

COUNTRY PROFILE

**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**

STATE NAME: [Federal Republic of Germany](#)

PROFILE UPDATED ON (DATE): [10 November 2017](#)

PART I: STATE

1. Contact details	
<i>The contact details provided in this section will be published on the Hague Conference website</i>	
CHAPTER I (LETTERS OF REQUEST)	
<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>	
<p>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?</p>	<p><input type="checkbox"/> Yes.</p> <p><input checked="" type="checkbox"/> No. Please provide the contact details on a separate Word or PDF document for uploading on the Evidence Section of the Hague Conference website.</p>
<p>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)?</p>	<p><input type="checkbox"/> Yes. If YOUR STATE has already done so, please specify the contact details:</p> <p><input checked="" type="checkbox"/> No. Please explain why: 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.</p> <p><i>Comments:</i></p>
<p>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)?</p>	<p>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 There are no booking systems.</p>

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.

c) 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)?

- Yes.
If YOUR STATE has already done so, please specify the contact details:
- No.
Please explain why: [Diplomatic or consular agents or commissioners stationed in Germany can independently organise the taking of evidence once they have received any requisite permissions.](#)

Comments:

d) 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)?

[See answer d\)](#)

PART II: RELEVANT LEGISLATION AND COURT SYSTEM

Legal basis	
<p>a) Does YOUR STATE, in the application of Article 27 (<i>i.e.</i> internal law or practice), allow for a foreign Court to directly take evidence by video-link?</p>	<p><input type="checkbox"/> Yes. Please specify:</p> <p><input checked="" type="checkbox"/> No. Please specify: Germany does not allow foreign courts to directly take evidence in Germany, even by video-link.</p> <p><i>Comments:</i></p>
<p>b) Please indicate the legal basis or applicable protocols (<i>i.e.</i>, 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, <i>e.g.</i> Art. 27 (b) and (c)):</p> <p><i>Please also attach a copy of, or provide a link to, the relevant provisions, where possible in English or French.</i></p>	<p>See answer a)</p>
<p>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)?</p>	<p><input type="checkbox"/> Yes. Please attach a copy of, or provide a link to, the relevant provisions, where possible in English or French:</p> <p><input checked="" type="checkbox"/> No.</p> <p><i>Comments:</i></p>
Court system	
<p>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:</p>	<p><input type="checkbox"/> All courts.</p> <p><input type="checkbox"/> All courts of a specific type / level. Please specify:</p> <p><input checked="" type="checkbox"/> Only specific courts. Please specify which courts, or provide a link to/attach a full list:</p> <p>http://www.justiz.de/verzeichnis/zwi_videokonferenz/videokonferenzenanlagen.pdf and https://e-justice.europa.eu/content_information_on_national_facilities-319-de-en.do?member=1</p> <p><input type="checkbox"/> None.</p> <p><i>Comments:</i></p>

PART III: TECHNICAL AND SECURITY ASPECTS (APPLICABLE TO BOTH CHAPTERS)

<p>a) Does YOUR STATE use licensed software (which ensures support for technical and security matters) for the taking of evidence by video-link?</p>	<p><input checked="" type="checkbox"/> Yes. Please specify: <i>A variety of software from a number of manufacturers is used. Most Länder, however, use licensed software. Support is ensured.</i></p> <p><input type="checkbox"/> No.</p> <p><i>Comments:</i></p>
<p>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?</p> <p><i>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.</i></p>	<p>Codec (<i>i.e.</i>, manufacturer, model, transmission speed, bandwidth): <i>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 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.</i></p> <p>Video and audio standards (<i>e.g.</i> Standard Definition, High Definition, etc.): <i>Different standards depending on the equipment used by the competent authority, resolution and audio quality up to Full HD or HD quality</i></p> <p>Type of network (<i>e.g.</i>, ISDN, IP, etc.): <i>IP at some locations, ISDN at others, no ISN available at some locations, LVN, DOI and ISDN are available at some locations</i></p> <p>Type of encryption for signals in secure transmissions: <i>Different standards, depending on the facility used, AES at some locations</i></p> <p>Split screen capability: <i>Available at some locations; the use of several HD screens is supported at some locations</i></p> <p>Document cameras: <i>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 via video link as an alternative.</i></p> <p>Multipoint connections: <i>Possible at some locations; sometimes possible by using a suitable platform (virtual conferencing room), sometimes possible with prior sign-up.</i></p> <p>Additional specifications or capabilities: <i>Several (depending on the manufacturer)</i></p>

	<p>Protocols or other practices: Various: including H.323, SIP, H.261, H.263, H.263+ H.264, H.239</p> <p><i>Comments:</i> 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.</p>
<p>c) Can evidence be taken via commercial providers (e.g., Skype™)?</p>	<p><input type="checkbox"/> Yes. Please specify:</p> <p><input checked="" type="checkbox"/> No.</p> <p><i>Comments:</i></p>
<p>d) Does YOUR STATE have a procedure for testing connections and the quality of transmissions before the hearing?</p>	<p><input checked="" type="checkbox"/> Yes. Please specify: Connections are tested as arranged between the authorities involved.</p> <p><input type="checkbox"/> No.</p> <p><i>Comments:</i></p>
<p>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.?</p>	<p><input checked="" type="checkbox"/> Yes. Please specify: 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.</p> <p><input type="checkbox"/> No.</p> <p><i>Comments:</i></p>

PART IV: USE OF VIDEO-LINKS UNDER BOTH CHAPTERS – LEGAL CONSIDERATIONS

Restrictions	
<p>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)?</p>	<p><input type="checkbox"/> Yes. Please specify:</p> <p><input checked="" type="checkbox"/> No.</p> <p><i>Comments:</i></p> <p>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.</p>
<p>b) Are there any restrictions on what type/s of evidence can be taken by video-link or how it is to be taken?</p>	<p><input checked="" type="checkbox"/> Yes. Please specify: 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)</p> <p><input type="checkbox"/> No.</p> <p><i>Comments:</i></p>
<p>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?</p>	<p><input type="checkbox"/> Yes, there are specific restrictions. Please specify:</p> <p><input checked="" type="checkbox"/> No, the normal rules for evidence apply.</p> <p><i>Comments:</i></p>
<p>d) Are there any restrictions on the type of person who may be examined by video-link?</p>	<p><input type="checkbox"/> Yes. Please specify:</p> <p><input checked="" type="checkbox"/> No.</p> <p><i>Comments:</i></p> <p>Witnesses, experts and parties can be examined by video-link; see answer to question b.</p>
<p>e) Is it necessary to seek the consent of the parties to use video-link to take evidence?</p>	<p><input type="checkbox"/> Yes. Please specify the conditions under which parties may refuse the use of video-link:</p> <p><input checked="" type="checkbox"/> No.</p> <p><i>Comments:</i></p> <p>The requesting court shall decide whether the agreement of the parties is needed for the use of video-link to take evidence</p>

PART IV - LEGAL CONSIDERATIONS (BOTH CHAPTERS)

	<p>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.</p>
<p>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)?</p>	<p><input checked="" type="checkbox"/> Yes. Please specify: 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.</p> <p><input type="checkbox"/> No.</p> <p>Comments:</p>
<p>g) Can a witness / expert be compelled to use video-links to give evidence?</p>	<p><input type="checkbox"/> Yes. If so, please specify what coercive measures may be used:</p> <p><input checked="" type="checkbox"/> No. Please explain: 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.</p> <p>Comments:</p>
<p>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.</p> <p><i>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.</i></p>	<p>Chapter I: 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>Chapter II: 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</p>

PART IV - LEGAL CONSIDERATIONS (BOTH CHAPTERS)

	<p>German court with competence for mutual legal assistance and in consideration of Article 21(b) and (c) of the Convention.</p> <p><i>Comments:</i></p>
<p>i) The law of which State governs the use of privileges?</p> <p><i>Please tick all that apply.</i></p> <p><i>See Articles 11 and 21(e) of the Convention</i></p>	<p>Chapter I:</p> <p><input checked="" type="checkbox"/> The law of the Requesting State.</p> <p><input checked="" type="checkbox"/> The law of the Requested State.</p> <p><input type="checkbox"/> The law of another State. Please specify:</p> <p>Chapter II:</p> <p><input checked="" type="checkbox"/> The law of the State of Origin.</p> <p><input checked="" type="checkbox"/> The law of the State of Execution.</p> <p><input type="checkbox"/> The law of another State. Please specify:</p> <p><i>Comments:</i></p>

PART V: USE OF VIDEO-LINKS UNDER CHAPTER I (LETTERS OF REQUEST) – LEGAL CONSIDERATIONS

Legal obstacles	
<p>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> <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 (see C&R No 55 of the 2009 SC and C&R No 20 of the 2014 SC).</i></p>	<p><input type="checkbox"/> Yes. Please specify:</p> <p><input checked="" type="checkbox"/> No.</p> <p>Comments: As a rule, there are no legal obstacles to this.</p>
Direct and indirect taking of evidence	
<p>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>i.e.</i>, the State in which the proceedings are pending)?</p>	<p><input type="checkbox"/> Yes. <input checked="" type="checkbox"/> No.</p> <p>Comments: Germany only allows for the indirect taking of evidence if done via a German court.</p>
<p>c) Under which provisions of Chapter I of the Convention is indirect taking of evidence by video-link possible in YOUR STATE?</p>	<p><input checked="" type="checkbox"/> Art. 9(1) – The judicial authority of the requested State obtains evidence (<i>e.g.</i>, a witness / expert examination) which is located in a (distant) location within its own State.</p> <p><input checked="" type="checkbox"/> Art. 9(2) - As a special method or procedure. Please also outline whether any specific conditions must be satisfied: 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>See also questions on presence.</p> <p>Comments: 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>
Legal safeguards for witness / expert	
<p>d) What are the legal safeguards in place for witnesses / experts in YOUR STATE when evidence is taken by video-link under Chapter I (<i>e.g.</i> protective measures for the</p>	<p>When evidence is taken under German law, the same legal safeguards must be in place as those for examinations conducted in person;</p>

PART V - LEGAL CONSIDERATIONS (CHAPTER I)

<p>witness / expert, provision of interpretation, right to legal counsel, etc.)?</p>	<p>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.</p>
<p>Presence</p>	
<p>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? <i>See Article 7 of the Convention</i></p>	<p><input checked="" type="checkbox"/> Yes. If so, please specify if they are allowed to actively participate:</p> <p><input type="checkbox"/> No.</p> <p><i>Comments:</i></p>
<p>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 <i>requesting</i> State (<i>i.e.</i>, the State in which the proceedings are pending)?</p>	<p><input type="checkbox"/> Yes. <input checked="" type="checkbox"/> No.</p> <p><i>Comments:</i> The current legal opinion is that this type of (video) examination is not compatible with German law.</p>
<p>g) Does YOUR STATE allow for the presence of the judicial personnel of the requesting State via video-link? <i>See Article 8 of the Convention</i> <i>Please note that a declaration may be made under this provision.</i></p>	<p><input checked="" type="checkbox"/> Yes. If so, please specify if they are allowed to actively participate: The members of the court abroad can be connected via video-link if this has been permitted by the Central Authority.</p> <p><input type="checkbox"/> No.</p> <p><i>Comments:</i></p>

PART VI : USE OF VIDEO-LINKS UNDER CHAPTER II (BY DIPLOMATIC OFFICERS, CONSULAR AGENTS AND COMMISSIONERS) – LEGAL CONSIDERATIONS

<p>The questions in this Part are only for States that have not wholly excluded the application of Chapter II</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 Evidence Section of the Hague Conference website.</p>	
<p>Legal obstacles and legal framework</p>	
<p>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?</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&R No 55 of the 2009 SC and C&R No 20 of the 2014 SC).</i></p>	<p><input type="checkbox"/> Yes. Please specify:</p> <p><input checked="" type="checkbox"/> No.</p> <p>Comments:</p>
<p>b) Under which provisions of Chapter II of the Convention is taking of evidence by video-link possible in YOUR STATE?</p>	<p><input checked="" type="checkbox"/> Art. 15 <input checked="" type="checkbox"/> Art. 16 <input checked="" type="checkbox"/> Art. 17</p> <p>Comments: The declarations and reservations of the German authorities are to be taken into account.</p>
<p>c) Is prior permission from YOUR STATE required when taking evidence under Chapter II of the Convention on the territory of YOUR STATE?</p>	<p><input checked="" type="checkbox"/> Yes. Please outline the procedure for seeking such permission, including any specific conditions that must be satisfied: 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 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.</p> <p><input type="checkbox"/> No.</p> <p>Comments: 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</p>

PART VI - LEGAL CONSIDERATIONS (CHAPTER II)

	<p>the authority for which they work, or examining doctors without their being released from their duty of confidentiality.</p>
<p>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.</p>	<p>Administration of the oath or affirmation: 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.</p> <p>Dealing with perjury and contempt: 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.</p>
<p>Direct and indirect taking of evidence</p>	
<p>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 neighbouring 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?</p>	<p><input type="checkbox"/> Yes. Please specify:</p> <p><input checked="" type="checkbox"/> No.</p> <p>Comments:</p>
<p>Legal safeguards for witness / expert</p>	
<p>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.)?</p>	<p>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.</p>

PART VI - LEGAL CONSIDERATIONS (CHAPTER II)

Presence	
<p>g) Under the law of YOUR STATE, who may be present via video-link when evidence is taken by diplomatic and consular agents?</p> <p><i>Please tick all that apply.</i></p>	<p><input checked="" type="checkbox"/> The parties. <input checked="" type="checkbox"/> The parties' representatives. <input checked="" type="checkbox"/> Judicial personnel. <input checked="" type="checkbox"/> Someone else. Please specify: Counsel of the witness and interpreter, if applicable</p> <p><i>Comments:</i></p>
<p>h) Under the law of YOUR STATE, who may be present via video-link when evidence is taken by commissioners?</p> <p><i>Please tick all that apply.</i></p>	<p><input checked="" type="checkbox"/> The parties. <input checked="" type="checkbox"/> The parties' representatives. <input checked="" type="checkbox"/> Judicial personnel. <input checked="" type="checkbox"/> Someone else. Please specify: Counsel of the witness and interpreter, if applicable; judicial representative of the requested State (see answer under point f)</p> <p><i>Comments:</i></p>
Applicable law	
<p>i) The law of which State governs the administration of an oath or affirmation when evidence is taken by video-link under Chapter II?</p>	<p><input checked="" type="checkbox"/> The law of the State of Origin <input type="checkbox"/> The law of the State of Execution <input type="checkbox"/> It depends on whether evidence is taken by a consular or diplomatic agent or a commissioner. Please specify:</p> <p><i>Comments:</i> 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>j) The law of which State governs perjury and contempt when evidence is taken by video-link under Chapter II?</p>	<p><input checked="" type="checkbox"/> The law of the State of Origin <input type="checkbox"/> The law of the State of Execution <input type="checkbox"/> It depends on whether evidence is taken by a consular or diplomatic agent or a commissioner. Please specify:</p> <p><i>Comments:</i> 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>

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?	<p>Chapter I: Complicated cases can take between two and three months.</p> <p>Chapter II: We have no practical experience of this.</p>
Interpretation services	
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?	<p>Chapter I: 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.</p> <p>Chapter II: The requesting court</p>
c) Are professional accredited interpreters required in YOUR STATE, and where can relevant contact details be found?	<p><input checked="" type="checkbox"/> Yes. Please specify: 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</p> <p><input type="checkbox"/> No.</p> <p><i>Comments:</i></p>
d) Under the law of YOUR STATE, is interpretation to be <i>simultaneous</i> or <i>consecutive</i> when a witness / expert is examined via video-link?	Both are possible.
e) Where may the interpreter be located when a witness / expert is examined via video-link? <i>Please check all that apply.</i>	<p><input checked="" type="checkbox"/> In the room with the witness / expert.</p> <p><input checked="" type="checkbox"/> In the room with those conducting the examination.</p> <p><input checked="" type="checkbox"/> Elsewhere in the requesting State (Chapter I) / State of Origin (Chapter II).</p> <p><input checked="" type="checkbox"/> Elsewhere in the requested State (Chapter I) / State of Execution (Chapter II).</p> <p><input type="checkbox"/> In a third State.</p> <p><input type="checkbox"/> Other. Please specify:</p> <p><i>Comments:</i></p>

PART VII – PRACTICAL CONSIDERATIONS (BOTH CHAPTERS)

	<p>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>Reporting and recording</p>	
<p>f) Is a written report of the video-link hearing or testimony prepared?</p>	<p><input checked="" type="checkbox"/> Yes. Please specify by whom: The report is, as a rule, prepared by the German court as long as evidence is taken pursuant to Chapter I.</p> <p>Please also outline the specific rules or regulations, if any, that are applicable to the handling/storage/distribution of the report:</p> <p><input type="checkbox"/> No.</p> <p><i>Comments:</i> 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.</p>
<p>g) Are facilities and equipment made available in order to record the hearing or testimony?</p>	<p><input type="checkbox"/> Yes, with audio and video. <input type="checkbox"/> Yes, only with video. <input type="checkbox"/> Yes, only with audio. <input checked="" type="checkbox"/> No, but the recording of hearings/testimonies is permitted.</p> <p>If a recording is produced, please also outline the specific rules or regulations, if any, that are applicable to the handling/storage/distribution of the recording:</p> <p><input type="checkbox"/> No, because the recording of hearings/testimonies is not permitted under internal law.</p> <p><i>Comments:</i> Recording may be permitted if all parties concerned agree and the equipment is available (Sec. 128A Subsec. 3 ZPO (Zivilprozessordnung – Code of Civil Procedure)).</p>
<p>Documents and exhibits</p>	

PART VII – PRACTICAL CONSIDERATIONS (BOTH CHAPTERS)

<p>h) What arrangements are to be made for showing or referring to documents or exhibits when taking evidence by video-link?</p>	<p>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.</p>
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PART VII – PRACTICAL CONSIDERATIONS (CHAPTER I)

PRACTICAL CONSIDERATIONS UNDER CHAPTER I	
Practical obstacles	
<p>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?</p>	<p><input checked="" type="checkbox"/> Yes. Please specify: Incompatibility of the systems connected, bad reproduction quality and time difference</p> <p><input type="checkbox"/> No.</p> <p><i>Comments:</i></p>
Identification of all relevant actors	
<p>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?</p>	<p>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].</p>
Standard Forms	
<p>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?</p> <p><i>The use of the Model Form of the Evidence Convention is recommended when taking evidence under Chapter I.</i></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><input type="checkbox"/> Yes. Please specify:</p> <p><input type="checkbox"/> The standardised form used makes no reference to video-link.</p> <p><input checked="" type="checkbox"/> No standardised form is used.</p> <p><i>Comments:</i></p>
<p>l) 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)</p>	<p><input type="checkbox"/> Yes. Please specify:</p> <p><input checked="" type="checkbox"/> No.</p> <p><i>Comments:</i></p> <p>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.</p>
Costs	
<p>m) Are there any costs associated with the taking of evidence via video-link under Chapter I in YOUR STATE?</p>	<p><input checked="" type="checkbox"/> Yes. Please provide an approximate estimate of these costs and / or specify the criteria used to determine these costs: 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</p>

PART VII – PRACTICAL CONSIDERATIONS (CHAPTER I)

	<p>addition to this, telecommunications charges are incurred. According to the Convention, such charges and costs are considered to be costs relating to the taking of evidence and not merely legal assistance costs.</p> <p><input type="checkbox"/> No.</p> <p><i>Comments:</i></p>
<p>n) Who is responsible for bearing the costs occasioned by the use of video-link under Chapter I in YOUR STATE? <i>See Art. 14(2) of the Evidence Convention</i></p>	<p><input type="checkbox"/> The moving party (requesting the use of video-link).</p> <p><input checked="" type="checkbox"/> The requesting authority (in the requesting State).</p> <p><input type="checkbox"/> The requested authority (in the requested State).</p> <p><input type="checkbox"/> Other. Please specify:</p> <p><i>Comments:</i></p>
<p>o) How are these costs generally expected to be paid and/or reimbursed?</p>	<p><input type="checkbox"/> Payment in cash</p> <p><input type="checkbox"/> Payment by (credit) card</p> <p><input checked="" type="checkbox"/> Electronic/wire transfer</p> <p><input type="checkbox"/> Other. Please specify:</p> <p><i>Comments:</i></p>
<p>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?</p>	<p>The requesting court pays by bank transfer.</p>

PART VII – PRACTICAL CONSIDERATIONS (CHAPTER II)

PRACTICAL CONSIDERATIONS 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?	<input type="checkbox"/> Yes. Please specify: <input checked="" type="checkbox"/> No. Comments:
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?	As a rule, the decisive factor is the law of the requesting State whose diplomatic or consular agents take the evidence.
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? <i>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.</i> <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>	<input type="checkbox"/> Yes. Please specify: <input type="checkbox"/> The standardised form used makes no reference to video-link. <input checked="" type="checkbox"/> No standardised form is used. Comments:
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?	<input type="checkbox"/> Yes. Please specify how, e.g., via a booking system: <input checked="" type="checkbox"/> No. Please specify who else would assist, if anyone: Comments:
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?	<input type="checkbox"/> Yes. Please specify: <input checked="" type="checkbox"/> No. Comments:
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)	<input type="checkbox"/> Yes. Please specify: <input checked="" type="checkbox"/> No. Comments:

PART VII – PRACTICAL CONSIDERATIONS (CHAPTER II)

Costs	
<p>w) Are there any costs associated with the taking of evidence via video-link under Chapter II in YOUR STATE?</p>	<p><input type="checkbox"/> Yes. Please provide an approximate estimate of these costs and / or specify the criteria used to determine these costs:</p> <p><input checked="" type="checkbox"/> No.</p> <p><i>Comments:</i> The requesting state is responsible for organisation and funding.</p>
<p>x) Who is responsible for bearing the costs occasioned by the use of video-link under Chapter II in YOUR STATE?</p>	<p><input type="checkbox"/> The moving party (requesting the use of video-link).</p> <p><input checked="" type="checkbox"/> The State of Origin</p> <p><input type="checkbox"/> The Diplomatic mission or Consulate in the State of Execution.</p> <p><input type="checkbox"/> The commissioner</p> <p><input type="checkbox"/> Other. Please specify:</p> <p><i>Comments:</i></p>
<p>y) How are these costs generally expected to be paid and/or reimbursed?</p>	<p><input type="checkbox"/> Payment in cash</p> <p><input type="checkbox"/> Payment by (credit) card</p> <p><input checked="" type="checkbox"/> Electronic/wire transfer</p> <p><input type="checkbox"/> Other. Please specify:</p> <p><i>Comments:</i></p>
<p>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?</p>	<p>The requesting State pays by bank transfer.</p>