

1 Is it possible for evidence to be taken by videoconference either with the participation of a court in the requesting Member State or directly by a court of that Member State? If yes, what are the relevant national procedures or laws that apply?

In the Republic of Croatia, the taking of evidence by examining a witness, a party or an expert can be performed by videoconference in accordance with Articles 10 to 12 and Article 17 of 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 (hereinafter referred to as 'Regulation') in such a way that when the taking of evidence has to be performed according to the Regulation, the court in the Republic of Croatia may:

1. request taking of evidence directly from a competent court of another Member State, or
2. in accordance with the assumptions in Article 17 of the Regulation request direct taking of evidence in another Member State.

Taking of evidence according to the Regulation referred to above is laid down in Articles 507d to 507h of the Civil Procedure Act (*Zakon o parničnom postupku*) ('*Narodne novine*' (NN; Official Gazette of the Republic of Croatia) Nos 53/91, 91/92, 112/99, 88/01, 117/03, 88/05, 02/07, 84/08, 96/08, 123/08, 57/11, 148/11, 25/13, 89/14; hereinafter referred to as 'ZPP').

2 Are there any restrictions on the type of person who can be examined by videoconference – for example, is it only witnesses or can others such as experts or parties also be examined in this way?

Videoconference can be used to examine witnesses, as well as for taking evidence from specialists / experts and parties.

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

The Republic of Croatia has no special restrictions on the type of evidence that can be obtained by videoconference. The court conducting the proceedings decides what type of evidence will be taken, and how, in order to establish a certain fact. The court decides at its own discretion which of the facts it will consider as proven following a conscientious and careful assessment of each particular piece of evidence and of all pieces of evidence together, based on the outcome of the entire process. However, videoconference is generally used for taking evidence by hearing the parties and witnesses, as there are certain factual and technical obstacles to taking evidence by inspecting a document or performing an inquiry on the spot.

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

As a rule, a hearing is performed at a court, but there are no special legal restrictions regarding locations where the party has to be examined by videoconference.

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

There are no legal provisions specifically requiring taping or recording of videoconference hearings, but Articles 126a to 126c of the ZPP provide a legal basis for voice recording of hearings. Voice recording is determined by the court with a formal decision either *ex officio* or at the request of the parties. The methods of storage and transmission of voice recordings, technical requirements and modes of recording are prescribed by the Court Rules (*Sudski poslovnik*) (NN Nos 37/14, 49/14, 08/15, 35/15, 123/15 and 45/16).

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

If a request is made in accordance with Articles 10 to 12 of the Regulation, the hearing is typically carried out in Croatian, while the use of minority languages in civil proceedings is regulated by a special law (civil proceedings are to be conducted in the Croatian language unless some other language is prescribed by law for specific courts). Furthermore, pursuant to Article 102 of the ZPP, if the proceedings are not conducted in the language of the party or other participants in the proceedings, interpreting into their language will be provided of what is presented at the hearing and of the documents used at the hearing for presenting the proof.

In the case of direct taking of evidence in accordance with Article 17 of the Regulation, the taking of evidence by the hearing can be performed in a foreign language as it is performed directly by the court which requested the hearing, although adequate translation must be ensured into a language understood by the parties or other participants in the proceedings.

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

In principle, the requested court will provide a certified court interpreter for the needs of hearings under Articles 10 to 12 of the Regulation. Under certain conditions (Article 251 referring to Article 263 of the ZPP), the court may decide that interpreting will be done by court interpreters suggested by the party. Equally, the use of an interpreting service may be agreed between the court which requested the taking of evidence and the requested court, and the interpreter may be provided by one or the other court. In practice, court interpreters are assigned to the place of the person who needs interpreting or of the requested court, if the requesting court conducts the hearing in its own language in accordance with Article 17 of the Regulation, or to the place of the requesting court, if the hearing is performed by the requested court in line with Articles 10 to 12 of the Regulation.

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

Pursuant to Article 242 of the ZPP, witnesses receive a written summons specifying, among other things, the time and the place of the hearing. The summons for the hearing at which evidence will be taken by examining the party must be served to this party in line with the rules of personal delivery. If the party has a representative, the latter will hand over the summons for the hearing at which evidence will be taken by examining the parties to the party or the person to be examined in respect of the party (Article 268 referring to Articles 138 and 142 of the ZPP). Witnesses who are not in a position to appear at the court for reasons of old age, illness or serious physical disability may be examined at their home. The ZPP does not stipulate how much time in advance witnesses must be summoned; however, parties must be given sufficient time to prepare for the hearing (at least 8 days before the hearing).

In the case of hearings under Articles 10 to 12 of the Regulation, the requested court notifies the witness/the party of the time and place of the hearing, while for the hearings under Article 17 of the Regulation, the serving of summons is carried out by the requesting court.

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

Pursuant to Article 153 of the ZPP, the party that requests the taking of evidence is obliged by court order to deposit in advance the amount required to cover the costs expected in taking the evidence. If the taking of evidence is proposed by both parties or ordered by the court *ex officio*, the court will request that both parties deposit equal shares of the required amount.

As regards the costs related to videoconference, Article 18 of the Regulation applies.

In the Republic of Croatia, the taking of evidence by videoconferencing is free of charge.

10 What requirements, if any, are there for ensuring that the person examined directly by the requesting court has been informed that the performance shall take place on a voluntary basis?

The person will be informed thereof in the summons, but the ZPP does not set out additional requirements.

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

Before witnesses are examined, they are asked their name and surname, personal identification number, the name of their father, occupation, address, place of birth, age and their relationship to the parties (Article 243(3) of the ZPP).

12 What requirements for taking oaths apply and what information is needed from the requesting court when an oath is required during direct taking of evidence under Article 17?

Pursuant to Article 246 of the ZPP, the court may decide that the witness take an oath on the declarations provided, but in the case under Article 17 of the Regulation, the rules of the requesting state could apply under certain conditions, also if, before the hearing, such state informs the competent authority or the central body of the requested state of its intention to take testimony from witnesses under oath.

Pursuant to Article 270 of the ZPP, examination of the parties is carried out without the taking of an oath.

13 What arrangements are there for ensuring that there is a contact person at the place of the videoconference with whom the requesting court can liaise and a person who is available on the day of the hearing to operate the videoconferencing facilities and deal with any technical problems?

The ZPP does not contain any provision in this respect, but in practice, the technical staff and the necessary judicial staff must be present before and during the videoconference in order to meet all the technical requirements for the holding of a videoconference.

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

There is no prescribed rule to be followed when requesting additional information, but while arranging the date of the hearing, the requesting and the requested court may find it necessary to seek a solution to some technical issues in order to secure successful performance of the hearing. In practice, these issues are usually addressed by judges via e-mail.

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