and administrative authorities of the state of Israel are not generally involved in the taking of evidence under chapter II, and there is no centralized body that oversees the operation of chapter II.</p> <p>Outside Israel, there is no practice or regulation of taking of evidence by Israeli diplomatic or consular officers.</p> <p><u>Norway</u>: Not in general.</p> <p><u>Poland</u>: Not applicable. According to Polish consular services there is no possibility of processing outgoing requests under Chapter II. Except for Art. 15, Poland does not apply other provisions of Chapter II.</p> <p><u>Singapore</u>: Not applicable. See response to Part VII(a).</p> <p><u>Slovenia</u>: Embassies and consulates have no technical possibilities, staff or options to the taking of evidence by video link.</p> <p><u>Sweden</u>: Not in general.</p> <p><u>Switzerland</u>: Après avoir obtenu l'autorisation, l'organisation et l'exécution de l'obtention de preuve par liaison vidéo est de la responsabilité de l'autorité requérante / de l'agent diplomatique ou consulaire / du commissaire. Les autorités suisses n'apportent pas d'assistance ou des services.</p>	

United States of America: The witness must be in the United States and must voluntarily agree to provide evidence by video-link directly to the foreign court.

### Identification of all Relevant Actors

#### **r) What is the procedure for verifying the identity of the parties, the witness / expert, and all relevant actors in your State when video-link is used under Chapter II?**

Bulgaria: So far, the procedure has not been applied. In principle, identity verification is based on the presentation of a valid personal identity document.

Czech Republic: Not applicable.

Estonia: Consular officer according to the present documents or presented check-questions.

France: Cette vérification incombe uniquement au commissaire ou agent diplomatique/consulaire désigné, conformément aux dispositions du droit de l'Etat du tribunal requérant.

Germany: As a rule, the decisive factor is the law of the requesting State whose diplomatic or consular agents take the evidence.

Hungary: When the hearing is not conducted by the Hungarian court, it only verifies the identity of the person heard who is present in person. All other aspects are governed by the law of the State of origin.

Israel: N/A, see answer in section q) above.

Lithuania: Diplomatic officer/consular agent or duly appointed commissioner (his representative in the Requested State) shall verify the identity of the parties examined.

Poland: Not applicable. According to Polish consular services there is no possibility of processing outgoing requests under Chapter II. Except for Art. 15, Poland does not apply other provisions of Chapter II.

Singapore: Not applicable. See response to Part VII(a).

Slovenia: Due to the fact that embassies and consulates have no technical possibilities, staff or options to the taking of evidence by video link, the Chapter II is not used for taking of evidence by video link.

South Africa: Proof of Identity document or passport is required.

Sweden: The same procedures apply as when the parties, the witness/expert and all relevant actors are physically present in Court.

Switzerland: Cela dépend des actes qui ont été requis et autorisés.

United Kingdom (England and Wales): Checking passport/ID cards. If appropriate, taking into account requests and feedback from those in the court when they see the witness/expert.

United States of America: The parties can stipulate to the procedure for verifying the identity of the parties, the witness/expert, and all relevant actors.

Venezuela: According to the laws in the State of origin.

### Standard Forms

**s) Do the authorities of your State use a standardised request form under Chapter II that makes specific reference to the use of video-links?**

**Although the use of the [Model Form](#) of the Evidence Convention is recommended when taking evidence under Chapter I, it may also be used, with the necessary amendments when applying for permission to take evidence under Chapter II.**

*While the Model Form has no explicit reference to the use of video-link, a request to this effect may be included in item 13 of the Form.*

**Yes**

Lithuania: Depends on the court drafting a request.

[2]

Lithuania and South Africa

The standardised form makes no reference to video-link.

**No standardised form is used.**

[11]

Estonia, France, Germany, Greece, Hungary, Slovenia, Sweden, Switzerland, United Kingdom (England and Wales), United States of America and Venezuela

*Comments*

Bulgaria: N/A

Czech Republic: Not applicable.

France: L'autorité centrale française ne connaît que les demandes formées par les tribunaux français aux fins d'exécution par les agents diplomatiques ou consulaires français dans l'Etat requis. Toute autre demande est directement envoyée par le tribunal français requérant à l'autorité centrale de l'Etat requis.

Israel: N/A, see answer in section q) above.

Poland: Not applicable. According to Polish consular services there is no possibility of processing outgoing requests under Chapter II. Except for Art. 15, Poland does not apply other provisions of Chapter II.

Singapore: Not applicable. See response to Part VII(a).

Slovenia: Embassies and consulates have no technical possibilities, staff or options to the taking of evidence by video link.

United Kingdom (England and Wales): FCO would action a court request made in any appropriate format.

### Assistance and Facilities

#### t) Are the Embassies and Consulates of your State (acting as the State of Execution) able to assist applicants in arranging a video-link?

**Yes.** Please specify how, e.g., via a booking system.

Bulgaria: Embassy and Consulate staff can assist the booking system and verify the ID.

Estonia: On a case-by-case basis.

Lithuania: By request to the embassy or consulate.

Norway: By request to the embassy or consulate.

South Africa: Bookings with the relevant service provider.

Venezuela: A written agreement between both States and the requested party.

[8]

Bulgaria, Estonia, Lithuania, Norway, South Africa, Sweden, United Kingdom (England and Wales) and Venezuela

**No.** Please specify who else would assist, if anyone.

[6]

Germany, Hungary, Israel, Slovenia, Switzerland and United States of America

#### Comments

Czech Republic: Not applicable.

France: L'équipement disponible auprès des ambassades ou consulats français est seulement connu du ministère des affaires étrangères.

Poland: Not applicable. According to Polish consular services there is no possibility of processing outgoing requests under Chapter II. Except for Art. 15, Poland does not apply other provisions of Chapter II.

Singapore: Not applicable. See response to Part VII(a).

Slovenia: Embassies and consulates have no technical possibilities, staff or options to the taking of evidence by video link.

Switzerland: Après avoir obtenu l'autorisation, l'organisation et l'exécution de l'obtention de preuve par liaison vidéo est de la responsabilité de l'autorité requérante / de l'agent diplomatique ou consulaire / du commissaire. Les autorités suisses n'apportent pas d'assistance ou des services.

United Kingdom (England and Wales): Only as a last resort - the usual procedure is to refer the applicant/parties to local/commercial suppliers.

United States of America: United States Embassies and Consulates encourage the use of commercial alternatives without recommending particular vendors.

**u) Is it possible to hold a video-link session requested under the Convention at the premises of the Embassies or Consulates of your State abroad?**

**Yes.** Please specify:

Bulgaria: If there is a suitable room in the embassy or consulate premises.

Estonia: Currently in most representations the video-conference equipment is located in secured areas, where non-officials are not allowed. However, there is currently the possibility of holding video-link through Skype in the representations and in the future there will probably be equipment also available in the public areas.

Norway: All embassies and consulates have the facilities and equipment necessary.

South Africa: As per article 21.

Venezuela: Through the support of the Central Authority of the State of execution.

[7]

Bulgaria, Estonia, Norway, South Africa, Sweden, United Kingdom (England and Wales), Venezuela



<b><u>No</u></b>	[7] Germany, Greece, Israel, Latvia, Slovenia, Switzerland and United States of America
<p><i>Comments</i></p> <p><u>Czech Republic</u>: Not applicable.</p> <p><u>Hungary</u>: It cannot be excluded.</p> <p><u>Poland</u>: Not applicable. According to Polish consular services there is no possibility of processing outgoing requests under Chapter II. Except for Art. 15, Poland does not apply other provisions of Chapter II.</p> <p><u>Singapore</u>: Not applicable. See response to Part VII(a).</p> <p><u>Slovenia</u>: Embassies and consulates have no technical possibilities, staff or options to the taking of evidence by video link.</p> <p><u>United Kingdom (England and Wales)</u>: Only in exceptional circumstances e.g. formal request made by the UK court or UK government.</p> <p><u>United States of America</u>: As a general matter, security concerns prevent United States Embassies and Consulates from holding video-link sessions for private litigants.</p>	
<p><b>v) Does your State require the inclusion of any particular practical or technical information from the State of Origin in the request in order to conduct / arrange a witness or expert examination by video-link under Chapter II? (e.g. the use of interpreters, stenographers, or recording devices)</b></p>	
<p><b><u>Yes</u></b></p> <p><u>Bulgaria</u>: if there is a list of registered translators and stenographers.</p> <p><u>Hungary</u>: See point I) above.</p> <p><u>South Africa</u>: Interpreters and experts</p> <p><u>Sweden</u>: The information referred to in article 3 of the Convention should be submitted.</p>	[6] Bulgaria, Germany, Hungary, South Africa, Sweden and Switzerland
<b><u>No</u></b>	[7]

	Estonia, France, Lithuania, Norway, United Kingdom (England and Wales), United States and Venezuela
<p><i>Comments</i></p> <p>Czech Republic: Not applicable.</p> <p><u>Estonia</u>: The technical specifications, IT support contact details etc. have to be sent at one point, but they do not necessarily have to be included in the request form.</p> <p><u>Israel</u>: N/A, see answer in section q) above.</p> <p><u>Poland</u>: Not applicable. Poland does not require permission for incoming requests under Art. 15.</p> <p><u>Singapore</u>: Not applicable. See response to Part VII(a).</p> <p><u>Slovenia</u>: Embassies and consulates have no technical possibilities, staff or options to the taking of evidence by video link.</p> <p><u>Sweden</u>: It is difficult to answer this question in detail, in general and in advance.</p> <p><u>Switzerland</u>: Il convient de décrire de manière suffisamment détaillée dans la requête les modalités (pratiques, techniques, etc.) des actes envisagés pour que l'autorisation couvre tous les actes envisagés. Dans la mesure du possible, le nom et l'adresse de toutes les personnes souhaitant participer aux actes de procédure devraient figurer dans la requête.</p> <p><u>United Kingdom (England and Wales)</u>: This is for the applicant/parties to arrange.</p>	
<b>Costs</b>	
<b>w) Are there any costs associated with the taking of evidence via video-link under Chapter II in your State?</b>	
<p><b><u>Yes.</u></b> Please provide an approximate estimate of these costs and / or specify the criteria used to determine these costs.</p> <p><u>Bulgaria</u>: In order to ensure the reliability of the procedure, it is necessary to appoint an additional employee, to purchase professional equipment, to provide technical support for this equipment, to keep translators and stenographers on record.</p> <p><u>Estonia</u>: Any costs which may arise - interpretation, technical support etc.</p>	<p style="text-align: center;">[7]</p> <p>Bulgaria, Estonia, Hungary, Lithuania, South Africa, Switzerland and United Kingdom (England and Wales)</p>

<p><u>Hungary</u>: See point m) above.</p> <p><u>Lithuania</u>: Costs may occur for interpretation, representation, technical support, rental of temporary accommodation.</p> <p><u>Switzerland</u>: Les frais sont des émoluments pour l'obtention de l'autorisation (procédure administrative) et ne sont pas directement liés à l'exécution par liaison vidéo. Le montant oscille entre CHF 100 et 5'000.- selon la valeur litigieuse et la complexité de l'affaire.</p>	
<p style="text-align: center;"><b><u>No</u></b></p>	<p style="text-align: center;">[5]</p> <p style="text-align: center;">France, Germany, Poland, Slovenia and Venezuela</p>
<p><i>Comments</i></p> <p><u>China (Macao SAR)</u>: Not applicable/no comments.</p> <p><u>Czech Republic</u>: Not applicable.</p> <p><u>Germany</u>: The requesting state is responsible for organisation and funding.</p> <p><u>Israel</u>: N/A, see answer in section q) above.</p> <p><u>Poland</u>: We are not aware of costs associated with authorised taking evidence via video-link by foreign diplomatic officers or consular agents (Art. 15).</p> <p><u>Singapore</u>: Not applicable. See response to Part VII(a).</p> <p><u>Slovenia</u>: Embassies and consulates have no technical possibilities, staff or options to the taking of evidence by video link.</p> <p><u>Sweden</u>: It is difficult to say in advance if there are any costs associated with the taking of evidence via video-link under Chapter II. We are unfortunately unable to give a general answer to this question.</p> <p><u>Switzerland</u>: Après avoir obtenu l'autorisation, l'organisation et l'exécution de l'obtention de preuve par liaison vidéo est de la responsabilité de l'autorité requérante / de l'agent diplomatique ou consulaire / du commissaire, y inclus les coûts. Les autorités suisses n'apportent pas d'assistance ou des services.</p> <p><u>United Kingdom (England and Wales)</u>: This depends on staff time involved - hourly rates vary.</p> <p><u>United States of America</u>: Any associated costs will depend on the arrangements made by the parties.</p>	

<b>x) Who is responsible for bearing the costs occasioned by the use of video-link under Chapter II in your State ?</b>	
<u>The moving party (requesting the use of video-link).</u>	[4] Estonia, France, United Kingdom (England and Wales) and Venezuela
<u>The State of Origin.</u>	[6] Estonia, France, Germany, Hungary, Lithuania and Slovenia
<u>The Diplomatic mission or Consulate in the State of Execution.</u>	[4] France, Slovenia, United Kingdom (England and Wales) and Venezuela
<u>The commissioner.</u>	[2] France and Lithuania
<u>Other. Please specify:</u>	[2] Bulgaria and South Africa
<p><i>Comments</i></p> <p><u>Bulgaria</u>: The law does not regulate who will bear the cost. In principle, the state budget covers the costs of salaries, equipment and other expenses in embassies and consulates.</p> <p><u>China (Macao SAR)</u>: Not applicable/no comments.</p> <p><u>Czech Republic</u>: Not applicable.</p> <p><u>Israel</u>: N/A, see answer in section q) above.</p> <p><u>Poland</u>: We are not aware of costs associated with authorised taking evidence via video-link by foreign diplomatic officers or consular agents (Art. 15).</p> <p><u>Singapore</u>: Not applicable. See response to Part VII(a).</p>	

Slovenia: Embassies and consulates have no technical possibilities, staff or options to the taking of evidence by video link.

South Africa: Section 40(1) of the Superior Courts Acts provides that except where the Minister directs otherwise, no fees other than disbursements shall be recovered from any State, Territory or Court on whose behalf any service has been performed.

Sweden: Please see above at w).

Switzerland: Après avoir obtenu l'autorisation, l'organisation et l'exécution de l'obtention de preuve par liaison vidéo est de la responsabilité de l'autorité requérante / de l'agent diplomatique ou consulaire / du commissaire, y inclus les coûts et la question, qui les supporte. Les autorités suisses n'apportent pas d'assistance ou des services.

United Kingdom (England and Wales): The Diplomatic mission or Consulate would bear such costs only in very exceptional circumstances.

United States of America: Responsibility for who bears the costs must be stipulated by the parties involved.

**y) How are these costs generally expected to be paid and/or reimbursed?**

<u>Payment in cash.</u>	[2] United Kingdom (England and Wales) and Venezuela
<u>Payment by (credit) card.</u>	[1] Venezuela
<u>Electronic/wire transfer.</u>	[9] Estonia, Germany, Hungary, Lithuania, Slovenia, South Africa, Switzerland, United Kingdom (England and Wales) and Venezuela
<u>Other.</u>	

*Comments*

China (Macao SAR): Not applicable/no comments.

Czech Republic: Not applicable.

Bulgaria: N/A.

Israel: N/A, see answer in section q) above.

Poland: We are not aware of costs associated with authorised taking evidence via video-link by foreign diplomatic officers or consular agents (Art. 15).

Singapore: Not applicable. See response to Part VII(a).

Slovenia: Embassies and consulates have no technical possibilities, staff or options to the taking of evidence by video link.

Sweden: There are no general principles on this matter.

Switzerland: La réponse se réfère au paiement des frais pour l'autorisation.

United States of America: Responsibility for how costs are paid or reimbursed must be stipulated by the parties involved.

Venezuela: In accordance with the laws of the State of origin.

**z) Who pays for the interpretation services under Chapter II in your State when video-link is used and how are these costs to be paid and/or reimbursed?**

Bulgaria: N/A.

China (Macao SAR): Not applicable/no comments.

Czech Republic: Not applicable.

Estonia: Either the moving party or the requesting authority. Can be paid by electronic / wire transfer.

Germany: The requesting State pays by bank transfer.

Hungary: The law of the State of origin applies.

Israel: N/A, see answer in section q) above.

Lithuania: Requesting authority (the State of Origin).

Poland: We are not aware of costs associated with authorised taking evidence via video-link by foreign diplomatic officers or consular agents (Art. 15).

Singapore: Not applicable. See response to Part VII(a).

Slovenia: The requesting authority of the requested State, although in practice, videoconferencing in accordance of Chapter II is not possible as already explained above.

South Africa: Requesting state unless the Minister directs otherwise.

Sweden: We cannot see that the use of video-link would affect the costs for interpretation services in general.

Switzerland: Après avoir obtenu l'autorisation, l'organisation et l'exécution de l'obtention de preuve par liaison vidéo est de la responsabilité de l'autorité requérante / de l'agent diplomatique ou consulaire / du commissaire, y inclus les coûts et la question, qui les supporte. Les autorités suisses n'apportent pas d'assistance ou des services.

United Kingdom (England and Wales): The applicant/parties would pay direct.

United States of America: Responsibility for how interpreters are paid must be stipulated by the parties involved.

Venezuela: The requesting party must pay it. The method of payment must be agreed between the requesting party and the service provider.