

Questionnaire relating to the **Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters (Evidence Convention)**

Responding State:

Czech Republic

I. General Feedback

1. How does your State rate the general operation of the Evidence Convention?
 - (b) Good.
2. How does your State rate the useability of the HCCH publications developed to assist users of the Evidence Convention (the Practical Handbook on the Operation of the Evidence Convention ([Evidence Handbook](#)) and [Guide to Good Practice](#) – The Use of Video-Link)?
 - (b) Good.
3. What work could be carried out by the PB to facilitate the acceptance of accessions to the Evidence Convention (e.g., providing additional information or facilitating direct communication between your Central Authority and new Contracting Parties)?

“There is still space to promote the benefits of the Convention.”
4. Does your State’s Central Authority have a manual or electronic case management register or system that is used to track incoming requests under the Evidence Convention?
 - (f) Other.
“The CA maintains an electronic file service (a case management) in which incoming/some outgoing requests for legal aid are registered. The case management enables to monitor the status of their processing.”
5. If your State’s Central Authority has oversight for outgoing requests, please indicate if there is a system used to track the progress of these.
 - (d) Other.
“Letters of Request are usually transmitted directly from a judicial authority to the CA of the requested State. However, there are Contracted Parties that have not designated their CA, or that do not have a direct postal connection with the Czech Republic. In that case, the Letters of Request are transmitted via diplomatic channels. In these cases, Letters of Request are registered by means of electronic case management. The case management enables to monitor the status of their processing.”

II. Scope of the Convention

6. In the previous five years*, has your State experienced any difficulties in interpreting the scope of the Evidence Convention?
 - (a) Yes, regarding the interpretation of “civil or commercial matters” (Art. 1).
“Some Contracted Parties sent Letters of Request in administrative matters.”

7. Does your State consider the Evidence Convention mandatory or non-mandatory?
- (a) Mandatory.
8. Has your State adopted “blocking statutes” or laws which are known by any other description, which prevent evidence being taken in the territory of your State for use in foreign proceedings other than under the Evidence Convention (or other international instrument)?
- (b) No.
9. Has your State received or submitted requests for the taking of evidence in connection with arbitration proceedings?
- (b) No.
10. Have any decisions relating to the use of the Evidence Convention in arbitration proceedings been rendered by the judicial authorities of your State?
- (b) No.

III. Operation of the Convention

A. Chapter I – Preparing, transmitting and progressing Letters of Request

Requesting State refers to the State from which a Letter of Request is, or will be, issued.
Requested State refers to the State to which a Letter of Request is, or will be, addressed.

11. As the **requesting State**, how are Letters of Request transmitted?
- (d) Other.
“Letters of Request are usually transmitted directly from a judicial authority to the CA of the requested State. However, there are Contracted Parties that have not designated their CA, or that do not have a direct postal connection with the Czech Republic. In that case, the Letters of Request are transmitted via diplomatic channels.”
12. As the **requesting State**, do the authorities of your State use the recommended Model Form?
- (a) Yes, always.
13. Does your State consider further work on the Model Form would be beneficial? For example, a review of the Model Form with a view to including video-link and the preparation of guidelines outlining how to complete the Model Form.
- (b) Revision is not required.
14. As the **requested State**, do the authorities of your State send an acknowledgement of receipt for a Letter of Request?
- (b) No.

15. During the past five years*, as the **requested State**, has your State received a Letter of Request that is non-compliant?

*If your State has become a Party to the Convention during the previous five years, responses to this questionnaire should reflect the period of time, commencing from when the Convention entered into force in your State.

(a) Yes.

15.1. If the answer to Q15 above is “yes”, why was the request non-compliant?

- (a) The matter was not “civil or commercial”.
- (b) The request was not issued by a judicial authority.
- (c) The request did not relate to judicial proceedings.
- (f) The request did not comply with the content requirements under Article 3.

16. As the **requested State**, does your State provide advance assistance to foreign judicial authorities to prepare a Letter of Request to be sent under the Evidence Convention?

(b) No.

17. As the **requested State**, does your State provide advance assistance to legal representatives to prepare a Letter of Request to be sent under the Evidence Convention?

(b) No.

18. Once your State has received a Letter of Request, do your State’s judicial authorities rephrase, restructure, and / or strike out objectionable questions or offensive wording in order to execute a Letter of Request (also known as “blue-pencilling”)?

(c) Unknown.

19. As the **requested State**, can the execution of a Letter of Request that has been received be challenged?

(a) Yes.
“In accordance with Art. 12 (b) of the Convention.”

19.1. If the answer to Q19 above is “yes”, is the requesting authority or the interested party permitted to respond to the challenge?

(a) Yes.
“The requesting authority may send the clarification and specify its intentions regarding the execution of their request”

20. As the **requesting State**, can the sending of a Letter of Request abroad be challenged?

(a) Yes.
“For the reasons stated in Art. 12 of the Convention.”

21. As the **requested State**, which authority is generally responsible for informing the requesting authority of the time and place of the execution of a Letter of Request (Art. 7)?

(b) Judicial authority competent to execute the request.

22. During the past five years*, as the **requested State**, has your State received a request specifying a particular method or procedure for taking of evidence (e.g., how witnesses are to be examined)? (Art. 9(2))

*If your State has become a Party to the Convention during the previous five years, responses to this questionnaire should reflect the period of time, commencing from when the Convention entered into force in your State.

(a) Yes.
“a) DNA examination b) Expert opinion”

23. As the **requested State**, does your State require the requesting State to reimburse costs?

(b) Yes, sometimes.

23.1. If the answer to Q23 above is “yes”, please indicate circumstances where reimbursement is sought.

(a) Fees paid to experts and interpreters (Art. 14(2))
 (b) Costs occasioned by the use of a special procedure (Art. 14(2))

24. As the **requested State**, who may make a request for a Letter of Request to be withdrawn?

(a) Requesting authority.

25. As the requested State, does your State reject a Letter of Request seeking discovery if it is too broad?

(a) Yes.
“E.g. a request to ascertain all assets of a person/legal entity without specifying the location of such assets would be denied”

B. Chapter I – Execution of a Letter or Request – Witness Examination

All questions directed towards the Contracting Party operating as the requested State.

26. As the **requested State**, how is a hearing conducted for Chapter I requests?

(a) Before a Judge, Magistrate, Special Master, or other court official.

27. Does your State require the Letter of Request to include specific questions to be used during the taking of evidence?

(b) No.

28. In your State, are hearings public or private?

(c) Other.
“The hearings are public, unless otherwise stipulated by law, e.g. if it would endanger secret information protected by the law, trade secret, morality, important interest of a party, etc.”

29. In your State, is a witness provided with a copy of questions / matters contained in the Letter of Request in advance of a hearing?

(c) No.

30. In your State, what are the requirements for documents that are to be presented to a witness?
- (c) Other.
“There are no specific requirements for the documents other than the formalities. A witness must be informed of his rights.”
31. In your State, are documents produced by the witness during the taking of evidence authenticated by the court or authority?
- (b) No.
32. In your State, can representatives of the parties who attend the taking of evidence ask additional questions and / or cross examine the witness?
- (a) Yes.
“The presiding judge, board members, participants and experts enjoy the right to ask questions gradually.”
33. In your State, is an oath or affirmation administered to the witness before the taking of evidence?
- (a) Yes.
34. In your State, can the witness be subject to further examination?
- (a) Yes.
- 34.1. If the answer to Q34 above is “yes”, is a second Letter of Request required?
- (a) Yes.
35. Does your State have sanctions for the non-appearance of a witness?
- (a) Yes.
“If the summoned person does not appear in the examination, the chairman of the panel may bring him or her forward by force if the person was previously warned and fails to appear without an excuse (§ 52 Czech Civil Procedural Code). It is also possible to fine the person for not appearing in court without any serious excuse (§ 53 Czech Civil Procedural Code).”
36. During the past five years*, as the **requested State**, is your State aware of a person requested to give evidence invoking privilege?
- *If your State has become a Party to the Convention during the previous five years, responses to this questionnaire should reflect the period of time, commencing from when the Convention entered into force in your State.
- (d) Unknown.
37. Does your State require interpreters in the taking of evidence to be certified?
- (a) Yes.
38. In your State, how is witness testimony transcribed?
- (e) Other.
“a) Verbatim recording through audio. b) Verbatim recording through written.”

IV. Use of Information Technology

In 2019, the PB circulated a questionnaire on the use of information technology in relation to the operation of the Evidence Convention. That survey was concluded prior to the start of the COVID-19 pandemic. The questions below seek information from Contracting Parties on the use of technology and in light of the pandemic.

39. Does your State's Central Authority accept Letters of Request to be transmitted electronically?
- (b) No.
40. Does your State allow the taking of evidence by video-link under Chapter I?
- (a) Yes.
41. Does your State allow the taking of evidence by video-link under Chapter II?
- (d) Not applicable.
42. Does your State use the Model Form for video-link evidence?
- (a) Yes.
43. What challenges has your State faced regarding the use of information technology under the Evidence Convention?
- (c) Judicial or administrative structures.
(d) Implementation challenges (e.g., lack of resources, lack of infrastructure).
(f) System interoperability / compatibility.
(h) Other.
"Time zone difference."
44. Has your State adopted any new information technology measures to facilitate the operation of the Evidence Convention, particularly in response to the COVID-19 pandemic?
- (a) Yes.
"For the time being, the Czech Republic does not use an electronic way for transmission of requests. However, the electronic path is used for any other communication."
45. In your State's opinion, what topics could the PB explore further (e.g., for the purposes of training, seminars, or conferences) in relation to the use of information technology under the Evidence Convention?
-
46. In your State's opinion, what further work could the PB do on the use of information technology under the Evidence Convention?
- (a) None.

47. In addition to the Evidence Convention, is your State party to any bilateral, regional, or multilateral agreements that provide rules for the taking of evidence abroad?

(a) Yes.

“• bilateral agreements on legal aid in civil matters • the Convention of 1 March 1954 on Civil Procedure • the Vienna Convention on Consular Relations from 1963 • the Regulation (EU) 2020/1783 of the European Parliament and of the Council of 25 November 2020 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters (taking of evidence)”

For Parties that answered yes to Q47 above:

47.1. Do any of these agreements provide for the use of electronic means to assist in the taking of evidence (e.g., video-link)?

(a) Yes.

“As regards the Regulation (EU) 2020/1783 of the European Parliament and of the Council of 25 November 2020 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters (taking of evidence), see the coordinated answer of the EU. As regards the other bilateral or multilateral agreements stated above, these agreements do not provide for the use of electronic means explicitly, but in our opinion, they can be considered technology neutral as to the means of communication.”

For Parties that answered yes to Q47 above:

47.2. If yes, what electronic means or information technology does your State use in the taking of evidence?

(a) Electronic transmission via online platform administered by the government.

(c) Video conference.

(d) Other.

“Within the EU, as regards the Regulation (EU) 2020/1783 of the European Parliament and of the Council of 25 November 2020 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters (taking of evidence), see the coordinated answer of the EU.”

V. 2023 Meeting of the Special Commission & Monitoring

48. Does your State have any suggestions that could assist in the promotion, implementation or operation of the Evidence Convention?

(b) No.

48.1. If the answer to Q48 above is “yes”, please indicate whether the information provided may be published.

N/A

49. What are the three key topics or practical issues related to the Evidence Convention that your State would like discussed at the 2023 meeting of the Special Commission?

1. *“Handling of the evidence provided - prohibition of the use of the provided evidence (including the provided current address of the party to the proceedings) for the purposes of other proceedings in the requesting state.”*
2. *“Use of Information Technology: a) operation of the video-conference and technical security of transmission via Skype when taking evidence, e.g. at embassies – how other states approach this form of the taking of evidence (Chapter II), b) do other states accept/send Letter of Requests electronically, if so, what is their experience with this method of communication.”*
3. *“Regarding the term “evidence” – is it possible to proceed according to the Convention in the case of obtaining names and addresses of persons – e.g. heirs of the deceased person.”*

49.1. Please indicate whether the information provided in Q49 above may be published.

(a) Yes.

50. The PB is in the process of revising the Evidence Handbook and the Guide to Good Practice – The Use of Video Link, with a view to consolidating these publications. Are there any specific topics, suggestions for presentation or formatting, or any other proposals you recommend for inclusion?

(b) No.

50.1. If the answer to Q50 above is “yes”, please indicate whether the information provided may be published.

N/A

DATA & STATISTICS FOR CONTRACTING PARTIES

I. Statistics under Chapter I

A. Incoming Requests

1. How many incoming Letters of Request for the taking of evidence did your State receive under Chapter I in each of the following years?

| | |
|----------------------------------|----|
| 2017 | 4 |
| 2018 | 5 |
| 2019 | 21 |
| 2020 | 13 |
| 2021 | 16 |
| 2022 | 4 |
| Unknown – <i>please explain.</i> | |
| - | |

2. Which three States made the most requests?

| Requesting State | Number |
|------------------------------|--------|
| USA | 20 |
| Switzerland | 11 |
| Russian Federation / Türkiye | 9 |

3. What is the average time taken (in months) to execute a Letter of Request in your State?

“4 months”

4. If possible, please provide a breakdown of how long (in months) it took to execute incoming requests.

| | < 1 | 1-3 | 3-6 | 6-12 | > 12 |
|----------------------------------|-----|-----|-----|------|------|
| 2017 | | | x | | |
| 2018 | | | x | | |
| 2019 | | | x | | |
| 2020 | | x | | | |
| 2021 | | | x | | |
| 2022 (if data available) | | | x | | |
| Unknown – <i>please explain.</i> | | | | | |
| - | | | | | |

5. How many incoming Letters of Request for the taking of evidence did your State receive via **electronic transmission** under Chapter I in each of the following years?

| | |
|----------------------------------|---|
| 2017 | 0 |
| 2018 | 0 |
| 2019 | 0 |
| 2020 | 0 |
| 2021 | 2 |
| 2022 | 0 |
| Unknown – <i>please explain.</i> | |
| - | |

B. Outgoing Requests

6. How many outgoing Letters of Request for the taking of evidence did your State make under Chapter I in each of the following years?

| | |
|---|---------------------|
| 2017 | 8 “(via Czech CA)” |
| 2018 | 9 “(via Czech CA)” |
| 2019 | 11 “(via Czech CA)” |
| 2020 | 10 “(via Czech CA)” |
| 2021 | 4 “(via Czech CA)” |
| 2022 | 7 “(via Czech CA)” |
| Unknown – <i>please explain.</i> | |
| <i>“Letters of Request are usually transmitted directly from a judicial authority to the CA of the requested State. Only in rare cases are Requests sent through Czech CA. Anyway, there is no special rule for the Czech courts to keep records of cases where the Evidence Convention was applied.”</i> | |

7. Which States were the subject of the most requests?

| Requesting State | Number |
|------------------|--------|
| - | - |
| - | - |
| - | - |

8. How many outgoing requests for the taking of evidence did your State make via electronic transmission under Chapter I in each of the following years?

| | |
|---|---|
| 2017 | - |
| 2018 | - |
| 2019 | - |
| 2020 | - |
| 2021 | - |
| 2022 | - |
| Unknown – <i>please explain.</i> <i>“Letters of Request are usually transmitted directly from a judicial authority to the CA of the requested State. Only in rare cases are Requests sent through Czech CA. Anyway, there is no special rule for the Czech courts to keep records of cases where the Evidence Convention was applied.”</i> | |

C. Video-Link

9. How many incoming Letters of Request for the taking of evidence did your State execute under Chapter I in each of the following years?

| | |
|---------------------------------------|---|
| 2017 | 0 |
| 2018 | 0 |
| 2019 | 0 |
| 2020 | 0 |
| 2021 | 0 |
| 2022 | 0 |
| Unknown – <i>please explain.</i> - | |

10. How many incoming requests for the taking of evidence did your State execute under Chapter II in each of the following years?

| | |
|--|---|
| 2017 | - |
| 2018 | - |
| 2019 | - |
| 2020 | - |
| 2021 | - |
| 2022 | - |
| Unknown – <i>please explain.</i> <i>“Not applicable.”</i> | |

CASE LAW, ADDITIONAL INFORMATION & SUPPORTING DOCUMENTS

I. Case Law

Please list all your State's judicial decisions that have considered the Evidence Convention since 2014, and provide a link to, or upload, the decision (in PDF format only).

“• The Supreme Court judgement of 10 August 2016, case No. 21 Cdo 1898/2014 • The Supreme Court judgment of 17 August 2015, case No. 21 Cdo 4674/2014 • The Supreme Administrative Court judgment of 21 January 2014, case No. 1 Afs 73/2011-167”

3 files uploaded.

II. Additional Documents

Please provide links to and / or any additional information or documentation to support your response (in PDF format only). This may include:

- ⇒ resources for the general public or guidelines for Central or other Authorities' staff;
- ⇒ implementation legislations, recent legislative developments; or
- ⇒ books, articles, or other published work.

“For internal use only, there is a methodology instruction for Czech judicial authorities. Some information concerning taking of evidence in the Czech Republic are available on the e-Justice Portal: - factsheets on national law on taking evidence; - factsheets on national law on taking evidence by videoconference”

PUBLICATION OF RESPONSES

Please confirm whether your responses to this questionnaire can be published on the HCCH website.

- (a) Yes.