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Brussels, 19 February 2025

WK 12889/2024 REV 2

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EJUSTICE

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NOTE

From: General Secretariat of the Council
To: Working Party on e-Justice

Subject: Compilation of replies to the questionnaire on the use of videoconferencing in a judicial context

Delegations will find below the replies made following the questionnaire on the use of videoconferencing in a judicial context, published as 10600/24.

Compared to the previous version, some information sent by Finland, which had been missing, has been added.

The responding Member States are:

- Austria,
- Belgium,
- Bulgaria
- Cyprus,
- the Czech Republic
- Germany,
- Greece,
- Spain,
- Finland,
- France,
- Croatia,
- Hungary,
- Italy,
- Lithuania,

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- the Netherlands,
- Poland,
- Portugal,
- Romania,
- Sweden, and
- Slovakia.

Questionnaire Videoconferencing completed by Austria

Applicable Legal framework

Main question

– Is there specific existing, including recently adopted, or planned legislation for the use of videoconferencing for conducting court hearings in your MS?

Jes.

Complementary questions:

– Does this legislation cover the use of videoconferencing in the context of national hearings, cross-border hearings, or both?

Both.

– Does the legislation apply to civil, commercial, criminal matters or all of them? Does it also apply to other areas, such as administrative matters?

There is legislation for civil and commercial proceedings on the one hand and for criminal proceedings on the other. The administration also has its own rules, but they are not within the jurisdiction of the judiciary.

– How do the procedural rules guarantee the right to an effective and equal access to the court, the respect of the adversarial character of the proceedings, the equality of arms, the possibility to present evidence and defend the case, and the fairness of the proceedings?

The same procedural rules rights apply to video conferences as to face-to-face proceedings.

– Is the right of the party to be assisted by a lawyer prior to and during the hearing safeguarded and how is confidentiality of lawyer-client communication at the hearing ensured?

Yes. If the party would like to speak confidentially with their lawyer, the process must be briefly interrupted and the video conference switched off. A muten is often enough because in most cases the lawyer is with his party.

– Is the public character of the hearing preserved and how is this done? How do the procedural rules regulate the privacy of a hearing behind closed doors?

Unless the public is excluded (e.g. in family matters), the public takes part in the hearing in the courtroom, where the judge is also located.

Technical considerations and interoperability

Main questions

– Do you have technical infrastructure for conducting videoconferencing?

Yes.

– What videoconferencing tools/platform do you use for organising court hearings by videoconferencing?

Zoom and Radvision H.323.

– Do you provide some interoperability guidelines to connect to a judicial hearing through VTC?

There is a video conference decree that is published on the internet and on the justice intranet. A booking tool is also provided. In the longer term, this booking tool could also be offered for cross-border video conferences.

Complementary questions

– How do videoconferencing tools/platform, to the extent possible, ensure compatibility between the devices and the software used by participants?

The Austrian solution supports H.323, SIP and Zoom.

– Do they ensure an experience similar to an in-person hearing in a court room, and if so, how? Do they allow all participants to the session, especially the judge, to recognise each other visually, and to see both the speaker asking questions or making statements and the reaction of the listeners, during the videoconference, and if so, how?

The courtrooms are equipped differently, up to three microphones and three cameras depending on the size of the room. The situation is almost similar to that of face-to-face meetings.

– Do they provide for a sufficient level of assurance as regards the identification and authentication of the parties, and if so, how?

As in court hearings, the witness mentions his name and date of birth. A check is only carried out in cases of doubt.

– Is a separate, secure and confidential, side-band channel provided that allows for consultations between a party and his/her lawyer?

No.

– Is two-way interpretation provided for participants not fluent in the language of the court?

Yes. The translator sits with the judge.

Information for individuals

Main question

– Is information available for individuals concerning the procedural and technical requirements for organising court hearings by videoconferencing? What does that information cover (how to connect, identify, participate, ...)?

As already mentioned, there is a video conference decree that is published on the Internet and the justice intranet.

Complementary question

– Are there specific information or materials available for specific groups, in particular vulnerable groups, children, or persons with disabilities?

The video conference decree also contains provisions on this.

Accessibility

Complementary questions

– Has national infrastructure been assessed regarding special needs, for example regarding catering for the needs of people with reduced mobility, hard of hearing and visual impairments?

No. If a video conference is not possible for these specific reasons, then the hearing must be held in person.

– Do the tools/platforms currently used provide accessibility features, such as use of specific fonts, contrasting colours, and text-to-speech/speech-to-text tools?

Zoom offers specific fonts and contrasting colors in the standard features. A text-to-speech/speech-to-text tool is not used with regard to liability issues.

Training, feedbacks, and statistics on videoconferencing

Complementary questions

– Do you provide special training for judges, competent authorities (depending on national legislation, notaries, bailiffs and others) and court staff? If so, how and by whom is this organised?

No. Local IT support is on site and available.

– Do you collect feedback, and how, from the participants (judge, lawyer, citizen, ...)?

The Austrian Federal Ministry of Justice is in constant communication with judges and lawyers on any topic and open for feedback. The public can also easily contact the ministry with their concerns.

– Do you have statistics or indicators on the use of videoconferencing for court hearings?

Yes, the number of video conferences both internally and cross-border are recorded annually.

Questions concerning the use of videoconferencing for the purposes of court hearings in Member States – BE answers

Applicable Legal framework

Main question

– Is there specific existing, including recently adopted, or planned legislation for the use of videoconferencing for conducting court hearings in your MS?

The Belgian parliament recently adopted the law on the organisation of hearings via videoconference in judicial Proceedings (25 April 2024, Official Gazette of the 3rd of June 2024, [Moniteur belge \(fgov.be\)](#)). This law shall come into force on the first day of the third month following its publication in the Belgian Official Gazette, that is on the 1st September 2024.

Complementary questions:

– Does this legislation cover the use of videoconferencing in the context of national hearings, cross-border hearings, or both?

The legislation covers the use of videoconferencing in national hearings. Regarding criminal matters, the recently adopted framework will serve as a legal basis for the execution of foreign requests concerning the hearing of a witness, an expert, a suspect, an accused or a condemned person.

– Does the legislation apply to civil, commercial, criminal matters or all of them? Does it also apply to other areas, such as administrative matters?

The aforementioned legislation applies to civil, commercial and criminal matters. It does not apply to administrative matters. In administrative matters, the coordinated law on the Council of State allows the use of videoconferencing under certain conditions.

– How do the procedural rules guarantee the right to an effective and equal access to the court, the respect of the adversarial character of the proceedings, the equality of arms, the possibility to present evidence and defend the case, and the fairness of the proceedings?

The law on the organisation of hearings by videoconference in judicial proceedings enumerates a number of guarantees that the videoconferencing system and hearings through videoconferencing should include in order to safeguard the right to an effective and equal access to the court, the respect of the adversarial character of the proceedings, the equality of arms and the fairness of the proceedings. Accordingly, the videoconferencing system should guarantee that persons appearing, participating and sitting at the hearing are able to participate effectively in the procedure and to follow the proceedings effectively ; that the persons appearing, participating or sitting at the hearing can express themselves and be seen and heard without technical hindrance and that, if there are several parties to the trial or several people to be heard, they can see and hear each other simultaneously, provided that the law allows it.

Regarding the possibility to present evidence, the legislation provides that the minutes, the report or the documents are exchanged between the court and the signatory by the videoconference system.

It should also be emphasised that in all matters the use of videoconferencing may only be decided by the judge provided that its use is compatible with the specific circumstances of the case, which include at least the duration of the procedure, the nature of the dispute, the number of parties, the possibility of interaction between the parties, the phase of the procedure, the possibilities of appeal, the physical or mental condition of the persons to be heard and the state of vulnerability of the person to be heard. In criminal matters, the judge should also take into consideration the technical capacity of prisons as well as the residential situation in which a

party finds themselves. Taking these elements into consideration aims at ensuring the right to a fair trial as well as the fairness of the proceedings.

In any circumstance, the aforementioned guarantees, which must be provided by the videoconferencing system, are a condition for the judge to allow any party to participate to the hearing via VTC.

– Is the right of the party to be assisted by a lawyer prior to and during the hearing safeguarded and how is confidentiality of lawyer-client communication at the hearing ensured?

The legislation does not alter the right to be assisted by a lawyer. In criminal matters, the law on the organisation of hearings via videoconference in judicial proceedings specifically provides that if the concerned person is assisted by a lawyer, the latter can be in the same room as the members of the court, in the same place as their client, or each in a different location deemed appropriate by the court.

The law also provides that the videoconferencing system should allow the participants to effectively and confidentially communicate with their lawyer during the hearing through videoconference. Since every person appearing by videoconference must be able to follow the proceedings, a temporary suspension of the hearing will be necessary to allow for a confidential consultation.

Before and after the videoconference hearing, the concerned parties can use the method that suits them best.

– Is the public character of the hearing preserved and how is this done? How do the procedural rules regulate the privacy of a hearing behind closed doors?

The law also includes a provision to ensure the publicity of hearings when they must be public and the confidentiality of in-camera proceedings. The publicity of videoconference hearings will be ensured by the videoconference system or by access to the courtroom where the court sits (especially for hybrid hearings). The publicity of hearings can also be ensured by a combination of the aforementioned means. The confidentiality of behind closed doors hearings through the videoconference system will be ensured by the videoconference system as well as by prohibiting access to the courtroom where the court sits. Given the recent adoption of the law and the fact that it is not applicable yet, the technical specificities regarding the way the public character of the hearings by videoconference will be ensured is currently under way.

Technical considerations and interoperability

Main questions

– Do you have technical infrastructure for conducting videoconferencing?

Yes, in the courts, 250 videoconferencing kits have been distributed so that at each judicial location, at least one courtroom can be equipped with equipment for video sessions. The necessary budgetary investments are foreseen so that a continuous replacement cycle can be guaranteed.

– What videoconferencing tools/platform do you use for organising court hearings by videoconferencing?

The hearings by videoconferencing will be conducted through Microsoft Teams tailored to the Belgian legal framework, which shall be incorporated in the application JustCourt.

JustCourt offers user-friendly and flexible digital access to litigation. For instance, litigants have to log in with eID and enter the virtual lobby. They are then admitted by the clerk to the video conference when the trial starts. The application also integrates the management of the audiences so that citizens, lawyers, interpreters and experts will have better visibility of which case will be heard at which time and they will not have to wait unnecessarily during the hearing. The design of the platform is under progress and is currently being tested in 4 pilot projects.

– Do you provide some interoperability guidelines to connect to a judicial hearing through VTC?

The legislation does not provide for interoperability guidelines [question: est-ce que ce serait possible ?]

Complementary questions

– How do videoconferencing tools/platform, to the extent possible, ensure compatibility between the devices and the software used by participants?

The law indicates that an implementing decree will determine the minimum rules that must be respected by the computer equipment of persons appearing or participating in the videoconference so that it is compatible with the videoconference system used.

– Do they ensure an experience similar to an in-person hearing in a court room, and if so, how? Do they allow all participants to the session, especially the judge, to recognise each other visually, and to see both the speaker asking questions or making statements and the reaction of the listeners, during the videoconference, and if so, how?

The law defines videoconference as “any direct audiovisual connection, in real time, for the purpose of ensuring multidirectional and simultaneous communication of sound and image and visual, auditory and verbal interaction between several geographically distant persons or groups of persons”. See also the criteria determined by law as mentioned above.

– Do they provide for a sufficient level of assurance as regards the identification and authentication of the parties, and if so, how?

Yes, participants must log in with eID in the JustCourt application.

– Is a separate, secure and confidential, side-band channel provided that allows for consultations between a party and his/her lawyer?

The law provides that the videoconferencing system must guarantee that, if a lawyer or other legal representative acts for a party, the videoconferencing system must guarantee effective and confidential communication between the party and the lawyer during the videoconference. The videoconferencing system is in the testing and development phase.

– Is two-way interpretation provided for participants not fluent in the language of the court?

As mentioned, the videoconferencing is currently under development. The feasibility of a two-way interpretation is under study. The videoconferencing system should however ensure the possibility of interpretation in one way or another.

Information for individuals

Main question

– Is information available for individuals concerning the procedural and technical requirements for organising court hearings by videoconferencing? What does that information cover (how to connect, identify, participate, ...)?

The law provides for the possibility of determining the way in which users or potential users of the videoconferencing system are informed about its operation, its use, its disadvantages and its advantages. This material is in full development.

Complementary question

– Are there specific information or materials available for specific groups, in particular vulnerable groups, children, or persons with disabilities?

See above, this material is in full development. These are elements that will be taken into account.

Accessibility

Complementary questions

– Has national infrastructure been assessed regarding special needs, for example regarding catering for the needs of people with reduced mobility, hard of hearing and visual impairments?

– Do the tools/platforms currently used provide accessibility features, such as use of specific fonts, contrasting colours, and text-to-speech/speech-to-text tools?

Training, feedbacks, and statistics on videoconferencing

Complementary questions

– Do you provide special training for judges, competent authorities (depending on national legislation, notaries, bailiffs and others) and court staff? If so, how and by whom is this organised?

The law does not provide for any obligation regarding the training of magistrates.

However, the law provides also explicitly for the possibility of recordings of court hearings held via videoconference for educational purposes, such as the training of magistrates and court clerks. The judicial training institute is the body in charge of the comprehensive development and training policy for magistrates and members of the judicial staff. The judicial training institute is also member of the Management Committee of the videoconference system. As such, it may provide special training for judges and competent authorities.

– Do you collect feedback, and how, from the participants (judge, lawyer, citizen, ...)?

The collection of feedback is not provided for by the law.

– Do you have statistics or indicators on the use of videoconferencing for court hearings

For both questions, yes. The law stipulates that the minister of Justice shall evaluate the application of the provisions relating to the organisation of hearings by videoconference in judicial proceedings within three years of their entry into force.

The law explicitly provides also for data collection for the aim of certain data, to be in line with the pertinent data protection rules, for statistical purposes and for the purpose of evaluating of the videoconferencing system and its use.

The exact content of the evaluation must still be determined, but the collection of feedback from participants is already taken into account, also via the 4 pilot projects that are running.



**Council of the
European Union**

Brussels, 31 May 2024 (OR. en)

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**EJUSTICE 39
JAI 934**

NOTE

From: Presidency
To: Working Party on e-Justice
Subject: Questions concerning the use of videoconferencing for the purposes of court hearings in Member States

Delegations will find below a document containing a questionnaire on the use of videoconferencing for the purposes of Court hearings in Member States.

This document will serve as basis for discussions during the meeting of the Working Party on e-Justice on 18 June 2024.

**Questions concerning the use of videoconferencing
for the purposes of court hearings in Member States**

For many years, the topic of the promotion of the use of videoconferencing for the purposes of court hearings has featured prominently on the agenda of the Working Party (WP) on e-Justice. For a time, the topic was addressed within an expert group chaired by the Austrian delegation. The group focused on gathering best practices related to the promotion of the use of videoconferencing for court hearings, notably leading to the adoption of Council Recommendations¹ summarising the findings of the group.

However, this expert group was discontinued after the new WP mandate was approved. At the same time, videoconferencing is still an important part of the new e-Justice Strategy 2024-2028. The Strategy aims at promoting the use of videoconferencing in judicial proceedings. In particular, it tasks the Commission and Member States to improve video conference interoperability (e.g. common requirements, standards or tools for conducting remote hearings). At the same time, the Strategy puts the focus on projects related to videoconferencing, such as real time interpretation and identification of participants.

Promoting the use of and sharing of best practices on cross-border videoconferencing in the area of justice in the Member States and at EU level, OJ C 250, 31.7.2015, p. 1–5,
[https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32015H0731\(01\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32015H0731(01))

Regulation on Digitalisation of Judicial Cooperation

The Regulation on the Digitalisation of judicial cooperation and access to justice in cross-border civil, commercial and criminal matters (Digitalisation Regulation), adopted in December 2023, establishes a legal basis for using videoconferencing in both civil and commercial matters with cross-border implications, as well as in the context of certain judicial cooperation instruments in criminal matters. Notably, the chapter 4 on the participation to a court hearing through videoconferencing will become applicable from May 1, 2025. Pursuant to Article 17 of the Digitalisation Regulation, by 17 July 2024, Member States are required to inter alia communicate descriptions of their national laws and procedures related to videoconferencing in accordance with Articles 5 and 6 of the Regulation. This obligation is instrumental in order to find out how the applicable national laws, in particular recently adopted or planned ones, are applying to videoconferencing.

National legal framework and Access

While the information communicated by the Member States should provide the precise information on how the national procedural rules, including recently adopted or planned ones, apply to videoconferencing, it may not cover the entire legal landscape that applies to participation in hearings by videoconference for individuals. For instance, they should be aware of the procedural conditions and consequences for attending a VTC hearing, such as the existence of a recording, provision of interpretation, or the possibility of legal assistance.

The digitalisation Regulation states, in its article 6 about the use of VC In criminal matters, that competent authorities must ensure that individuals have access to necessary infrastructure at the premises where the VTC hearing takes place. Member States must establish VTC systems, ready for cross-border cases, even if different IT systems and procedural laws are involved. Ensuring interoperability and adherence to high standards is crucial for the judiciary's effective use of videoconferencing and for ensuring individuals' fundamental rights.

Addressing Questions and Moving Forward

With this note we aim to initiate a discussion on the role the e-Justice WP should play to ensure a smooth application of those articles as of their date of application in May 2025.

To prepare the discussion during the next WP, along with future discussions, we invite delegations to answer the questionnaire below.

Due to the short deadline, we would ask the delegation to **answer by 10 June 2024** on the main questions. If delegations are not able to answer the complementary questions in that timeframe, we would welcome their answers on those by the end of June.

We would also seize the opportunity to have different ongoing initiatives aiming at facilitating hearings through videoconferencing to be presented at the next WP. We would therefore ask you to contact us if your delegation would be interested in briefly presenting such projects or best practices by the end of next week, 7 June 2024.

Questionnaire

Applicable Legal framework

Main question

– Is there specific existing, including recently adopted, or planned legislation for the use of videoconferencing for conducting court hearings in your MS?

Specific existing legislation in our MS:

1. European Convention for mutual assistance in criminal matters and the Second Protocol in European convention for mutual assistance in criminal matters (article 9 Hearing by Video Conference), Laws [2000 \(N. 2\(III\)/2000\)](#) και [2012 \(N. 5\(III\)/2012\)](#)
2. Criminal Procedure Rules (Cap.155) – article 61
3. European Investigation Order in Criminal matters laws 181(I)/2017
4. International assistance in criminal matters Laws 23(I)/2001
5. Hague Convention 1970 (civil matters)

We are not aware of any planned legislation. It is advised to address this question to the Ministry of Justice.

Complementary questions:

– Does this legislation cover the use of videoconferencing in the context of national hearings, cross-border hearings, or both?

Yes, but not in a specific procedural manner.

– Does the legislation apply to civil, commercial, criminal matters or all of them? Does it also apply to other areas, such as administrative matters?

Legislation no. 1-4 refers to criminal matters and legislation no. 5 covers all the matters but not in a specific aspect.

- How do the procedural rules guarantee the right to an effective and equal access to the court, the respect of the adversarial character of the proceedings, the equality of arms, the possibility to present evidence and defend the case, and the fairness of the proceedings?

According to the laws, procedural rules of our MS, and according to the European Convention of Human Rights, all these proceedings and principles are safeguarded by the Cypriot Courts.

- Is the right of the party to be assisted by a lawyer prior to and during the hearing safeguarded and how is confidentiality of lawyer-client communication at the hearing ensured?

This right is safeguarded by the Cyprus Constitution, the European Convention of Human Rights, the Cyprus Criminal Procedure Rules, and Civil Procedural Rules, that are into force.

- Is the public character of the hearing preserved and how is this done? How do the procedural rules regulate the privacy of a hearing behind closed doors?

If there is not any Court's order closed-doors hearing, all hearings via video teleconference are open for public and are scheduled normally like all the other cases in the court room. The criminal procedural rules of our MS regarding the hearings behind closed-doors, are applied.

Technical considerations and interoperability

Main questions

- Do you have technical infrastructure for conducting videoconferencing?

Yes.

- What videoconferencing tools/platform do you use for organising court hearings by videoconferencing?

Cisco Webex platform (soon and Microsoft Teams)

- Do you provide some interoperability guidelines to connect to a judicial hearing through VTC?

Yes, we provide the link and all the technical information

Complementary questions

- How do videoconferencing tools/platform, to the extent possible, ensure compatibility between the devices and the software used by participants?

As long there is a subscription for the host to a certain videoconference platform, the end users only

need to have the relevant application installed to their equipment.

- Do they ensure an experience similar to an in-person hearing in a court room, and if so, how? Do they allow all participants to the session, especially the judge, to recognise each other visually, and to see both the speaker asking questions or making statements and the reaction of the listeners, during the videoconference, and if so, how?

There are high quality cameras in the court room, high quality microphones as well as availability of sharing documents easily. The judges can recognize each other visually, the communication and understanding for both sides is achievable.

- Do they provide for a sufficient level of assurance as regards the identification and authentication of the parties, and if so, how?

The parties that are involved get an oath or a confirmation of their personal details before the Court.

- Is a separate, secure and confidential, side-band channel provided that allows for consultations between a party and his/her lawyer?

No.

- Is two-way interpretation provided for participants not fluent in the language of the court?

Yes.

Information for individuals

Main question

- Is information available for individuals concerning the procedural and technical requirements for organising court hearings by videoconferencing? What does that information cover (how to connect, identify, participate, ...)?

This information is available for individuals.

That information covers: meeting link, meeting password, join by phone, join from a video or application, global call in numbers

Complementary question

- Are there specific information or materials available for specific groups, in particular vulnerable groups, children, or persons with disabilities?

Not specific technical information. But it is a matter that the Court may decide accordingly.

Accessibility

Complementary questions

- Has national infrastructure been assessed regarding special needs, for example regarding catering for the needs of people with reduced mobility, hard of hearing and visual impairments?

We are not aware. It is advised to address this question to the Department of Electrical and Mechanical Services.

- Do the tools/platforms currently used provide accessibility features, such as use of specific fonts, contrasting colours, and text-to-speech/speech-to-text tools?

We are not fully aware. It is advised to address this question to the Department of Electrical and Mechanical Services.

Training, feedbacks, and statistics on videoconferencing

Complementary questions

- Do you provide special training for judges, competent authorities (depending on national legislation, notaries, bailiffs and others) and court staff? If so, how and by whom is this organised?

No.

- Do you collect feedback, and how, from the participants (judge, lawyer, citizen, ...)?

Yes, but it is informal.

- Do you have statistics or indicators on the use of videoconferencing for court hearings?

No.



Questions concerning the use of videoconferencing for the purposes of court hearings in Member States

NOTE

From: MOJ CZ – Department of eJustice

To: Working Party on e-Justice

Pursuant to document number 10600/24, the eJustice Department of the Ministry of Justice of the Czech Republic is hereby submitting the completed questionnaire.



Applicable Legal framework

Is there specific existing, including recently adopted, or planned legislation for the use of videoconferencing for conducting court hearings in your MS?

Yes, we have existing legislation for the use of videoconferencing.

Does this legislation cover the use of videoconferencing in the context of national hearings, cross-border hearings, or both?

The legislation covers the use of videoconferencing in both national and cross-border hearings.

Does the legislation apply to civil, commercial, criminal matters or all of them? Does it also apply to other areas, such as administrative matters?

The legislation applies to civil, commercial, and criminal matters, as well as administrative matters.

How do the procedural rules guarantee the right to an effective and equal access to the court, the respect of the adversarial character of the proceedings, the equality of arms, the possibility to present evidence and defend the case, and the fairness of the proceedings?

In videoconference hearings, the procedural rules ensure the right to effective and equal access to the court by applying the same binding rules of judicial procedure as in standard hearings. This guarantees the respect of the adversarial character of the proceedings, ensuring equality of arms and providing all parties with the opportunity to present evidence and defend their case. The fairness of the proceedings is maintained through adherence to these established procedural standards, ensuring that the principles of due process are upheld.

Is the right of the party to be assisted by a lawyer prior to and during the hearing safeguarded and how is confidentiality of lawyer-client communication at the hearing ensured?

Yes, the right of the party to be assisted by a lawyer before and during the hearing is safeguarded. This is ensured by both the constitutionally guaranteed right to legal assistance and technical means such as the ability to mute audio and video, disable recording, and access a 'breaking room' during



the video conference. Additionally, an IP telephone with a separate communication channel is available in certain situations. These measures effectively safeguard the confidentiality of lawyer-client communication during the hearings.

Is the public character of the hearing preserved and how is this done? How do the procedural rules regulate the privacy of a hearing behind closed doors?

The public character of the hearing is preserved by applying the same rules as in standard court hearings. During a public hearing, members of the public may be present in the courtroom, registered users can participate via a mobile application, and individuals may request a recording of the hearing.

In the case of closed-door hearings, privacy is ensured through restricted access and limited viewing of the recorded hearing.

Technical considerations and interoperability

Do you have technical infrastructure for conducting videoconferencing?

Yes, we do have the technical infrastructure for conducting videoconferencing.

What videoconferencing tools/platform do you use for organising court hearings by videoconferencing?

For organizing court hearings via videoconferencing, judicial organizations use desktop clients primarily, such as Cisco Webex and Real Desktop Presence. In terms of hardware, they mainly rely on video conferencing suites (systems) designed specifically for video conferencing. These include Polycom RealPresence Group 310, 510, 700, and Cisco RoomBar, RoomKit, RoomKit+, DeskPro.

Do you provide some interoperability guidelines to connect to a judicial hearing through VTC?

For judicial organizations, this information is available on a dedicated videoconferencing portal. Judicial personnel have been trained, and in case of difficulties, they can communicate with IT experts at the Ministry of Justice. Members of the public participating in video conferences will always receive necessary information from the court personnel organizing the video conference, and in case of difficulties, these individuals may seek information from IT specialists at the courts.



How do videoconferencing tools/platform, to the extent possible, ensure compatibility between the devices and the software used by participants?

Videoconferencing tools/platforms implemented within the Ministry of Justice's organizations are deployed as an on-premise solution. Internal compatibility is ensured through the selection of software and devices, where compatibility is guaranteed by the manufacturer. External compatibility is achieved through the chosen solution's wide range of compatibility options across various devices. Participants can connect via a mobile application or through a web browser using a hyperlink provided by the judicial officer etc.

Do they ensure an experience similar to an in-person hearing in a court room, and if so, how? Do they allow all participants to the session, especially the judge, to recognise each other visually, and to see both the speaker asking questions or making statements and the reaction of the listeners, during the videoconference, and if so, how?

The experience facilitated by the videoconferencing tools closely simulates an in-person hearing in a courtroom. These devices enable participants, including the judge, to visually recognize each other and observe both the speaker asking questions or making statements and the reactions of the listeners. This is achieved through functionalities such as zooming capabilities, the ability to rotate the camera 360 degrees, screen splitting, and switching between individual speakers

Do they provide for a sufficient level of assurance as regards the identification and authentication of the parties, and if so, how?

Yes, identification is ensured either through special document cameras or, alternatively, parties can identify themselves via the device camera, as the camera resolution allows for secure identification.

Is a separate, secure and confidential, side-band channel provided that allows for consultations between a party and his/her lawyer?

Yes, it is provided. When using the Webex application, a feature called the "breakout room" can be utilized. In the case of the Polycom application, an IP phone can be used, which has a separate channel. During consultations, recording of the proceedings can be paused, cameras and microphones can be turned off simultaneously.



Is two-way interpretation provided for participants not fluent in the language of the court?

Yes, it is. An interpreter can either be present directly in the courtroom or can join the session online.

[Information for individuals, Accessibility, Training, feedbacks, and statistics on videoconferencing](#)

Is information available for individuals concerning the procedural and technical requirements for organising court hearings by videoconferencing? What does that information cover (how to connect, identify, participate, ...)?

The necessary information for organizing videoconference hearings is always provided to the relevant parties by judicial officers and is also available on the websites of the courts and the Ministry of Justice. This information covers the procedure, connection instructions, identification requirements, guidance on raising objections to the videoconference itself or its proceedings, and other pertinent details.

Are there specific information or materials available for specific groups, in particular vulnerable groups, children, or persons with disabilities?

Yes, our solution also caters to these disadvantaged individuals, and we approach them on an individual basis. Special materials for these individuals have been primarily tailored by the police.

Has national infrastructure been assessed regarding special needs, for example regarding catering for the needs of people with reduced mobility, hard of hearing and visual impairments?

Our solution has been designed with special needs in mind and is prepared to accommodate them. However, we have not conducted an assessment of the national infrastructure regarding these specific needs.



Do the tools/platforms currently used provide accessibility features, such as use of specific fonts, contrasting colours, and text-to-speech/speech-to-text tools?

To ensure these accessibility features, professional display devices with enhanced visibility were selected. It is possible to connect listening devices to these devices. The solution for speech-to-text exists, but only for the court's needs.

Do you provide special training for judges, competent authorities (depending on national legislation, notaries, bailiffs and others) and court staff? If so, how and by whom is this organised?

All training sessions were organized by the Ministry of Justice. All employees at courts, prison staff, selected psychiatric facilities, and police representatives were trained.

Do you collect feedback, and how, from the participants (judge, lawyer, citizen, ...)?

Feedback was collected regularly in six-month cycles during the sustainability phase of the project.

Do you have statistics or indicators on the use of videoconferencing for court hearings?

Yes, statistical data is collected every month.

Germany

Applicable Legal framework

Main question

- Is there specific existing, including recently adopted, or planned legislation for the use of videoconferencing for conducting court hearings in your MS?

In *civil proceedings* (Section 128a of the Code of Civil Procedure) it has been possible since 2001 to hold video hearings by means of video and audio transmission under certain conditions. We are currently preparing an amendment to the statutory regulations governing the conduct of video hearings in civil proceedings and specialized jurisdictions in order to make the existing regulations more practicable and to further promote the conduct of remote hearings.

German *criminal procedure* law provides for several options to conduct hearings or examinations by means of video and audio transmission. During preliminary investigation, witnesses may be examined using videoconferencing (Section 58b of the German Code of Criminal Procedure). Concerning the oral hearing for review of remand detention the court may order that the oral hearing is to be conducted in such a way that the accused is located somewhere other than the court and the hearing is simultaneously transmitted audio-visually to the place where the accused is located and to the courtroom if the accused has waived the right to be present at the hearing or great distance or sickness of the accused or other insurmountable obstacles prevent his or her being brought to the hearing (Section 118a(2) of the German Code of Criminal Procedure).

During main hearing, the court may order that the witness remains in another place during the examination if there is an imminent risk of serious detriment to the wellbeing of a witness who is to be examined in the presence of those attending the main hearing, if illness, infirmity or other insurmountable impediments prevent the witness from appearing at the main hearing for a longer or indefinite period, if the witness cannot, having regard to the importance of his or her statement, reasonably be expected to appear at the main hearing owing to the great distance involved or if the public prosecutor, defence counsel and the accused consent to the use of videoconferencing (Sections 247a(1) and 251(2) of the German Code of Criminal Procedure). Moreover, the court may order that the examination of an expert or the service of an interpreter is being conducted in such a manner that the expert or the interpreter is located somewhere other than the court and the

examination or the interpretation is simultaneously transmitted audio-visually to the place where the expert is located and to the courtroom. This does not apply in the cases of examination of an expert before taking decision on the defendant's placement in a psychiatric hospital or in preventive detention.

GER plans to introduce an option to participate in the main hearing on appeal on points of law (*Revision*) by means of video and audio transmission as during the main hearing on appeal on points of law only questions of law are discussed and it is not the personal impression of the accused or the witness that counts.

During enforcement proceedings the court may determine that the convicted person is to remain at a place other than the court during an oral hearing and that the hearing is to be simultaneously transmitted audio-visually to the place where the convicted person is located and to the courtroom. The court is, as a rule, to order the audio-visual transmission only with the proviso that the convicted person is to be located in the offices of defence counsel or of a lawyer during the oral hearing (Section 463e(1) of the German Code of Criminal Procedure). Moreover an expert appointed by the court may be heard prior to one of the court decisions via video link (Section 463e(2) of the German Code of Criminal Procedure).

Complementary questions:

- Does this legislation cover the use of videoconferencing in the context of national hearings, cross-border hearings, or both?

Civil proceedings: The current legislation only covers the use of videoconferencing in the context of national hearings.

Criminal proceedings: The aforementioned provisions do not distinguish between mere national and cross-border hearings. Whether cross-border hearings are admissible depends on international and EU law.

- Does the legislation apply to civil, commercial, criminal matters or all of them? Does it also apply to other areas, such as administrative matters?

Separate regulations on remote hearings, which are similar to those for civil proceedings, currently apply to administrative, financial, social and labour matters.

- How do the procedural rules guarantee the right to an effective and equal access to the court, the respect of the adversarial character of the proceedings, the equality of arms, the possibility to present evidence and defend the case, and the fairness of the proceedings?

Civil proceedings: In general, a remote hearing is the same as a physical hearing in the court room. All procedural rights can also be exercised in a video hearing.

Criminal proceedings: The procedural guarantees apply equally to hearings via video link and to hearings in physical presence. It is up to the judge to ensure that all procedural guarantees are complied with. Because the interrogation of a witness via videoconference during the main hearing is in tension with the defendant's right to be directly confronted with the witnesses and the determination of the truth (in case of an interrogation via videoconference the personal impression of the witness by the court and the defendant's lawyer may be limited) the interrogation via videoconference is only permitted under the requirements of Sections 247a(1) and 251(2) of the German Code of Criminal Procedure.

- Is the right of the party to be assisted by a lawyer prior to and during the hearing safeguarded and how is confidentiality of lawyer-client communication at the hearing ensured?

Civil proceedings: The right to be represented by a lawyer is not affected by the current procedural regulations on remote hearings.

- **Criminal proceedings:** The right to be assisted by a lawyer and the confidentiality of lawyer-client communication has to be safeguarded in the same way compared to hearings held in physical presence. It is up to the judge to create an environment that safeguards the confidentiality, e.g. via use of telephones, break-out rooms in the video conferencing software or by locating lawyer and client in the same room. Is the public character of the hearing preserved and how is this done? How do the procedural rules regulate the privacy of a hearing behind closed doors?

Civil proceedings: Images and audio must be transmitted into the courtroom in such a way that the public can follow the hearing, in this way public access to the hearing is maintained.

Criminal proceedings: Most of the hearings mentioned are non-public. In the case of an examination of an expert and an interrogation of a witness via videoconference during the main hearing (Sections 247a(1) and 251(2) of the German Code of Criminal Procedure) the court and the public stay at the courtroom. The statement is simultaneously transmitted into the courtroom in

image and sound. The public in the courtroom needs at least to be able to follow the testimony acoustically, because the audience traditionally only sees physically present witnesses from behind. Furthermore, the planned law that enables the parties to take part to the main trial in revision cases provides that the court and the public stay at the court house. Only the parties may opt for the participation via video link.

In order to ensure the non-public character of some trials or hearings the court is, as a rule, to order the audio-visual transmission only with the proviso that the person participating via video link is to be located in the offices of defence counsel or of a lawyer during the hearing or trial (see e.g. Section 463e(1) of the German Code of Criminal Procedure).

Technical considerations and interoperability

Main questions

- Do you have technical infrastructure for conducting videoconferencing?

All German courts and other judicial authorities have infrastructure for videoconferencing at their disposal, but the extent varies regionally and between different branches of the judiciary. Equipping the courts with hardware and software is the responsibility of the federal government only regarding the federal courts. For all other courts, i.e. the vast majority of German courts, it is the responsibility of the federal states (Länder).

- What videoconferencing tools/platform do you use for organising court hearings by videoconferencing?

Due to the regional responsibility, a great variety of videoconferencing platforms is used in the German judiciary, ranging from on premise instances of Jitsi, Big Blue Button, Skype for Business, Pexip and Nextcloud Talk to cloud services like Cisco Webex and Microsoft Teams.

- Do you provide some interoperability guidelines to connect to a judicial hearing through VTC?

It is unclear what is meant by “interoperability” in this context, as all videoconferencing services used today allow for the connection via standard PCs and mobile devices. Classic room systems are still in use, but only as clients to the modern videoconferencing services, not for point-to-point connections based on proprietary protocols.

Complementary questions

- How do videoconferencing tools/platform, to the extent possible, ensure compatibility between the devices and the software used by participants?

All videoconferencing systems used aim at providing broad support for PC and mobile clients. However, occasional compatibility problems remain.

- Do they ensure an experience similar to an in-person hearing in a court room, and if so, how?
Do they allow all participants to the session, especially the judge, to recognise each other

visually, and to see both the speaker asking questions or making statements and the reaction of the listeners, during the videoconference, and if so, how?

The experience of the participants – both in the courts and remotely – depends on the number and quality of the cameras, microphones and screens used and on the features and the performance of the videoconferencing service employed. The statutory provisions of national procedural laws do not expressly set minimum standards for the technology, and jurisprudence is still developing. But a general understanding has evolved that the technology used must allow for all participants of a court hearing to be able to see and hear everyone else, albeit not necessarily everyone at the same time. This results in a minimum requirement regarding the number and fields of vision of the cameras employed.

- Do they provide for a sufficient level of assurance as regards the identification and authentication of the parties, and if so, how?

The level of identification and authentication of the parties connecting remotely corresponds to the requirements in physical hearings. In physical hearings, no formal identification procedure is foreseen for the parties and their representatives, nor for other participants like witnesses. In the rare cases in which doubts arise about the identity of a participant, this can be checked - both in person and online – e.g. by showing an identity card.

- Is a separate, secure and confidential, side-band channel provided that allows for consultations between a party and his/her lawyer?

Most of the videoconferencing services employed by the judiciary provide for so-called “break-out-rooms” that allow for confidential consultations.

- Is two-way interpretation provided for participants not fluent in the language of the court?

Interpretation is still a challenge in remote hearings. Among the videoconferencing services used by the German judiciary, most do not provide a second audio channel needed for the inclusion of an online simultaneous interpreter. Hence, when a participant needs interpretation, in the vast majority of cases they will not be able to participate remotely in the hearing.

Information for individuals

Main question

- Is information available for individuals concerning the procedural and technical requirements for organising court hearings by videoconferencing? What does that information cover (how to connect, identify, participate, ...)?

The extent of information varies greatly between courts, but usually covers the expected information. Information needs by participants have generally decreased in recent years, as the use of videoconferencing has become more common.

Complementary question

- Are there specific information or materials available for specific groups, in particular vulnerable groups, children, or persons with disabilities?

In general, separate information for specific groups is not available. However, the general information supplied usually covers aspects relating to the specific needs of those groups.

Accessibility

Complementary questions

- Has national infrastructure been assessed regarding special needs, for example regarding catering for the needs of people with reduced mobility, hard of hearing and visual impairments?
- Do the tools/platforms currently used provide accessibility features, such as use of specific fonts, contrasting colours, and text-to-speech/speech-to-text tools?

All systems used are subject to the legal requirements regarding accessibility. Due to the number of systems in use and the decentralised responsibility, no general statements can be made about the extent of the functionalities. However, all systems used provide some level of accessibility features.

Training, feedbacks, and statistics on videoconferencing

Complementary questions

- Do you provide special training for judges, competent authorities (depending on national legislation, notaries, bailiffs and others) and court staff? If so, how and by whom is this organised?

In order to comply with the principle of independence of the judiciary the attendance at specific training is not mandatory. Support and training is offered by justice administration of Federal Government and Länder. Training events are also administered by professional associations (e.g. judges, clerks, lawyers, bailiffs, insolvency practitioners) and chambers (e.g. chamber of lawyers, notaries with regard to notarizations etc.). In May 2024, the German Judicial Academy (*Deutsche Richterakademie*) had organised the 3-day training for judges “the virtual court hearing in practice – experiences and perspectives (*Die virtuelle Gerichtsverhandlung in der Praxis – Erfahrungen und Perspektiven*).

- Do you collect feedback, and how, from the participants (judge, lawyer, citizen, ...)?

In 2021 the Federal Ministry of Justice carried out a survey in order to get an overview of the practical experience in the ordinary courts with remote hearings to determine any existing need for legislative action. However, due to the decentralised responsibility, feedback is not collected systematically nationwide. The extent of feedback collected regionally varies.

- Do you have statistics or indicators on the use of videoconferencing for court hearings?

Again, the decentralised nature of the provision of videoconferencing services renders the collection of information on a national level difficult. There is no representative and reliable data collection on the exact number of remote hearings in recent years. According to a survey conducted by the German Association of Judges among the 24 higher regional courts more than 50,000 remote hearings were carried out nationwide in the Corona year of 2021, the majority were civil proceedings.

Questionnaire concerning the use of videoconferencing for the purposes of court hearings in Member States

Main question

- Is there specific existing, including recently adopted, or planned legislation for the use of videoconferencing for conducting court hearings in your MS?

Yes, there is existing legislation on this matter.

Complementary questions:

- Does this legislation cover the use of videoconferencing in the context of national hearings, cross-border hearings, or both?

The legislation covers at least the national hearings. The existing ICT system covers this need through the Greek consulates.

- Does the legislation apply to civil, commercial, criminal matters or all of them? Does it also apply to other areas, such as administrative matters?

The existing legislation applies to civil and administrative matters. There is a partial coverage of the criminal matters, but it will be completed in a short time.

- How do the procedural rules guarantee the right to an effective and equal access to the court, the respect of the adversarial character of the proceedings, the equality of arms, the possibility to present evidence and defend the case, and the fairness of the proceedings?

The aforementioned matters, according to Greek Law and Constitution, are ensured by the judge.

- Is the right of the party to be assisted by a lawyer prior to and during the hearing safeguarded and how is confidentiality of lawyer-client communication at the hearing ensured?

The lawyer can be either participate to a videoconferencing being at the same location with the party, or it can request to participate from a separate location.

In all cases, it is at the discretion of the judge to accept the request or not.

- Is the public character of the hearing preserved and how is this done? How do the procedural rules regulate the privacy of a hearing behind closed doors?

The public character of the hearing is being preserved, by allowing the presence of the public in the main court room.

Again, in a case of a hearing behind closed doors, the judge is responsible to allow or not the entrance to the main court room or not.

Technical considerations and interoperability

Main questions

- Do you have technical infrastructure for conducting videoconferencing?

Yes, we have.

- What videoconferencing tools/platform do you use for organising court hearings by videoconferencing?

The main videoconferencing tools/platforms we use are the following:

- Cisco Webex Room Kit Plus
- Cisco Webex Room Kit

- Do you provide some interoperability guidelines to connect to a judicial hearing through VTC?
 - According to relative legislation, in order for someone to participate to a court hearing by videoconferencing, he can connect ONLY through certified places (court rooms, prisons, and consulates).

Complementary questions

- How do videoconferencing tools/platform, to the extent possible, ensure compatibility between the devices and the software used by participants?

The VC platforms used, comply with all the latest technical standards and the EU Guidelines (eg EU Council's Guide on videoconferencing in cross-border proceedings).

- Do they ensure an experience similar to an in-person hearing in a court room, and if so, how? Do they allow all participants to the session, especially the judge, to recognise each other visually, and to see both the speaker asking questions or making statements and the reaction of the listeners, during the videoconference, and if so, how?

Yes. All the above are ensured by the VC infrastructure, mainly by the use of big displays and appropriate microphones.

- Do they provide for a sufficient level of assurance as regards the identification and authentication of the parties, and if so, how?

Yes, the identification and authentication of the remote parties is ensured by the use of the identification and authentication mechanism of the Greek government policy (Greek e-gov.gr registry).

- Is a separate, secure and confidential, side-band channel provided that allows for consultations between a party and his/her lawyer?

No, there is not such a channel.

- Is two-way interpretation provided for participants not fluent in the language of the court?

In the case of a need for interpretation, the interpreter can be either in the same remote location of the participant, or in the main court room. There is no special technical provision for this matter.

Information for individuals

Main question

- Is information available for individuals concerning the procedural and technical requirements for organising court hearings by videoconferencing? What does that information cover (how to connect, identify, participate, ...)?

Yes. There exists detailed information in a public portal (<https://portal.e-diki.justice.gov.gr/>), regarding for organising court hearings, that covers all the necessary information (how to apply for a videoconference etc)

Complementary question

- Are there specific information or materials available for specific groups, in particular vulnerable groups, children, or persons with disabilities?

No.

Accessibility

Complementary questions

- Has national infrastructure been assessed regarding special needs, for example regarding catering for the needs of people with reduced mobility, hard of hearing and visual impairments?

The aforementioned VC portal comply with all the National and EU Guidelines for Accessibility.

- Do the tools/platforms currently used provide accessibility features, such as use of specific fonts, contrasting colours, and text-to-speech/speech-to-text tools?

No text-to-speech/speech-to-text tools are used.

Training, feedbacks, and statistics on videoconferencing

Complementary questions

- Do you provide special training for judges, competent authorities (depending on national legislation, notaries, bailiffs and others) and court staff? If so, how and by whom is this organised?

Yes, we do provide special training for judges and court staff, this is made by the contractor, who uses both traditional and distance learning training.

- Do you collect feedback, and how, from the participants (judge, lawyer, citizen, ...)?

A team consisting of judges, prosecutors, court clerks and Ministry of Justice officials actively participated in all phases of the relevant ICT Project Implementation.

- Do you have statistics or indicators on the use of videoconferencing for court hearings?

The productive use of the relevant ICT project is expected to start with the new judicial year (September 2024).

Spain

Applicable Legal framework

Main question

- Is there specific existing, including recently adopted, or planned legislation for the use of videoconferencing for conducting court hearings in your MS?

Our legislation has for years provided for the use of videoconferencing (VC) for judicial proceedings, provided for, in general, in art. 229 of the Organic Law of the Judiciary ‘when so agreed by the judge or court’.

Art. 229.3: These proceedings may be carried out by videoconference or any other similar system that allows two-way and simultaneous communication of image and sound and visual, auditory and verbal interaction between two persons or groups of persons. visual, auditory and verbal interaction between two geographically distant persons or groups of persons, while ensuring geographically distant persons or groups of persons, ensuring in all cases the possibility for the parties to contradict each other and the parties and the safeguarding of the rights of the defence, when so agreed by the judge or court.

Also, Art. 230 allows the courts and prosecutor’s offices to use all IT tools available to them for the purpose of conducting their activities. The systems used by the courts should be previously accepted by the Council of the Judiciary and their interoperability should be granted.

Spain has launched a package of legislative initiatives aimed at fostering and facilitating the use of information technologies and the digital and procedural efficiency of the Justice Administration in all of its areas.

Specifically, Royal Law-Decree 6/2023 (RDL 6/2023) provides for very detailed rules on the technical requisites for secure access points for the execution of the telematics measures; it gives effect to the right to communicate with the administration of justice through email, videoconference and other telematics means; it provides for rules for the secure identification of the involved persons; it also regulates the non-presential judicial acts such as assistance to the general public or to law professionals.

The main provisions with regards to VC can be found in RDL 6/2023, specifically in Chapter I of Title IV Book One, applicable to all jurisdictional orders (Articles 59 to 65).

In the civil field, article 103 of RDL 6/2023 reforms various articles of the Civil Procedural Law (LEC). The current art. 129 bis of the LEC (as amended by RDL 6/2023) provides that all acts of trial, hearings, appearances, declarations and, in general, all procedural acts will be carried out preferably by means of telematic presence (with some exceptions).

Criminal cases are regulated by the Criminal Procedural Law (LECrin), in Title XIV of Book I (also amended by RDL 6/2023), on procedural acts by means of telematic presence. This title provides, in general and unless the judge orders otherwise (or in the case of serious crimes), for telematic presence for all acts of the trial, hearings, appearances, declarations and, in general, all procedural actions.

It must be added that, in the context of criminal proceedings, the use of videoconference during the investigative phase is very common. The Criminal Procedural Law foresees the possibility to use videoconference in the two procedural stages: investigative phase and trial phase to take statement or record the testimony from suspects, accused, victims and other witnesses and experts where the particular circumstances of the case so advise, particularly in the case of children (Arts. 325 and 731 bis).

Complementary questions:

- Does this legislation cover the use of videoconferencing in the context of national hearings, cross-border hearings, or both?

The use of videoconferencing in cross-border proceedings is not specifically regulated, although it could be understood to be included, since, for example, Article 258 bis of the LECrim (reformed by RDL 6/2023) states, in paragraph 2, that the provisions of this article shall apply ‘without prejudice to the provisions of international treaties to which Spain is a party, the rules of the European Union and other regulations applicable to cooperation with foreign authorities for the performance of the jurisdictional function’, so we understand that it would be covered. The formalities applicable in domestic videoconference will also be applicable for cross-border videoconference.

- Does the legislation apply to civil, commercial, criminal matters or all of them? Does it also apply to other areas, such as administrative matters?

See answer to question 1. Specific rules apply for videoconferencing in the different areas. In addition, the Law Project on the adoption of measures in the field of the efficiency of the Justice Public Service and representative actions on consumers interests includes a number of provisions on videoconference, which can be used in mediation procedures.

- How do the procedural rules guarantee the right to an effective and equal access to the court, the respect of the adversarial character of the proceedings, the equality of arms, the possibility to present evidence and defend the case, and the fairness of the proceedings?

As indicated above (main questions), art. 229 states that proceedings carried out by VC shall ensure “(...) *in all cases the possibility for the parties to contradict each other and the parties and the safeguarding of the rights of the defence (...)*”.

As general safeguards, recourse to videoconference in any jurisdiction and type of proceedings is possible where the right of defence and the adversarial principle can be respected and satisfied.

The use of videoconference cannot and will not impair or pose any difficulty in the exercise of the right of defence. This principle is enshrined in the Law on the Judicial Power as the governing rule.

Both the previous legislation and the reform carried out through RDL 6/2023 provide for the guarantee of the fundamental right of equal access to justice, which would include, on the same terms as those who access and relate to justice by other means.

The RDL, in fact, introduces a series of legislative modifications in which special consideration has been given to the situation and needs of people in situations of vulnerability, in order to eliminate the barriers that prevent them from participating in judicial processes under equal conditions, contributing to the creation of an inclusive and friendly public justice service.

This Royal Decree-Law includes, in its final part, a series of provisions to be complied with by the Justice administration, aimed (among others) at ensuring that all citizens can access electronic services under equal conditions, providing the courts, judicial offices and public prosecutors' offices with the necessary electronic means and instruments to carry out their functions efficiently.

Art. 5 of the RDL 6/2023 states that, in relation to the use of electronic media in judicial activity, citizens have the right to equality in electronic access to the services of the Administration of Justice.

- Is the right of the party to be assisted by a lawyer prior to and during the hearing safeguarded and how is confidentiality of lawyer-client communication at the hearing ensured?

General rules on legal assistance and confidentiality would apply.

A private interview between the defendant and his/her lawyer is a fundamental feature of the right of defence. Such private interview is always granted at any stage of the criminal proceedings, from the first appearance before the court, during all interviews in the course of the investigation, and in all sessions of the trial. This is also applicable for videoconferences in situations where the suspect or accused has been arrested or is in detention. It should be recalled that Directive 2013/48/EU, on the right of access to a lawyer, establishes the right to communicate with the lawyer, including through the use of video-conferencing.

Where the suspect or accused is present in the premises of the court or prosecution service, in any stage of the proceedings, then the presence of the assisting lawyer is mandatory, this meaning that the lawyer can only assist remotely when the suspect or accused is also participating remotely.

As regards confidentiality, in the criminal field, art. 118.4 LECrim already foresees that ALL communications between the investigated or accused person and his lawyer will be confidential.

In civil matters, art. 129 bis of LEC (as amended by RDL 6/2023) states that (...) *“The necessary measures shall be taken to ensure that in the use of electronic methods the rights of all parties to the proceedings are guaranteed. In particular, the right to effective legal assistance, to interpretation and translation and to information and access to court records”*.

- Is the public character of the hearing preserved and how is this done? How do the procedural rules regulate the privacy of a hearing behind closed doors?

The principle of publicity is recognised in art. 24 and 120.1 of the Spanish Constitution. The requirement of publicity is also included in art. 138.1 LEC (civil matters) and 680 LECrim (criminal matters). Art. 137 bis.1 LEC (as amended by RDL 6/2023) states that *“the court shall ensure compliance with the principle of publicity, agreeing the necessary measures so that the procedural proceedings that are public and held by this means (videoconference) are accessible to citizens”*.

The public character of the hearing is thus not affected by the fact that the accused, the victims, witnesses or experts participate in the hearing via videoconference, nor are the rules on privacy of a

hearing. The hearing rooms are equipped with screens to reproduce the videoconference; the reproduction of the videoconference is visible and audible by those present in the courtroom if the hearing is public. If the hearing is not public, then no audience will be in the courtroom.

Specifically, article 66 of the RDL 6/2023 states the following:

1. The acts of trial, hearings and other proceedings that in accordance with the procedural laws are to be held in public hearing, when they are held with the telematic participation of all the intervening parties, shall be broadcast publicly in accordance with the aspects or technical specifications that are established by the State Technical Committee of the Electronic Judicial Administration.

The information and communication systems may establish different levels of security and public access to the retransmission.

In the cases of Article 138.2 of Law 1/2000, of 7 January, on Civil Procedure; 681.1 of the Law on Criminal Procedure, or in any other case in which the procedural law permits the restriction of publicity, the judge or court may agree to the non-transmission in the manner provided for by the procedural law.

2. In the acts of trial, hearings and hearings held with the physical presence in the courtroom of one or more of the participants, and in those in which publicity is guaranteed by open access to the courtroom, the judge or court may order non-rebroadcasting in the cases of paragraph 1, third subparagraph, and in addition when he or she considers it strictly necessary in view of the circumstances.

3. Likewise, in the criminal field, in accordance with article 682 of the Criminal Procedure Act, the judge or court, after hearing the parties, may restrict the presence of the audiovisual media in the trial sessions and establish limitations on the recording and taking of images, on the publication of information on the identity of the victims, witnesses or experts or any other person who takes part in the trial.

4. The list of trial proceedings, hearings and hearings to be held by each judicial body, and the form of access to them for the purposes of publicity, shall be published in the electronic judicial headquarters.

5. In the case of oral proceedings held before the legal counsel of the Administration of Justice, the provisions of the previous sections shall apply.

The legal counsels of the Administration of Justice may agree by decree not to retransmit in the cases provided for in this Article in matters within their exclusive competence.

Technical considerations and interoperability

Main questions

- Do you have technical infrastructure for conducting videoconferencing?

Yes, we have a full structure for judicial videoconferencing counting with servers in our DPC and endpoints in all the courtrooms.

- What videoconferencing tools/platform do you use for organising court hearings by videoconferencing?

Currently the platform used for court hearings is Cisco Meeting Service.

- Do you provide some interoperability guidelines to connect to a judicial hearing through VTC?

Yes, our system is totally prepared to accept connections through VTC (SIP, H323 and web browser).

Complementary questions

- How do videoconferencing tools/platform, to the extent possible, ensure compatibility between the devices and the software used by participants?

By using standards protocols like SIP and H323.

- Do they ensure an experience similar to an in-person hearing in a court room, and if so, how? Do they allow all participants to the session, especially the judge, to recognise each other visually, and to see both the speaker asking questions or making statements and the reaction of the listeners, during the videoconference, and if so, how?

Full court hearing by VC are not allowed in Spain yet. The judge and most of participants are in courtroom. External participants can intervene through VC in the hearing. The experience is similar to an in-person hearing since each courtroom it's provided with a videoconferencing

endpoint with a camera and a TV. During the VC in the hearing, it's the judge who decides where the camera should point to (judge, lawyers, etc). Normally the speaker in courtroom and the participant by VC are both on screen.

- Do they provide for a sufficient level of assurance as regards the identification and authentication of the parties, and if so, how?

Identification and authentication for participants through videoconference is only made by showing their ID to camera.

- Is a separate, secure and confidential, side-band channel provided that allows for consultations between a party and his/her lawyer?

This feature is not provided in the current platform but it is in our roadmap.

- Is two-way interpretation provided for participants not fluent in the language of the court?

Currently interpretation is not simultaneous. In the majority of cases, the interpreter is in courtroom.

Information for individuals

Main question

- Is information available for individuals concerning the procedural and technical requirements for organising court hearings by videoconferencing? What does that information cover (how to connect, identify, participate, ...)?

Art. 5 of RDL 6/2023 recognises the right of citizens to a personalised service of access to procedures, [information](#) and accessible services of the Administration of Justice in which they are parties or legitimately interested parties.

Also, there are some tutorials and guidebooks for individuals about how to use videoconferencing in a courtroom. External participants that apply to participate through VC receive also the necessary instructions about how to connect and participate in a court hearing through VC.

Complementary question

- Are there specific information or materials available for specific groups, in particular vulnerable groups, children, or persons with disabilities?

The new legislation contains several provisions that take into account the situation of vulnerable groups. For example, Article 12 of RDL 6/2023 re-establishes the General Access Point of the Administration of Justice, a citizen-oriented portal to facilitate access to accessible services, procedures and information corresponding to the Administration of Justice. This article foresees that the general access point will respond to the principles of universal accessibility and clarity of information, and will include content aimed at vulnerable groups, especially children and adolescents, which may be of interest to them.

Also, in the amendments to criminal legislation, it is established that, in the processes in which persons with disabilities participate, the necessary adaptations and adjustments will be made. These adaptations may be related to communication, comprehension and interaction with the environment.

Accessibility

Complementary questions

- Has national infrastructure been assessed regarding special needs, for example regarding catering for the needs of people with reduced mobility, hard of hearing and visual impairments?

As indicated before, the new legislation contains several provisions that take into account the situation of vulnerable groups. For example, in the amendments to criminal legislation, it is established that, in the processes in which persons with disabilities participate, the necessary adaptations and adjustments will be made. These adaptations may be related to communication, comprehension and interaction with the environment. In civil matters, it is also provided that, in the processes in which persons with disabilities and older persons who so request or, in any case, persons aged 80 years or over, participate, the necessary adaptations and adjustments shall be made to guarantee their participation under equal conditions.

The practical application of these provisions is ongoing. So far, VC system does not provide accessibility features.

- Do the tools/platforms currently used provide accessibility features, such as use of specific fonts, contrasting colours, and text-to-speech/speech-to-text tools?

See previous answer.

Training, feedbacks, and statistics on videoconferencing

Complementary questions

- Do you provide special training for judges, competent authorities (depending on national legislation, notaries, bailiffs and others) and court staff? If so, how and by whom is this organised?

There are no specific provisions on the training of legal professionals in the computer systems incorporated into the administration of justice. However, the training of legal professionals is provided for in various legal acts applicable to the judiciary, such as, for example, the Organic Law of the Judiciary (art. 307 ‘Judicial School, configured as a centre for the selection and training of judges and magistrates under the General Council of the Judiciary, shall aim to provide comprehensive, specialised and high quality training to members of the Judicial Career’).

Special material (repository and training tools with tutorials and guidebooks) on VD is made available for judges and other authorities.

- .Do you collect feedback, and how, from the participants (judge, lawyer, citizen, ...)?

Yes feedback is collected by the training unit.

- Do you have statistics or indicators on the use of videoconferencing for court hearings?

Yes, we collect data about videoconferencing in all regions in Spain and we have some dashboards with statistics about use by territory, duration, participants, etc.



Council of the
European Union

**Brussels, 31 May 2024
(OR. en)**

10600/24

LIMITE

**EJUSTICE 39
JAI 934**

NOTE

From:	Presidency
To:	Working Party on e-Justice
Subject:	Questions concerning the use of videoconferencing for the purposes of court hearings in Member States

Delegations will find below a document containing a questionnaire on the use of videoconferencing for the purposes of Court hearings in Member States.

This document will serve as basis for discussions during the meeting of the Working Party on e-Justice on 18 June 2024.

**Questions concerning the use of videoconferencing
for the purposes of court hearings in Member States**

For many years, the topic of the promotion of the use of videoconferencing for the purposes of court hearings has featured prominently on the agenda of the Working Party (WP) on e-Justice. For a time, the topic was addressed within an expert group chaired by the Austrian delegation. The group focused on gathering best practices related to the promotion of the use of videoconferencing for court hearings, notably leading to the adoption of Council Recommendations¹ summarising the findings of the group.

However, this expert group was discontinued after the new WP mandate was approved. At the same time, videoconferencing is still an important part of the new e-Justice Strategy 2024-2028. The Strategy aims at promoting the use of videoconferencing in judicial proceedings. In particular, it tasks the Commission and Member States to improve video conference interoperability (e.g. common requirements, standards or tools for conducting remote hearings). At the same time, the Strategy puts the focus on projects related to videoconferencing, such as real time interpretation and identification of participants.

¹ Promoting the use of and sharing of best practices on cross-border videoconferencing in the area of justice in the Member States and at EU level, OJ C 250, 31.7.2015, p. 1–5, [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32015H0731\(01\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32015H0731(01))

Regulation on Digitalisation of Judicial Cooperation

The Regulation on the Digitalisation of judicial cooperation and access to justice in cross-border civil, commercial and criminal matters (Digitalisation Regulation), adopted in December 2023, establishes a legal basis for using videoconferencing in both civil and commercial matters with cross-border implications, as well as in the context of certain judicial cooperation instruments in criminal matters. Notably, the chapter 4 on the participation to a court hearing through videoconferencing will become applicable from May 1, 2025. Pursuant to Article 17 of the Digitalisation Regulation, by 17 July 2024, Member States are required to inter alia communicate descriptions of their national laws and procedures related to videoconferencing in accordance with Articles 5 and 6 of the Regulation. This obligation is instrumental in order to find out how the applicable national laws, in particular recently adopted or planned ones, are applying to videoconferencing.

National legal framework and Access

While the information communicated by the Member States should provide the precise information on how the national procedural rules, including recently adopted or planned ones, apply to videoconferencing, it may not cover the entire legal landscape that applies to participation in hearings by videoconference for individuals. For instance, they should be aware of the procedural conditions and consequences for attending a VTC hearing, such as the existence of a recording, provision of interpretation, or the possibility of legal assistance.

The digitalisation Regulation states, in its article 6 about the use of VC In criminal matters, that competent authorities must ensure that individuals have access to necessary infrastructure at the premises where the VTC hearing takes place. Member States must establish VTC systems, ready for cross-border cases, even if different IT systems and procedural laws are involved. Ensuring interoperability and adherence to high standards is crucial for the judiciary's effective use of videoconferencing and for ensuring individuals' fundamental rights.

Addressing Questions and Moving Forward

With this note we aim to initiate a discussion on the role the e-Justice WP should play to ensure a smooth application of those articles as of their date of application in May 2025.

To prepare the discussion during the next WP, along with future discussions, we invite delegations to answer the questionnaire below.

Due to the short deadline, we would ask the delegation to **answer by 10 June 2024** on the main questions. If delegations are not able to answer the complementary questions in that timeframe, we would welcome their answers on those by the end of June.

We would also seize the opportunity to have different ongoing initiatives aiming at facilitating hearings through videoconferencing to be presented at the next WP. We would therefore ask you to contact us if your delegation would be interested in briefly presenting such projects or best practices by the end of next week, 7 June 2024.

Questionnaire

Applicable Legal framework

Main question

- Is there specific existing, including recently adopted, or planned legislation for the use of videoconferencing for conducting court hearings in your MS?

FI answer: Yes. Currently the Code of Judicial Procedure and the Criminal Procedure Act allow for the use of videoconference for parties' participation in hearings, including trial and pre-trial hearings. Additionally, they allow for taking evidence via videoconference, which applies for parties, witnesses and experts. Furthermore, in June 2024, the Government has submitted a proposal for legislation reforming the relevant provisions, enacting rules for conducting hearings exclusively online and making it easier to take evidence via videoconference.

Relating to cross-border criminal matters there is legislation in the Act on the Implementation of the Directive Regarding the European Investigation Order in Criminal Matters (430/2017) which complements the provisions of the Directive. There is provisions relating to the hearing a witness, an expert or an injured party (Section 15) and relating to a suspect or defendant (Section 16). Relating to Third States the Act on International Legal Assistance in Criminal Matters (4/1994) also contains provisions on videoconferencing (Section 11 a relating to a witness, expert or injured party and Section 11 b relating to a defendant or suspect).

Complementary questions:

- Does this legislation cover the use of videoconferencing in the context of national hearings, cross-border hearings, or both?

FI answer: As mentioned above there is separate legislation for national hearings and for cross-border cases in criminal matters. The national provisions on requesting and providing legal assistance in taking of evidence are included in the Act on International Legal Assistance and Recognition and Enforcement of Judgments in Civil and Commercial Matters (426/2015). This Act is, however, secondary in nature in relation to EU law and the international treaties.

- Does the legislation apply to civil, commercial, criminal matters or all of them? Does it also apply to other areas, such as administrative matters?

FI answer: The legislation on national hearings applies to civil, commercial and criminal matters. It doesn't apply to administrative matters. There are, however, endemic rules for administrative matters that it possible for a part to be heard in an administrative court hearing via videoconference.

- How do the procedural rules guarantee the right to an effective and equal access to the court, the respect of the adversarial character of the proceedings, the equality of arms, the possibility to present evidence and defend the case, and the fairness of the proceedings?

FI answer: For national hearings as a main rule, the party has to consent to participating in a hearing via videoconference. Additionally, the court has to deem the use of videoconference appropriate in all cases. For instance, it is not deemed appropriate when there are indications that the party might not fully grasp the significance of the matter at hand.

However, in the proposed legislation, it is proposed that in extraordinary circumstances it is possible for the court to order a party to participate remotely, for example in order to guarantee the security of the proceedings.

The use of videoconference should have no bearing on the adversarial character of the proceedings. The right to ask questions is guaranteed by law in all cases.

- Is the right of the party to be assisted by a lawyer prior to and during the hearing safeguarded and how is confidentiality of lawyer-client communication at the hearing ensured?

FI answer: For national hearings as generally, it is for the parties and their lawyer to decide whether or not they participate remotely from the same place. It has no effect on a party's right to legal assistance. In case they decide to participate separately, the right to confidential communication is safeguarded. The practical means of achieving the confidentiality is left for the parties and the court to decide on a case-by-case basis.

- Is the public character of the hearing preserved and how is this done? How do the procedural rules regulate the privacy of a hearing behind closed doors?

FI answer: For national hearings as all hearings not held behind closed doors are open to the general public. When the members of court participate in a court room, the public can follow the hearing from the same court room regardless of whether parties participate remotely or not. According to the proposed legislation, the court has to ensure that the public can follow an online hearing. The practical means are left for the court to decide in case. One practical way of ensuring the public nature of hearings is arranging a separate room in the court where the public can follow the hearing via videoconference.

Technical considerations and interoperability

Main questions

- Do you have technical infrastructure for conducting videoconferencing?

FI answer: Yes. The Finnish courts utilise a video conferencing service that Government ICT Centre Valtori provides for the state administration.

- What videoconferencing tools/platform do you use for organising court hearings by videoconferencing?

FI answer: The Finnish courts use several videoconferencing tools/platforms, e.g. Polycom videoconferencing devices. Furthermore, currently new solution is being prepared. In addition, also desktop solutions, such as Skype, are used for videoconferencing.

- Do you provide some interoperability guidelines to connect to a judicial hearing through VTC?

FI Answer: Users are provided with instructions on videoconferencing. The Government ICT Centre is responsible for the technical instructions. The Courts Administration has published a guide for the use of remote connections in court proceedings. Moreover, users in courts have drafted their own additional instructions.

Complementary questions

- How do videoconferencing tools/platform, to the extent possible, ensure compatibility between the devices and the software used by participants?

FI answer: The solutions have been in use for a long time, and they are also known to, for example, attorneys and prosecutors. There is no separate web address or similar where participant could test the compatibility of his or her own device. If there is uncertainty about the compatibility of one's own programme/equipment, test connections can be carried out in cooperation with the court. However, the majority of remote connections are made from a court to a court.

- Do they ensure an experience similar to an in-person hearing in a court room, and if so, how? Do they allow all participants to the session, especially the judge, to recognise each other

visually, and to see both the speaker asking questions or making statements and the reaction of the listeners, during the videoconference, and if so, how?

FI answer: Depending on the size of the room, the video conferencing device in the court session hall has one or two cameras, and the camera can be turned and zoomed if necessary. By these means, it is possible to choose what image and distance from the courtroom is transmitted (overview/image of the composition/image of the prosecutor, etc.).

In practice, however, the camera is not always turned, for example when asking questions and answering them. Participation experiences cannot therefore be fully comparable to personal presence. The image of the courtroom at a distance is inevitably different from the experience of being present in the courtroom in person.

For this reason the consideration of the court is always involved whether remote participation is appropriate in an individual case.

- Do they provide for a sufficient level of assurance as regards the identification and authentication of the parties, and if so, how?

FI answer: Legal proceedings are currently attended without specific identification. The court verifies the correct person on the basis of what it has seen and what the person states in the matter.

- Is a separate, secure and confidential, side-band channel provided that allows for consultations between a party and his/her lawyer?

FI answer: The video-conferencing solution does not contain such an integrated solution. Instead, the attorney and the client keep in touch outside the video-conferencing solution, using other tools of their choice.

- Is two-way interpretation provided for participants not fluent in the language of the court?

FI answer: The interpretation is fully two-way.

Information for individuals

Main question

- Is information available for individuals concerning the procedural and technical requirements for organising court hearings by videoconferencing? What does that information cover (how to connect, identify, participate, ...)?

FI answers: If necessary, participants are instructed if they participate remotely in a court proceeding via videoconferencing. E.g. the Courts Administration has published a guide for the use of remote connections in court proceedings. The guide includes instructions for the courts on communication with the parties about the remote participation. The guide with additional instruction on remote participation has been published in Finnish Justice Portal / Courts web side. If necessary, courts can give instructions in individual cases.

Complementary question

- Are there specific information or materials available for specific groups, in particular vulnerable groups, children, or persons with disabilities?

FI answer: There are no specific instructions for special groups concerning the use of remote connections.

Accessibility

Complementary questions

- Has national infrastructure been assessed regarding special needs, for example regarding catering for the needs of people with reduced mobility, hard of hearing and visual impairments?

FI answer: The special needs mentioned above will be taken into account in the planning of a court case and on the consideration if remote hearing is appropriate in a certain case. There are no special arrangements or instructions related to remote hearings/remote connections in this respect. When considering the suitability of remote hearing, courts will also pay attention to such matters.

- Do the tools/platforms currently used provide accessibility features, such as use of specific fonts, contrasting colours, and text-to-speech/speech-to-text tools?

FI answer: Such features are not enabled at the moment.

Training, feedbacks, and statistics on videoconferencing

Complementary questions

- Do you provide special training for judges, competent authorities (depending on national legislation, notaries, bailiffs and others) and court staff? If so, how and by whom is this organised?§

FI answer: When more extensive use of remote connections and hearings was started during the pandemic, the national Courts Administration prepared a guide on the use of remote connections in courts. At that time, more extensive training on remote connections was carried out. Currently training is organised when new systems are introduced. In other respects, training is typically provided by courts as a part their own induction process.

- Do you collect feedback, and how, from the participants (judge, lawyer, citizen, ...)?

FI answer: Such information is not collected regularly.

- Do you have statistics or indicators on the use of videoconferencing for court hearings?

FI answer: A statistic is produced four times a year about the use of videoconferencing system in courts.



Council of the
European Union

**Brussels, 31 May 2024
(OR. en)**

10600/24

LIMITE

**EJUSTICE 39
JAI 934**

NOTE

From:	Presidency
To:	Working Party on e-Justice
Subject:	Questions concerning the use of videoconferencing for the purposes of court hearings in Member States

Delegations will find below a document containing a questionnaire on the use of videoconferencing for the purposes of Court hearings in Member States.

This document will serve as basis for discussions during the meeting of the Working Party on e-Justice on 18 June 2024.

**Questions concerning the use of videoconferencing
for the purposes of court hearings in Member States**

For many years, the topic of the promotion of the use of videoconferencing for the purposes of court hearings has featured prominently on the agenda of the Working Party (WP) on e-Justice. For a time, the topic was addressed within an expert group chaired by the Austrian delegation. The group focused on gathering best practices related to the promotion of the use of videoconferencing for court hearings, notably leading to the adoption of Council Recommendations¹ summarising the findings of the group.

However, this expert group was discontinued after the new WP mandate was approved. At the same time, videoconferencing is still an important part of the new e-Justice Strategy 2024-2028. The Strategy aims at promoting the use of videoconferencing in judicial proceedings. In particular, it tasks the Commission and Member States to improve video conference interoperability (e.g. common requirements, standards or tools for conducting remote hearings). At the same time, the Strategy puts the focus on projects related to videoconferencing, such as real time interpretation and identification of participants.

¹ Promoting the use of and sharing of best practices on cross-border videoconferencing in the area of justice in the Member States and at EU level, OJ C 250, 31.7.2015, p. 1–5, [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32015H0731\(01\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32015H0731(01))

Regulation on Digitalisation of Judicial Cooperation

The Regulation on the Digitalisation of judicial cooperation and access to justice in cross-border civil, commercial and criminal matters (Digitalisation Regulation), adopted in December 2023, establishes a legal basis for using videoconferencing in both civil and commercial matters with cross-border implications, as well as in the context of certain judicial cooperation instruments in criminal matters. Notably, the chapter 4 on the participation to a court hearing through videoconferencing will become applicable from May 1, 2025. Pursuant to Article 17 of the Digitalisation Regulation, by 17 July 2024, Member States are required to *inter alia* communicate descriptions of their national laws and procedures related to videoconferencing in accordance with Articles 5 and 6 of the Regulation. This obligation is instrumental in order to find out how the applicable national laws, in particular recently adopted or planned ones, are applying to videoconferencing.

National legal framework and Access

While the information communicated by the Member States should provide the precise information on how the national procedural rules, including recently adopted or planned ones, apply to videoconferencing, it may not cover the entire legal landscape that applies to participation in hearings by videoconference for individuals. For instance, they should be aware of the procedural conditions and consequences for attending a VTC hearing, such as the existence of a recording, provision of interpretation, or the possibility of legal assistance.

The digitalisation Regulation states, in its article 6 about the use of VC In criminal matters, that competent authorities must ensure that individuals have access to necessary infrastructure at the premises where the VTC hearing takes place. Member States must establish VTC systems, ready for cross-border cases, even if different IT systems and procedural laws are involved. Ensuring interoperability and adherence to high standards is crucial for the judiciary's effective use of videoconferencing and for ensuring individuals' fundamental rights.

Addressing Questions and Moving Forward

With this note we aim to initiate a discussion on the role the e-Justice WP should play to ensure a smooth application of those articles as of their date of application in May 2025.

To prepare the discussion during the next WP, along with future discussions, we invite delegations to answer the questionnaire below.

Due to the short deadline, we would ask the delegation to **answer by 10 June 2024** on the main questions. If delegations are not able to answer the complementary questions in that timeframe, we would welcome their answers on those by the end of June.

We would also seize the opportunity to have different ongoing initiatives aiming at facilitating hearings through videoconferencing to be presented at the next WP. We would therefore ask you to contact us if your delegation would be interested in briefly presenting such projects or best practices by the end of next week, 7 June 2024.

Questionnaire

Applicable Legal framework

Main question

- Is there specific existing, including recently adopted, or planned legislation for the use of videoconferencing for conducting court hearings in your MS?

FI answer: Yes. Currently the Code of Judicial Procedure and the Criminal Procedure Act allow for the use of videoconference for parties' participation in hearings, including trial and pre-trial hearings. Additionally, they allow for taking evidence via videoconference, which applies for parties, witnesses and experts. Furthermore, in June 2024, the Government has submitted a proposal for legislation reforming the relevant provisions, enacting rules for conducting hearings exclusively online and making it easier to take evidence via videoconference.

Relating to cross-border criminal matters there is legislation in the Act on the Implementation of the Directive Regarding the European Investigation Order in Criminal Matters (430/2017) which complements the provisions of the Directive. There is provisions relating to the hearing a witness, an expert or an injured party (Section 15) and relating to a suspect or defendant (Section 16). Relating to Third States the Act on International Legal Assistance in Criminal Matters (4/1994) also contains provisions on videoconferencing (Section 11 a relating to a witness, expert or injured party and Section 11 b relating to a defendant or suspect).

Complementary questions:

- Does this legislation cover the use of videoconferencing in the context of national hearings, cross-border hearings, or both?
- Does the legislation apply to civil, commercial, criminal matters or all of them? Does it also apply to other areas, such as administrative matters?
- How do the procedural rules guarantee the right to an effective and equal access to the court, the respect of the adversarial character of the proceedings, the equality of arms, the possibility to present evidence and defend the case, and the fairness of the proceedings?

- Is the right of the party to be assisted by a lawyer prior to and during the hearing safeguarded and how is confidentiality of lawyer-client communication at the hearing ensured?
- Is the public character of the hearing preserved and how is this done? How do the procedural rules regulate the privacy of a hearing behind closed doors?

Technical considerations and interoperability

Main questions

- Do you have technical infrastructure for conducting videoconferencing?

FI answer: Yes. The Finnish courts utilise a video conferencing service that Government ICT Centre Valtori provides for the state administration.

- What videoconferencing tools/platform do you use for organising court hearings by videoconferencing?

FI answer: The Finnish courts use several videoconferencing tools/platforms, e.g. Polycom videoconferencing devices and ViPu videoconferencing service, which is a SaaS based solution that includes videoconferencing devices and videoconferencing application. In addition, also desktop solutions, such as Skype, are used for videoconferencing.

- Do you provide some interoperability guidelines to connect to a judicial hearing through VTC?

FI Answer: Users are provided with instructions on videoconferencing.

Complementary questions

- How do videoconferencing tools/platform, to the extent possible, ensure compatibility between the devices and the software used by participants?
- Do they ensure an experience similar to an in-person hearing in a court room, and if so, how? Do they allow all participants to the session, especially the judge, to recognise each other visually, and to see both the speaker asking questions or making statements and the reaction of the listeners, during the videoconference, and if so, how?
- Do they provide for a sufficient level of assurance as regards the identification and authentication of the parties, and if so, how?
- Is a separate, secure and confidential, side-band channel provided that allows for consultations between a party and his/her lawyer?
- Is two-way interpretation provided for participants not fluent in the language of the court?

Information for individuals

Main question

- Is information available for individuals concerning the procedural and technical requirements for organising court hearings by videoconferencing? What does that information cover (how to connect, identify, participate, ...)?

FI answers: If necessary, participants are instructed if they participate remotely in a court proceeding via videoconferencing. E.g. the Courts Administration has published a guide for the use of remote connections in court proceedings. The guide includes instructions for the courts on communication with the parties about the remote participation. The guide has been published in Finnish Justice Portal / Courts web side.

Complementary question

- Are there specific information or materials available for specific groups, in particular vulnerable groups, children, or persons with disabilities?

Accessibility

Complementary questions

- Has national infrastructure been assessed regarding special needs, for example regarding catering for the needs of people with reduced mobility, hard of hearing and visual impairments?
- Do the tools/platforms currently used provide accessibility features, such as use of specific fonts, contrasting colours, and text-to-speech/speech-to-text tools?

Training, feedbacks, and statistics on videoconferencing

Complementary questions

- Do you provide special training for judges, competent authorities (depending on national legislation, notaries, bailiffs and others) and court staff? If so, how and by whom is this organised?
- Do you collect feedback, and how, from the participants (judge, lawyer, citizen, ...)?

- Do you have statistics or indicators on the use of videoconferencing for court hearings?

NOTE DES AUTORITÉS FRANÇAISES

Objet : Réponse au questionnaire de la présidence sur l'utilisation de la visioconférence aux fins des audiences judiciaires dans les États membres – Note des autorités françaises.

Ref. : CM03218 ; ST10600 - questionnaire de la présidence belge

En réponse à l'invitation de la présidence belge à répondre au questionnaire sur l'utilisation de la visioconférence aux fins des audiences judiciaires dans les États membres, les autorités françaises souhaitent faire part des éléments suivants.

Cadre juridique applicable :

Question principale :

- Existe-t-il une législation spécifique existante, y compris récemment adoptée, ou prévue pour l'utilisation de la visioconférence pour la conduite d'audiences judiciaires dans votre Etat membre?

Is there specific existing, including recently adopted, or planned legislation for the use of videoconferencing for conducting court hearings in your MS ?

Sur le volet pénal :

A titre liminaire, les premières dispositions relatives au recours à la visioconférence en matière pénale ont été introduites en France par la [loi n° 2001-1062 du 15 novembre 2001 relative à la sécurité quotidienne](#). Plusieurs lois ont par la suite étendu le champ d'application du recours à la visioconférence, notamment l'[ordonnance n° 2016-1636 du 1er décembre 2016](#) relative à la décision d'enquête européenne en matière pénale, ainsi que la [loi n°2019-222 du 23 mars 2019](#) de programmation 2018-2022 et de réforme pour la justice.

La visioconférence peut être utilisée, lors de l'audience devant le tribunal correctionnel et la chambre des affaires correctionnels, pour :

- l'audition des témoins, des parties civiles et des experts (article [706-71](#) alinéa 3 CPP)
- la comparution du prévenu détenu, dans l'affaire pour laquelle l'audience a lieu ou pour autre cause, avec l'accord du procureur de la République et de l'ensemble des parties (article [706-71](#) alinéa 3 CPP)
- la comparution d'une personne à l'audience au cours de laquelle est rendu un jugement qui avait été mis en délibéré ou au cours de laquelle il est statué sur les seuls intérêts civils (article [706-71](#) alinéa 4 CPP)

En vertu de l'article [D. 47-12-5](#) du code de procédure pénale, lorsqu'un moyen de télécommunication est utilisé devant une juridiction de jugement, il est fait mention de l'usage de celui-ci dans les notes d'audience et dans la décision rendue.

Si la décision est rendue immédiatement, la lecture du dispositif est donnée à la personne par le moyen de communication audiovisuelle.

Si la décision est mise en délibéré et est rendue à une audience ultérieure, cette lecture peut également être faite à la personne qui assiste à cette audience par un moyen de télécommunication ; à défaut, si la personne est détenue, la décision lui est notifiée par le chef de l'établissement qui lui en remet une copie contre émargement.

Sur le volet civil

D'une manière générale devant les juridictions judiciaires, l'article L111-12 du Code de l'organisation judiciaire permet de tenir les audiences par des moyens de télécommunication audiovisuelle dans les conditions suivantes :

- chaque partie doit avoir donné son consentement à l'utilisation de la visioconférence ;
- l'audience peut se dérouler dans plusieurs salles d'audience reliées directement par un moyen de télécommunication audiovisuel ;
- le logiciel de visioconférence doit garantir la confidentialité des transmissions.

Devant les juridictions statuant en matière non pénale, l'article L111-12-1 du Code de l'organisation judiciaire permet aux parties, témoins, experts ou toute autre personne convoquée, à leur demande expresse, d'être autorisés par le président de la formation de jugement à être entendus par télécommunication audiovisuelle, en dehors d'une salle d'audience.

Conformément à l'article R111-7-1 du COJ, le président de la formation de jugement n'accède à la demande que s'il estime que cette audience à distance est compatible avec la nature des débats et le respect du principe du contradictoire. Cette décision est une mesure d'administration judiciaire.

Les caractéristiques techniques des moyens de télécommunication audiovisuelle utilisés, précisées par arrêté du garde des sceaux, doivent permettre de s'assurer de l'identité des participants. Elles doivent également assurer la qualité de la transmission et, lorsque l'audience ou l'audition n'est pas publique, la confidentialité des échanges.

Le président dirige les débats depuis la salle d'audience où se trouvent également les autres membres de la formation de jugement, le greffier, et le cas échéant le ministère public.

Lors de l'audience, le Président de la formation de jugement veille à ce que les conditions dans lesquelles la personne se connecte sont compatibles avec le respect de la dignité et de la sérénité des débats.

L'arrêté du 13 mai 2022 précise les modalités techniques des moyens de télécommunication audiovisuelle pour la tenue de la visioaudience ou de la visioaudition en matière non pénale. Les principales conditions sont les suivantes :

- la communication audiovisuelle est mise en œuvre au moyen d'une solution de visioconférence mise à disposition par le ministère de la Justice. Dans les tribunaux de commerce, elle peut en outre être mise en œuvre au moyen d'une

solution mise à disposition par le Conseil national des greffiers des tribunaux de commerce ;

- le logiciel de visioconférence doit fournir une définition d'image suffisamment bonne pour que la personne convoquée soit identifiable. Dans le cas où la salle d'audience est munie d'un dispositif de visioconférence, ce dispositif est privilégié afin d'assurer la qualité de la transmission.

Courtesy translation:

On criminal law :

The first provisions on the use of videoconferencing in criminal matters were introduced in France by Act no. 2001-1062 of November 15, 2001 on everyday security. Several laws have subsequently extended the scope of recourse to videoconferencing, including Ordinance no. 2016-1636 of December 1, 2016 on the European Investigation Order in criminal matters, as well as Law no. 2019-222 of March 23, 2019 on programming 2018-2022 and reform for the justice system.

Videoconferencing can be used during hearings before the criminal court and the criminal division, for:

- ***hearing witnesses, civil parties and experts (article 706-71 paragraph 3 CCP)***
- ***the appearance of an accused person detained, in the case for which the hearing is taking place or for another reason, with the agreement of the public prosecutor and all the parties (article 706-71 paragraph 3 CCP)***
- ***the appearance of a person at a hearing at which a judgment is handed down which had been reserved, or at which only civil interests are decided (article 706-71 paragraph 4 CCP).***

Under article D. 47-12-5 of the French Code of Criminal Procedure, when a means of telecommunication is used before a trial court, its use is mentioned in the hearing notes and in the decision handed down.

If the decision is rendered immediately, the decision is read out to the person concerned by the audiovisual means of communication.

If the decision is reserved and is handed down at a later hearing, it may also be read to the person attending the hearing by a means of telecommunication; failing this, if the person is detained, the decision is notified to him or her by the head of the establishment, who gives him or her a copy of the decision against a signature.

Questions complémentaires :

- Cette législation couvre-t-elle l'utilisation de la visioconférence dans le cadre d'audiences nationales, d'audiences transfrontalières ou des deux ?

Does this legislation cover the use of videoconferencing in the context of national hearings, cross-border hearings, or both ?

En matière pénale :

S'agissant des victimes, témoins et experts, l'article 706-71 du code de procédure pénale précité prévoit qu'aux fins de bonne administration de la Justice, il peut être recouru aux moyens de télécommunication au cours de la procédure pénale notamment si le président de la juridiction saisie l'estime justifiée. Cette possibilité est ouverte que l'intéressé soit à un autre point du territoire national ou dans un Etat tiers.

S'agissant des mis en cause, les autorités françaises estiment que le contenu de l'article 706-71 du code de procédure pénale, permettent l'utilisation de la visioconférence, notamment lors de l'audience du tribunal correctionnel, lorsque le prévenu est détenu ; ainsi a contrario, dans l'état actuel de la législation française, la comparution par visioconférence d'un prévenu libre présent sur le territoire national ou dans un Etat tiers n'est donc pas possible en l'état.

En matière non pénale :

Il n'existe pas en France de législation nationale spécifique réglementant la visioconférence judiciaire transfrontalière. Les règles générales ci-avant exposées s'appliquent.

Le règlement (UE) 2020/1783 du 25 novembre 2020 relatif à la coopération entre les juridictions des États membres dans le domaine de l'obtention des preuves en matière civile et commerciale régit cependant la visioconférence judiciaire transfrontalière en ce domaine. Il prévoit le processus à respecter afin d'assurer la fiabilité et la sécurité de la transmission et de garantir la recevabilité des moyens de preuve ainsi recueillis.

Courtesy translation:

In criminal matters:

With regard to victims, witnesses and experts, article 706-71 of the French Code of Criminal Procedure stipulates that, in the interests of the proper administration of justice, telecommunications may be used during criminal proceedings, particularly if the president of the court hearing the case considers it justified. This possibility is available whether the person concerned is in another part of France or in a third country.

As far as defendants are concerned, the French authorities consider that article 706-71 of the French Code of Criminal Procedure allows the use of videoconferencing, particularly for hearings in criminal courts, when the defendant is detained. Thus, a contrario, as French legislation currently stands, it is not possible to use videoconferencing to bring a free defendant present on French territory or in a third country.

- La législation s'applique-t-elle aux affaires civiles, commerciales, pénales ou à l'ensemble de ces affaires ? S'applique-t-elle également à d'autres domaines, tels que les affaires administratives ?

Does the legislation apply to civil, commercial, criminal matters or all of them? Does it also apply to other areas, such as administrative matters ?

L'utilisation de la visioconférence est encadrée en matière civile comme pénale.

Les contentieux civils, commerciaux, sociaux mais aussi la matière gracieuse sont éligibles à la visioaudience et/ ou à la visioaudition.

Les articles L111-12 et L. 111-12-1 du code de l'organisation judiciaire sont placés dans le Livre Ier du code de l'organisation judiciaire portant sur "les dispositions communes aux juridictions judiciaires" et plus particulièrement dans le Titre 1 sur les "principes généraux". Il concerne donc toutes les procédures, Il suffit qu'il y ait lieu d'être entendu.

- Comment les règles de procédure garantissent-elles le droit à un accès effectif et égal au tribunal, le respect du caractère contradictoire de la procédure, l'égalité des armes, la possibilité de présenter des preuves et de défendre l'affaire, et l'équité de la procédure ?

How do the procedural rules guarantee the right to an effective and equal access to the court, the respect of the adversarial character of the proceedings, the equality of arms, the possibility to present evidence and defend the case, and the fairness of the proceedings ?

En matière civile, conformément à l'article R111-7-1 du Code de l'organisation judiciaire, le président de la formation de jugement n'accède à la demande de visioconférence que s'il estime que cette audience à distance est compatible avec la nature des débats et le respect du principe de contradictoire. Cela implique que le système utilisé, développé par le ministère de la Justice, soit de nature à permettre le respect des droits de la défense et du contradictoire dans les mêmes conditions qu'il le serait dans une audience se déroulant dans une salle d'audience.

A cet égard, les caractéristiques techniques des moyens de télécommunication audiovisuelle utilisés en application de l'article L. 111-12-1 doivent permettre de s'assurer de l'identité des personnes y participant. Elles doivent également assurer la qualité de la transmission et, lorsque l'audience ou l'audition n'est pas publique, la confidentialité des échanges. Enfin, il ne peut jamais être imposé à une partie de comparaître par visioconférence en matière civile.

- Le droit de la partie d'être assistée par un avocat avant et pendant l'audience est-il sauvegardé et comment la confidentialité des communications entre l'avocat et son client est-elle assurée pendant l'audience ?

Is the right of the party to be assisted by a lawyer prior to and during the hearing safeguarded and how is confidentiality of lawyer-client communication at the hearing ensured ?

En matière pénale, l'article 706-71 du code de procédure pénale prévoit la présence de l'avocat et éventuellement de l'interprète aux côtés de l'intéressé ou auprès de la juridiction.

Si la personne est assistée par un avocat ou par un interprète, ceux-ci peuvent se trouver auprès du magistrat, de la juridiction ou de la commission compétent(e) ou auprès de l'intéressé. Dans le premier cas, l'avocat doit pouvoir s'entretenir avec ce dernier, de façon confidentielle, en utilisant le moyen de télécommunication audiovisuelle. Dans le second cas, une copie de l'intégralité du dossier doit être mise à sa disposition dans les locaux de détention sauf si une copie de ce dossier lui a déjà été remise. Si ces dispositions s'appliquent au cours d'une audience, celle-ci doit se tenir dans des conditions qui garantissent le droit de la personne à présenter elle-même ses observations.

Courtesy translation:

In criminal cases, article 706-71 of the French Code of Criminal Procedure provides for the presence of a lawyer and, if necessary, an interpreter, either with the person concerned or with the court.

If the person is assisted by a lawyer or interpreter, they may be present either at the magistrate's, court's or commission's offices, or at the person's side. In the first case, the lawyer must be able to talk to the latter confidentially, using audiovisual telecommunication. In the latter case, a copy of the entire file must be made available to the lawyer on the detention premises, unless a copy of the file has already been provided. If these provisions apply during a hearing, it must be held under conditions that guarantee the person's right to present his or her own observations.

En matière civile, si la personne est assistée par un avocat, celui-ci peut se trouver auprès de la juridiction, de l'intéressé ou être autorisé, dans les mêmes conditions fixées à l'article L111-12-1 du COJ précité, à recourir lui-même à la visioconférence. Les échanges entre l'avocat et la partie, en matière civile, ne sont pas organisés par les textes car il ne s'agit pas d'échanges procéduraux. Ces échanges ne relèvent pas de la responsabilité de l'autorité judiciaire mais sont l'affaire des parties.

- Le caractère public de l'audience est-il préservé et de quelle manière ? Comment les règles de procédure régissent-elles la confidentialité d'une audience à huis clos ?

Is the public character of the hearing preserved and how is this done? How do the procedural rules regulate the privacy of a hearing behind closed doors ?

La conduite de l'audience par visioconférence n'entrave pas son caractère public. Si l'audience est publique, la visioconférence est installée dans la salle d'audience ouverte au public, comme c'est le cas dans une audience classique. Si la téléaudience est organisée entre deux salles d'audience, alors les deux salles sont ouvertes au public. Le public ne peut en revanche pas se connecter à une salle d'audience digitale pour assister à une audience. Il ne peut qu'entendre et voir la personne entendue depuis la salle d'audience où se déroule l'instance. Toutefois, dans certains cas spécifiques et rares, une retransmission ou une diffusion sur internet de l'audience peut être organisée.

Si l'audience doit se dérouler à huis-clos, il est également possible d'avoir recours à la visioconférence, comme prévu par l'article L111-12 du Code de l'organisation judiciaire. Dans ce cas, aucune personne non autorisée ne doit être présente, dans la salle d'audience du tribunal comme dans la salle à distance.

Considérations techniques et interopérabilité :

Questions principales :

- Disposez-vous d'une infrastructure technique pour organiser des visioconférences ?

Do you have technical infrastructure for conducting videoconferencing ?

Le ministère de la justice possède sa propre infrastructure de visioconférence interopérable avec des systèmes et/ou des infrastructures extérieurs.

Des techniciens informatiques de proximité (TIP) ont été déployés dans chaque juridiction en 2024. Ils assurent une maintenance préventive du parc d'équipements de visioconférence afin de limiter le risque de problèmes techniques. En cas d'incident

technique survenant au cours d'une audience, les TIP peuvent être sollicités afin d'assurer une maintenance corrective rapide de l'équipement.

Courtesy translation:

The Ministry of Justice has its own videoconferencing infrastructure that is interoperable with external systems and/or infrastructures.

Local IT technicians (techniciens informatiques de proximité – TIP) were deployed in each court in 2024. They provide preventive maintenance for the videoconferencing equipment in order to limit the risk of technical problems. In the event of a technical incident during a hearing, the technicians can be called in order to provide a rapid corrective maintenance of the equipment.

- Quels outils/plateforme de visioconférence utilisez-vous pour organiser des audiences par visioconférence ?

What videoconferencing tools/platform do you use for organising court hearings by videoconferencing ?

Un portail de réservation est mis à disposition des agents qui peuvent réserver une ressource de visioconférence et un mail contenant les informations de connexion à la visioconférence est émis. La juridiction transmet ce mail au(x) participant(s).

Courtesy translation:

A reservation portal is made available to agents who can reserve a videoconferencing resource and an email containing the connection information for the videoconference is sent. The court forwards this email to the participant(s).

- Fournissez-vous des lignes directrices en matière d'interopérabilité pour la connexion à une audience judiciaire par visioconférence ?

Do you provide some interoperability guidelines to connect to a judicial hearing through VTC ?

La visioconférence d'une audience est accessible à travers la technologie WebRtc (Web Real-Time Communication, « communication en temps réel pour le Web ») les navigateurs récents présents sur ordinateur ou tablette.

Dans le cas où la visioconférence doit se faire entre deux Etats membres possédant leurs propres infrastructures, les équipes d'ingénierie se mettent en relation pour permettre la visioconférence.

Courtesy translation:

Audience videoconferencing is accessible via WebRtc (Web Real-Time Communication) technology using recent browsers on computers or tablets.

Where videoconferencing is required between two Member States with their own infrastructures, the engineering teams liaise to enable videoconferencing to take place.

Questions complémentaires :

- Comment les outils/plateformes de visioconférence assurent-ils, dans la mesure du possible, la compatibilité entre les appareils et les logiciels utilisés par les participants ?

How do videoconferencing tools/platform, to the extent possible, ensure compatibility between the devices and the software used by participants ?

Le ministère de la justice possède une infrastructure interopérable avec protocoles standards de la visioconférence et le WebRTC des navigateurs Internet récents.

Courtesy translation:

The Ministry of Justice has an infrastructure that is interoperable with standard videoconferencing protocols and WebRTC in recent Internet browsers.

- Garantissent-ils une expérience similaire à celle d'une audience *in personam* dans une salle d'audience, et si oui, comment ?

Permettent-elles à tous les participants à l'audience, en particulier au juge, de se reconnaître visuellement et de voir à la fois l'orateur qui pose des questions ou fait des déclarations et la réaction des auditeurs pendant la visioconférence, et si oui, comment ?

Do they ensure an experience similar to an in-person hearing in a court room, and if so, how? Do they allow all participants to the session, especially the judge, to recognise each other visually, and to see both the speaker asking questions or making statements and the reaction of the listeners, during the videoconference, and if so, how ?

Comme indiqué précédemment, les caractéristiques techniques des moyens de télécommunication audiovisuelle utilisés en application de l'article L. 111-12-1 doivent assurer la qualité de la transmission. L'arrêté du 13 mai 2022 précise les modalités techniques des moyens de télécommunication audiovisuelle pour la tenue de la visioaudience ou de la visioaudition en matière non pénale et dispose notamment que le logiciel de visioconférence doit fournir une définition d'image suffisamment bonne pour que la personne convoquée soit identifiable. Dans le cas où la salle d'audience est munie d'un dispositif de visioconférence, ce dispositif est privilégié afin d'assurer la qualité de la transmission.

- Ces systèmes offrent-ils un niveau de sécurité suffisant en ce qui concerne l'identification et l'authentification des parties, et si oui, comment ?

Do they provide for a sufficient level of assurance as regards the identification and authentication of the parties, and if so, how ?

L'infrastructure du ministère de la Justice hébergeant les visioconférences est certifiée par l'ANSSI (Agence nationale de la sécurité des systèmes d'information) et les communications sont chiffrées.

Courtesy translation:

The Ministry of Justice infrastructure hosting the videoconferences is certified by ANSSI (Agence nationale de la sécurité des systèmes d'information) and communications are encrypted.

- Un canal latéral séparé, sécurisé et confidentiel, est-il prévu pour permettre des consultations entre une partie et son avocat ?

Is a separate, secure and confidential, side-band channel provided that allows for consultations between a party and his/her lawyer ?

- Les participants qui ne parlent pas couramment la langue du tribunal bénéficient-ils d'une interprétation dans les deux sens ?

Is two-way interpretation provided for participants not fluent in the language of the court ?

Les interprètes n'ont pas été inclus d'office dans le système de visioconférence. Cela résulte d'un choix politique. Ils doivent donc en principe être présent dans la salle d'audience.

Cela étant, les interprètes peuvent être autorisés à être entendus par un moyen de communication audiovisuelle au cours de l'audience ou de l'audition par la présidence de la formation de jugement en matière civile, pour un motif légitime et sur demande expresse.

Informations pour les particuliers :

Question principale :

- Des informations sont-elles disponibles pour les particuliers concernant les exigences procédurales et techniques pour l'organisation d'audiences judiciaires par visioconférence ? Que couvrent ces informations (comment se connecter, s'identifier, participer, ...) ?

Is information available for individuals concerning the procedural and technical requirements for organising court hearings by videoconferencing? What does that information cover (how to connect, identify, participate, ...) ?

Si la visioaudition a lieu en dehors d'une salle d'audience, le greffier adresse à la personne convoquée (témoin, partie, expert, avocat...) une convocation précisant la date et l'heure de la réunion, accompagnée du lien de connexion.

Il existe un guide disponible sur internet pour aider le justiciable autorisé à utiliser la téléaudience à se connecter.

En revanche, si la visioaudience a lieu entre deux salles d'audience, le greffier envoie à chaque partie ayant sollicité le recours à la visioaudience une convocation, en précisant le lieu, la date et l'heure de la rencontre. Aucun lien de connexion n'est adressé aux parties puisque c'est le greffe qui se chargera de mettre en place la visioconférence (trouver la salle, vérifier le fonctionnement du matériel...).

Question complémentaire :

- Existe-t-il des informations ou des documents spécifiques pour des groupes particuliers, notamment les groupes vulnérables, les enfants ou les personnes handicapées ?

Are there specific information or materials available for specific groups, in particular vulnerable groups, children, or persons with disabilities ?

L'accessibilité :

Questions complémentaires :

- L'infrastructure nationale a-t-elle été évaluée en ce qui concerne les besoins spéciaux, par exemple en ce qui concerne la prise en charge des besoins des personnes à mobilité réduite, des malentendants et des malvoyants ?

Has national infrastructure been assessed regarding special needs, for example regarding catering for the needs of people with reduced mobility, hard of hearing and visual impairments ?

- Les outils/plateformes actuellement utilisés présentent-ils des caractéristiques d'accessibilité, telles que l'utilisation de polices de caractères spécifiques, de couleurs contrastées et d'outils de synthèse vocale ?

Do the tools/platforms currently used provide accessibility features, such as use of specific fonts, contrasting colours, and text-to-speech/speech-to-text tools ?

Formation, retours d'expérience et statistiques sur la visioconférence :

Questions complémentaires :

- Fournissez-vous une formation spéciale aux juges, aux autorités compétentes (en fonction de la législation nationale, aux notaires, aux huissiers de justice et autres) et au personnel des tribunaux ? Si oui, comment et par qui est-elle organisée ?

Do you provide special training for judges, competent authorities (depending on national legislation, notaries, bailiffs and others) and court staff? If so, how and by whom is this organised ?

La formation initiale des magistrats ne comporte pas de séquence dédiée. Toutefois, chaque enseignement fonctionnel prévoit des développements relatifs à la visioconférence.

En formation continue, l'Ecole nationale de la magistrature (ENM) propose une session dédiée intitulée « Le procès à distance », à laquelle ont participé magistrats et avocats. Les thématiques concernent l'impact de la technique audio-visuelle sur l'audience et le rôle et les pouvoirs des acteurs :

- **La sociologue Laurence Dumoulin a exposé les résultats de son étude sur le sujet.**
- **Un réalisateur explique les angles que le caractère audio-visuel peut avoir sur la perception.**

- Une psycho-sociologue explique les biais de jugement que « le distanciel » peut entraîner.
- La Formation est ensuite basée sur des retours d'expérience dans les procès d'assises et en outre-mer.

La thématique est également évoquée dans la formation sur l'audience correctionnelle. Cette formation est ouverte à 74 participants, dont 70 magistrats, 2 magistrats étrangers et 2 magistrats honoraires.

L'ENM a par ailleurs organisé un colloque le 9 novembre 2023 avec le Conseil national des barreaux (CNB) qui a notamment abordé la question de l'audiovisuel en audience pénale.

Courtesy translation :

Initial training for magistrates does not include a dedicated course. However, each functional course includes developments relating to videoconferencing.

In continuing education, the Ecole nationale de la magistrature (ENM) offers a dedicated session entitled 'Le procès à distance', in which magistrates and lawyers have taken part. The topics covered by the session included the impact of audio-visual technology on hearings and the role and powers of the players involved:

- *Sociologist Laurence Dumoulin presented the results of her study on the subject.*
- *A film-maker explains the angles that audio-visual technology can have on perception.*
- *A psycho-sociologist explains the biases in judgement that 'distance' can entail.*
- *The training is then based on feedback from assize trials and overseas.*

The topic is also covered in the training course on criminal court hearings. This course is open to 74 participants, including 70 magistrates, 2 foreign magistrates and 2 honorary magistrates.

ENM also organised a symposium on 9 November 2023 with the Conseil national des barreaux (CNB), which addressed the issue of audiovisuals in criminal hearings.

- Recueillez-vous des informations en retour, et comment, auprès des participants (juge, avocat, citoyen, ...) ?

Do you collect feedback, and how, from the participants (judge, lawyer, citizen, ...) ?

Il n'y a pas eu de sondages menés auprès des magistrats et greffiers sur l'utilisation de la visioconférence dans les procédures judiciaires. Cependant, le ministère de la Justice se fonde sur les retours d'utilisation des personnes concernées pour améliorer constamment le dispositif.

En outre, les professionnels chargés de mettre en place des solutions techniques de visioconférence dans les tribunaux se rencontrent chaque année pour discuter de la réalité de terrain et suggérer des ajustements.

- Disposez-vous de statistiques ou d'indicateurs sur l'utilisation de la visioconférence pour les audiences ?

Do you have statistics or indicators on the use of videoconferencing for court hearings ?

Le ministère de la Justice mène en ce moment une étude statistique de l'utilisation de la visioconférence dans les procédures judiciaires civiles. Les chiffres ne sont pas encore disponibles.

CROATIA

Replies to the Questionnaire on using videoconferencing for conducting court hearings

Applicable Legal framework

Main question

– Is there specific existing, including recently adopted, or planned legislation for the use of videoconferencing for conducting court hearings in your MS?

Yes, the legislation is already adopted and in use. Specific laws envisage use of videoconferencing for conducting court hearings in criminal, civil, commercial and administrative proceedings. There are provisions on use of videoconferencing in court hearings in Criminal Procedure Act (national hearings), in the Act on judicial cooperation in criminal matters with EU Member States (cross-border hearings), in the Civil Procedure Act and in the Act on Administrative Disputes. Also, the Ordinance on Remote Hearings was adopted, which elaborates on remote hearings in more detail.

The possibility of holding hearings remotely and thus conducting them for the first time is prescribed by the Amendments to the Civil Procedure Act, which entered into force on September 1, 2019. Furthermore, the Amendments to the Civil Procedure Act was included in the National Recovery and Resilience Plan 2021-2026 with the inclusion of the civil procedure reform which comprises, among other goals, holding of remote hearings.

The Civil Procedure Act stipulates that the court may order remote hearing with the use of appropriate audiovisual devices and a technological platform for remote communication, after receiving the statements of the parties and other participants who need to participate in the hearing that will be held remotely.

The legislative framework concerning criminal procedural law foresees the possibility of using audio-video conference in criminal proceedings according to the provisions of the Criminal Procedure Act at the hearing for deciding on pre-trial detention, at the evidentiary hearing, the implementation of certain evidentiary actions and at the hearing for the implementation of evidentiary action, at the session of the indictment council and preparatory hearing. The presence of the parties via audio-video conference can also be ensured at the session of the council of the second-instance court.

The expansion of the possibility of using an audio-video conference was made by the Act on Amendments to the Criminal Procedure Act, which entered into force in July 2022, in such a way that the presence of the parties with the help of a closed technical device for remote connection (audio video device) can be ensured both at the indictment panel session and at the preliminary hearing. The fact that the parties were present at the session of the indictment panel or at the preliminary hearing with the help of an audio-video device, the type of device and the name of the expert who handled it have been notified in the minutes of the session of the indictment panel or in the minutes of the preliminary hearing.

The use of audio-video conferencing is also possible when examining children - victims of criminal acts, including certain other categories of victims, vulnerable witnesses and expert witnesses.

Namely, by the Act on Amendments to the Law on Criminal Procedure, which entered into force in April 2024, victims of criminal offenses against sexual freedom, human trafficking and those who have been determined to have special protection needs have been heard via videoconferencing, unless those victims require to be present in the courtroom during the testimony. Otherwise, it is assumed that the victim wants to be questioned via an audio-video device.

Complementary questions:

- Does this legislation cover the use of videoconferencing in the context of national hearings, cross-border hearings, or both?**
- Does the legislation apply to civil, commercial, criminal matters or all of them? Does it also apply to other areas, such as administrative matters?**
- How do the procedural rules guarantee the right to an effective and equal access to the court, the respect of the adversarial character of the proceedings, the equality of arms, the possibility to present evidence and defend the case, and the fairness of the proceedings?**
- Is the right of the party to be assisted by a lawyer prior to and during the hearing safeguarded and how is confidentiality of lawyer-client communication at the hearing ensured?**
- Is the public character of the hearing preserved and how is this done? How do the procedural rules regulate the privacy of a hearing behind closed doors?**

The relevant regulations do not foresee a limitation only to hearings in a "national" context and therefore there is no obstacle to conduct remote hearings in cross-border cases, with the use of appropriate audiovisual devices and a technological platform for remote communication, i.e. to present evidence in this way cases with a cross-border element.

The Civil Procedure Act contains implementing provisions governing European civil proceedings, among other things, and special provisions on the production of evidence according to the Regulation (EU) 2020/1783 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters (taking of evidence- recast).

Civil Procedure Act applies to proceedings in relation to the fundamental rights and obligations of citizens, personal and family relations of citizens and in labor, commercial, property and other civil law disputes, if the law it is not determined for some of these disputes that the court will bring decisions by the application another procedural rules. In that context the provisions of the Civil Procedure Act on holding remote hearings have been implemented in all above mentioned proceedings.

The Civil Procedure Act prescribes that the court decides on the holding of a remote hearing or the presentation of individual evidence remotely, after receiving the statements of the parties and other participants who need to participate in the hearing that will be held remotely. The application of the provisions of the Civil Procedure Act in connection with the representation of the parties usually is not questioned when the hearing is held remotely.

The Ordinance on remote hearing, which elaborates the holding of remote hearings in more detail, regulates issues such as summoning and preparation for remote hearings, place of access to remote hearings, establishing the identity of participants in the procedure, method of holding remote hearings, unavailability of the system, presentation of evidence, signing of minutes and making the hearing public, which ensures the fairness of the procedure, and all procedural rights are guaranteed to the parties. Also, the Ordinance on remote hearing prescribes that the public

hearing is achieved by the fact that interested persons can access directly to the courtroom where the judge conducts the hearing remotely or to another courtroom designated by the judge, which will be noted in court record.

Audio-video conferencing, as a way of providing legal assistance in cross-border criminal proceedings, has been made possible by the Criminal Procedure Act, according to which the competent authority conducting the proceedings (court and state attorney) may respond to the request of a foreign competent authority regarding the form and content of the audio-video conference, as well as other special requirements of a foreign competent authority in accordance with the regulations of a special law or international agreement.

In order to ensure effective and equal access to the court, the possibility of presenting evidence and a fair trial, the right to adversary, the equality of arms of the parties, the defendant is provided with an equal position in relation to the state prosecutors. For example, in situations where the state attorney proposes holding an evidentiary hearing, his presence is mandatory, and the defendant may or may not attend the hearing. In that situation, for example, the defendant may be allowed to attend via audio-video conference from his apartment or other place where he resides, and if he is in custody or pre-trial detention, he will be able to follow the audio-video conference and set up questions through the court and presentation of remarks. Also, the defendant's presence at the hearing for the implementation of the evidentiary action proposed by him, and he is deprived of his liberty and wants to attend the hearing, will be ensured by using a closed technical device for remote communication (audio-video device) with his consent. The defendant has a right to be heard by videoconferencing upon request, unless the court decides to conduct the hearing/council session using videoconferencing. In that case, they will seek the defendant's consent. The defendant who is in remand prison, has a right to a free, undisturbed and confidential conversation through an audio-video device with the defense attorney, in accordance with the Act on Criminal Procedure (if he agrees to it). There is also a legal obligation for the actual presence of the parties in the courtroom during the hearing, and the defendant is allowed communicate with his defense counsel during the hearing.

The questioning of a child under the age of fourteen as a witness will be conducted through an audio-video device. Witnesses who cannot respond to the summons due to age, health or disability may be questioned in their apartment or other place where they live. These witnesses can be examined through audio-video devices operated by an expert. If the condition of the witness requires it, the examination will be conducted so that the parties can ask him questions without being present in the room where the witness is. The examination as a witness of a victim of a criminal offense against sexual freedom, a criminal offense of human trafficking, a criminal offense of violence against women, domestic violence and violence against close persons and a victim in relation to whom special protection needs have been determined will be conducted via audio-video devices handled by professional person, without the presence of the judge and the parties in the room where the victim is.

About the audio-video conference, the body conducting the procedure draws up a record that states the time and place of the action, the persons who were present, the type and condition of the technical device for remote connection, and the professional person who operated the device. There are three identical copies of the recording. The recording is kept, while the case file is also kept. The stages of the procedure in which the use of videoconferencing is possible are closed to the public and can only be attended by invited persons, except for the session of the second-instance council, which is public, but from which the public can be excluded under the conditions prescribed by the Criminal Procedure Act.

According to the Criminal Procedure Act, the hearing is public. The parties and the defense attorney may audio record the course of the hearing, from which the public is not excluded. The reasons for the exclusion of the public for the whole discussion or part of it are prescribed. The exclusion of the public does not apply to the parties, the victim, the injured party, their representatives and the defender. Amendments to the Act on Criminal Procedure, which will enter into force on May 1, 2025, provide for audio-recording of the hearing or its part with a device for audio-recording. The audio recording of the hearing is an integral part of the record, and the parties will be given the opportunity to download the audio recording immediately. The provisions of the Criminal Procedure Act relating to audio recording of the hearing will enter into force on October 1, 2024.

Finally, the Act on Administrative Disputes prescribes the possibility for the court to order the hearing to be held remotely, with the use of appropriate audiovisual devices, or to present a particular piece of evidence in this way. There are no legal obstacles to applying the same provisions in cross-border proceedings.

Technical considerations and interoperability

Main questions

- **Do you have technical infrastructure for conducting videoconferencing?**
- **What videoconferencing tools/platform do you use for organising court hearings by videoconferencing?**
- **Do you provide some interoperability guidelines to connect to a judicial hearing through VTC?**

Yes, we have technical infrastructure for conducting videoconferencing. Croatian courts have the possibility to use Microsoft Teams and JITSY platforms. The platform used during the audio-video conference is mostly Microsoft Teams, accessed via a link. The presence of the defendant at the hearing/council session can also be ensured with the help of a closed technical device for remote communication (audio-video device) operated by an expert, the so-called point to point audio-video device. In connecting to the other courts or prisons in Croatia, Skype for business has been used, including cross-border hearings. For use inside the court in hearings of children or sensitive witnesses we use equipment from Dat-Con Ltd. and Avaya suppliers, and Windows 7 professional and Croatian digital recorder (production BIS Digital, etc.).

In principle, interoperability guidelines to connect to a judicial hearing by using videoconferencing are available upon request. In criminal main hearings, there is no possibility to participate from any other platform/device that is not in some court or prison, so there is no need to provide such information.

Complementary questions

- **How do videoconferencing tools/platform, to the extent possible, ensure compatibility between the devices and the software used by participants?**
- **Do they ensure an experience similar to an in-person hearing in a court room, and if so, how?**
- Do they allow all participants to the session, especially the judge, to recognise each other visually, and to see both the speaker asking questions or making statements and the reaction of the listeners, during the videoconferencing, and if so, how?**
- **Do they provide for a sufficient level of assurance as regards the identification and authentication of the parties, and if so, how?**

- **Is a separate, secure and confidential, side-band channel provided that allows for consultations between a party and his/her lawyer?**
- **Is two-way interpretation provided for participants not fluent in the language of the court?**

Skype for business is compatible with other platforms used by other judicial bodies in member states and is compatible with equipment that uses standard for data transfer h323 or sip. Yes, Polycom camera used is speech sensitive and covers 360°, so it turns to whoever is speaking at the moment.

Level of assurance as regards the identification and authentication of the parties includes only login and video authentication. There is no separate side-band channel provided that allows for consultations between a party and his/her lawyer.

Translation and interpretation via videoconferencing is made possible by the Act on Criminal Procedure, according to which the parties and other participants in the proceedings will be provided with an oral translation if the proceeding is not conducted in a language that the parties know and speak, which includes the defendant's general right to an interpreter and translator, if he does not understand the Croatian language.

Information for individuals

Main question

- **Is information available for individuals concerning the procedural and technical requirements for organising court hearings by videoconferencing? What does that information cover (how to connect, identify, participate)?**

This information is available through the Victim Support Section of the court which provide necessary informations for witnesses participating in the court hearings.

Complementary question

- **Are there specific information or materials available for specific groups, in particular vulnerable groups, children, or persons with disabilities?**

Victims are informed about their rights by court warning which include instructions on their rights during the criminal procedure. There is information that each victim, and vulnerable witness gets before the start of criminal proceedings from police, prosecutor, special departments for victims and witnesses at county courts on their right to a hearing using VC equipment.

Parties have the right to use their own language, including the sign language of the deaf and deaf-blind. If the proceeding is not conducted in a language that the defendant speaks and understands, translation will be provided, i.e. translation or interpretation in the sign language of the deaf and deaf-blind. This is also possible by using videoconferencing.

Accessibility

Complementary questions

- **Has national infrastructure been assessed regarding special needs, for example regarding catering for the needs of people with reduced mobility, hard of hearing and visual impairments?**

Not for now formally, but they have support of the Victim Support Section of the court. The Criminal Procedure Act specifically prescribes catering to needs of such a person, so that a hearing can be conducted in a space accessible to such a person, or at their home, not necessarily with videoconferencing equipment.

– **Do the tools/platforms currently used provide accessibility features, such as use of specific fonts, contrasting colours, and text-to-speech/speech-to-text tools?**

Not for now.

Training, feedbacks, and statistics on videoconferencing

Complementary questions

– **Do you provide special training for judges, competent authorities (depending on national legislation, notaries, bailiffs and others) and court staff? If so, how and by whom is this organised?**

– **Do you collect feedback, and how, from the participants (judge, lawyer, citizen, ...)?**

– **Do you have statistics or indicators on the use of videoconferencing for court hearings?**

Workshops have been planned and conducted as part of the Judicial Academy program, the topic of which was the holding of remote hearings. Practical "training" of judges and court advisors was conducted specifically for conducting remote hearings. Such workshops are planned for future judges as part of their training as well. In addition, in each court/state attorney's office there are IT experts employed as staff.

Conducting remote hearings was an established practice of civil, and especially commercial, courts during the COVID pandemic and, according to feedback from judges, these hearings were conducted without major difficulties, with respect for all procedural rights of the parties. During the regular supervision of lower courts (especially the criminal department), the Supreme Court collected, among other things, information on the conduct of hearings via videoconferencing (judges' experiences - whether there are any technical or other obstacles to the conduct of hearings). Namely, in criminal proceedings, it is much more common to conduct hearings in this way, as well as to ensure the presence of the defendant at sessions of second-instance panels, in a situation where they are deprived of their liberty. According to this information, hearings via videoconferencing devices are conducted without significant technical problems, with respect for all procedural guarantees to the defendant. Other courts do not, in general, collect feedback, but there are polls sometimes on general feeling towards judiciary and services it provides.

**Hungary's responses to
the Questionnaire on videoconferencing for the purposes of court hearings in Member
States (10600/24)**

Applicable Legal framework

Main question

– Is there specific existing, including recently adopted, or planned legislation for the use of videoconferencing for conducting court hearings in your MS?

Concerning civil proceedings In Hungary, the basic rules governing electronic communication are currently laid down in Act CCXXII of 2015 on the general rules of electronic administration and trust services and as of 1 July 2024, digital state and certain rules governing the provision of digital services are regulated by Act CIII of 2023. However, the use of videoconferencing for the conduct of court hearings in, inter alia, criminal, civil and non-contentious civil proceedings is not governed by the general rules, but by the **specific rules applicable to each of those proceedings**. Accordingly, Under the new rules effective from 9 July 2024, Act CXXX of 2016 on the Code of Civil Procedure ('Code of Civil Procedure') will allow for civil hearings to be conducted via electronic communications networks or simplified telecommunication methods. *Concerning criminal proceedings* Act XC of 2017 on the Code of Criminal Procedure, Act CLXXX of 2012 on cooperation with the Member States of the European Union in criminal matters, and Act XXXVIII of 1996 on international legal assistance in criminal matters stipulate the rules on the use of videoconferencing for conducting court hearings.

Complementary questions:

– Does this legislation cover the use of videoconferencing in the context of national hearings, cross-border hearings, or both?

Civil proceedings The provisions of the Code of Civil Procedure on the conduct of hearings through electronic communications networks do not preclude cross-border application. In order to ensure effective and equal access to justice for persons – parties, other litigants, witnesses and experts – whose presence at the scheduled place of trial would be possible only with considerable difficulty or with disproportionately high additional costs, the court may conduct the hearing through electronic communications networks at the request of the party or of its own motion by way of issuing an order. [Section 622 of the Code of Civil Procedure]

Criminal proceedings Act CLXXX of 2012 and Act XXXVIII of 1996 cover the rules in relation to legal assistance, in other cases the provisions of Act XC of 2017 are applicable.

– Does the legislation apply to civil, commercial, criminal matters or all of them? Does it also apply to other areas, such as administrative matters?

Act XC of 2017, Act CLXXX of 2012 and Act XXXVIII of 1996 stipulate rules in relation to criminal proceedings.

– How do the procedural rules guarantee the right to an effective and equal access to the court, the respect of the adversarial character of the proceedings, the equality of arms, the possibility to present evidence and defend the case, and the fairness of the proceedings?

According to Article XXVIII of *the Fundamental Law of Hungary*, everyone shall have the right to have any indictment brought against him or her, or his or her rights and obligations in any court action, adjudicated within a reasonable time in a fair and public trial by an independent and impartial court established by an Act. No one shall be considered guilty until his or her criminal liability has been established by the final and binding decision of a court. Persons subject to criminal proceedings shall have the right to defence at all stages of the procedure. Defence counsels shall not be held liable for their opinion expressed while providing legal defence.

With the exception of extraordinary cases of legal remedy specified by law, no one shall be prosecuted or convicted for a criminal offence for which he or she has already been finally acquitted or convicted in Hungary or, within the scope specified in an international treaty and a legal act of the European Union, in another State, as provided for by an Act. Everyone shall have the right to seek legal remedy against any court, authority or other administrative decision which violates his or her rights or legitimate interests.

By Act XC of 2017, the fairness of the procedure can be ensured during the criminal proceedings by the exercise of the procedural rights which it is based on, in the case of videoconferencing it is necessary to ensure that the procedural rights necessary for a fair procedure are not impaired, for this purpose additional provisions are also necessary in some cases (for example, if the defence counsel is in a different place, than the defendant or a person reasonably suspected). All rights can be exercised, which can be exercised through personal presence, and those that could not be exercised, but are necessary for the fairness of the procedure, Act XC of 2017 stipulates additional provisions (for example it must be ensured that the course of the procedural act can be meaningfully followed).

In order to ensure effective and equal access to justice and to ensure the adversarial character of the proceedings, the principle of equality of arms and the right of a party to a fair trial, the President or the Registrar of the Court shall establish at the hearing that only persons whose presence is permitted by law are present in the room set up for the hearing via the electronic communications networks and that the person interviewed is not restricted in the exercise of his or her procedural rights. [Section 624 (3) of the Code of Civil Procedure]

The remote hearing shall also ensure that participants present at the venue of the hearing are able to see the person interviewed and all the other persons present at the same time as the person is interviewed in the room set up for the hearing via the electronic communication network. The technical conditions for the hearing through an electronic communication network should be such as to ensure that all points of the room where the remote hearing is to be held are visible. At the same time, the person present in the room where the hearing is to be held and the person interviewed should also be able to follow the course of the hearing. The detailed technical rules for hearings via an electronic communications network are laid down in separate legislation. [Section 625 of the Code of Civil Procedure]

– Is the right of the party to be assisted by a lawyer prior to and during the hearing safeguarded and how is confidentiality of lawyer-client communication at the hearing ensured?

According to Section 124 (3) of Act XC of 2017, if the attendance of a defendant or a person reasonably suspected of having committed the criminal offence is ensured by using a telecommunication device, and the defendant or the person reasonably suspected of having committed the criminal offence is not at the same location as his defence counsel, discussions between the defendant or the person reasonably suspected of having committed the criminal offence and his defence counsel shall be enabled by electronic means providing at least a sound connection.

– Is the public character of the hearing preserved and how is this done? How do the procedural rules regulate the privacy of a hearing behind closed doors?

According to Section 123 (1)-(2) of Act XC of 2017, when using a telecommunication device, only the following persons may be present at the separate location:

- a)* the person whose attendance is ensured by using the telecommunication device,
- b)* the aides to, and defence counsels of, the person specified in point *a)*,
- c)* the members of the investigating authority, the prosecutors, the junior prosecutors, the trainee prosecutors, the judges, the junior judges, and the trainee judges, the administrative court officers,
- d)* if the person concerned is detained, the employees of the institution enforcing detention who are authorised to verify the identity of the person detained,
- e)* if the person concerned is detained, the persons guarding him,
- f)* the experts, the consultants,
- g)* the personnel operating the given telecommunication device.

At least one person referred to in paragraph (1) *c)* or *d)* or specified by law shall be present at the separate location.

By Section 63/D (2) *b)*-*c)* of Act CLXXX of 2012, the questioning or hearing shall be governed by the law of the Member State. The questioning or hearing shall be conducted by the Member State authority, and a person may be present at the procedural act in addition to the person to be questioned or heard who, according to Hungarian legislation, may be present during the questioning or hearing of the person concerned by means of telecommunications; only persons specified in accordance with Hungarian law may be present at the location of the procedural act in Hungary, unless the court or the public prosecutor's office has authorised a different request from the authority of the Member State.

According to Section 67 (4) of Act XXXVIII of 1996, the questioning or hearing shall be governed by the law of the requesting State.

The public or closed nature of the procedural act is not affected, if a participant of the procedural act is present through a telecommunications device. Publicity cannot arise in relation to the isolated location, the goal there is the freedom from influence.

In case of a hearing via an electronic communication network, the provisions on the publicity of the hearing shall, in principle, apply, with the derogations provided for by law taking into account the specificities of the hearing via an electronic communication network. In this context, the law allows for the presence of persons who are allowed to be present at the hearing or at the personal hearing in connection with the person to be interviewed via the electronic communications network, and thus requires the presence of, for example, the lawyer of the party acting with a lawyer [Section 624 (2) of the Code of Civil Procedure].

The person whose presence is possible or mandatory by law in relation to the person interviewed via the electronic communications network shall always be assessed on the basis of the individual characteristics of the case; such a person may, for example, be the interpreter, the supporter in connection with supported decision-making, or, in the case of a minor witness, the legal representative.

[Pp. 626. §] The law also ensures the protection of the data of a witness who has requested that his or her data be handled privately, even in the case of a hearing via an electronic communications network. In this case, the law stipulates that when presenting the witness's documents through the technical means laid down by law, it must be ensured that they can only be viewed by the judge or the clerk of the court. [Pp. Section 624(5)] In the event of a witness being endangered, the Act also provides for the possibility of a secret hearing of the witness, which, if ordered, shall be conducted by means of an electronic communications network in such a way that the witness's identity and whereabouts cannot be established. [Section 626 of the Code of Civil Procedure]

Only the person to be heard by means of a simplified telecommunication presence, such as the party, and *a person whose presence is otherwise permitted* or required by law, may be present in the room where the hearing is to take place.

Technical considerations and interoperability

Main questions

– Do you have technical infrastructure for conducting videoconferencing?

The video conference system „Via Video/VIKI” was launched by NISZ Zrt. on the 1st July, 2018.

– What videoconferencing tools/platform do you use for organising court hearings by videoconferencing?

The Via Video system is used for court hearings

– Do you provide some interoperability guidelines to connect to a judicial hearing through VTC?

The rules on examinations via an electronic communications network can be found in Chapter XLVII of the Code of Civil Procedure and in Decree No 19/2017 of 21 December 2017 of the Minister for Justice on the use of electronic communications networks in civil action hearings and examinations (Decree No 19/2017 of the Minister for Justice).

Complementary questions

– How do videoconferencing tools/platform, to the extent possible, ensure compatibility between the devices and the software used by participants?

Compatibility between video conferencing devices has been addressed by allowing participants to connect on multiple platforms.

– Do they ensure an experience similar to an in-person hearing in a court room, and if so, how? Do they allow all participants to the session, especially the judge, to recognise each

other visually, and to see both the speaker asking questions or making statements and the reaction of the listeners, during the videoconference, and if so, how?

The (Cisco) devices automatically point the cameras at the speaker, but the judge can also manually point the cameras if necessary. A room camera with a wide-angle camera provides a visual view of all corners of the room.

– Do they provide for a sufficient level of assurance as regards the identification and authentication of the parties, and if so, how?

The identity of the person to be examined via an electronic communications network is verified on the basis of:

- the information provided by the person in question in order to verify their identity and address, and
- the presentation by technical means as specified by law of their official identification document or residence document.

If the court has ordered the confidential treatment of a witness's data, it must be ensured during the presentation by technical means as specified by law of their official identification document or residence document that such data can be seen only by the presiding judge or the registrar, if the examination or inspection is conducted by a registrar.

The court also uses electronic means or direct database queries to confirm that:

- the information provided by the person to be examined in order to verify their identity and address matches the records, and
- the official document and the residence document presented by the person to be examined as proof of identity match the records and are valid.

This method will be replaced by the new digital citizenship identification.

– Is a separate, secure and confidential, side-band channel provided that allows for consultations between a party and his/her lawyer?

NA

– Is two-way interpretation provided for participants not fluent in the language of the court?

In the case of requests made under Articles 12 to 14, if it is necessary to ensure the use of a party's mother tongue or a regional or minority language, the requested court has an obligation to use an interpreter.

The Code of Civil Procedure does not contain specific provisions on where exactly the interpreter should be located in the event of an examination via an electronic communications network. It does specify, however, that interpreters must be present in rooms set up for such examinations. On the basis of Decree 19/2017 of the Minister for Justice, the interpreter must be visible on the transmitted recording.

In the case of requests made under Articles 19 to 21, the requesting court shall, upon request, be assisted in finding an interpreter, in accordance with Article 20(2).

Information for individuals

Main question

– Is information available for individuals concerning the procedural and technical requirements for organising court hearings by videoconferencing? What does that information cover (how to connect, identify, participate, ...)?

Individuals can find information on how to organise court hearings by video conference at www.nisz.hu
https://birosag.hu/sites/default/files/users/via_video_2018_fuzet_v1_jav3.pdf
<https://birosag.hu/ugyfeleknek/birosagi-iranytu#section-1240>

Complementary question

– Are there specific information or materials available for specific groups, in particular vulnerable groups, children, or persons with disabilities?

Information about the children's hearing rooms can be found on the following page:
<https://birosag.hu/birosagokrol/gyermekkozpontu-igazsagszolgalatas/gyermekmeghallgato-szobakrol>

For information on procedural steps involving a person with special needs, see the booklet below: https://birosag.hu/sites/default/files/users/via_video_2018_fuzet_v1_jav3.pdf

Accessibility

Complementary questions

– Has national infrastructure been assessed regarding special needs, for example regarding catering for the needs of people with reduced mobility, hard of hearing and visual impairments?

Yes, the new project includes real-time transcription by artificial intelligence as a goal, a function to be achieved.

– Do the tools/platforms currently used provide accessibility features, such as use of specific fonts, contrasting colours, and text-to-speech/speech-to-text tools?

Not in the current project, but in the new one, real-time text transcription by artificial intelligence is included as a goal to be achieved.

Training, feedbacks, and statistics on videoconferencing

Complementary questions

– Do you provide special training for judges, competent authorities (depending on national legislation, notaries, bailiffs and others) and court staff? If so, how and by whom is this organised?

The Hungarian Academy of Justice operates as one of the departments of the National Office for the Judiciary, aimed to organise and provide trainings for judges and judicial staff.

– Do you collect feedback, and how, from the participants (judge, lawyer, citizen, ...)?

NA

– Do you have statistics or indicators on the use of videoconferencing for court hearings?

The system operates in redundant cooperation with approximately 200 virtual machines and currently serves a total of 963 registered VIKI endpoints in Hungary. In 2023, nearly 37,000 remote hearings were conducted through the VIKI system, resulting in travel savings of around 3 million kilometres for the user institutions.



Ministry of Justice of Italy

Answers to questionnaire concerning the use of videoconferencing for the purposes of court hearings in Member States (Presidency Note, 10600/24, 31 May 2024)

Applicable Legal framework

Main question

Is there specific existing, including recently adopted, or planned legislation for the use of videoconferencing for conducting court hearings in your MS?

Yes, after the emergency discipline of the pandemic period, in civil proceedings the use of remote audiovisual connections for the holding of hearings by videoconference has been permanently introduced with the so-called Cartabia Reform (Legislative Decree 10 October 2022, n. 149, <https://www.normattiva.it/eli/id/2022/10/17/22G00159/CONSOLIDATED/20240615>). After the emergency discipline of the pandemic period, in criminal proceedings remote participation in the hearing, through audiovisual systems, has been modified and expanded with the so-called Cartabia Reform (Legislative Decree 10 October 2022, n. 150, <https://www.normattiva.it/eli/id/2022/10/17/22G00158/CONSOLIDATED/20240615>). The primary regulation is implemented by administrative provisions of the Director General of Automated Information Systems of the Ministry of Justice: Decree of 7 December 2023 https://pst.giustizia.it/PST/resources/cms/documents/m_dg.DOG07.09122023.007511.ID_Regole_Tecniche_Udienze_da_remoto_signed.pdf and Decree of 2 November 2020 https://www.giustizia.it/giustizia/it/mg_1_8_1.page?facetNode_1=0_62&contentId=SDC303701&previousPage=mg_1_8

Below, in brief, are the key features of the discipline.

A) Civil Proceedings.

A1. Who and When

The conduct of the hearing, including public, by videoconference may be ordered by the judge when the presence of persons other than the defenders, the parties, the public prosecutor, and the judge's auxiliaries is not required.

A2. Opposition

Either party (not those in absentia) may request that the hearing be held in presence.

The judge, considering the usefulness and importance of the presence of the parties in relation to the obligations to be carried out at the hearing, with a non-appealable measure, may order that the hearing take place in presence or in hybrid mode.

A3. Adversarial procedure through contextual communications

The hearing by videoconference is held in such a way as to safeguard the adversarial procedure and to ensure the effective participation of the parties and, if the hearing is not public, its confidentiality.

A4. Guarantees

The minutes acknowledge the declaration of identity of those present, who ensure that there are no links with non-legitimate subjects and that there are no nonlegitimate subjects in the places from which they are connected. Those present keep the video function active for the duration of the hearing and they are prohibited from recording the hearing.

A5. Dematerialisation of Hearings

The place from which the judge connects is considered a courtroom for all purposes and the hearing is considered held in the judicial office where the proceedings are pending.

A6. Fees

No fees are payable to the State for attending hearings by videoconference.

B) Criminal Proceedings

B1. Who and When

Videoconference connection is provided:

- if those who are detained or interned in a place outside the jurisdiction of the court or who are subject to precautionary measures allow it;
- if the parties agree, when the court have to organize the hearing of witnesses, experts, experts and individuals, in order to proceed with the taking of evidence;
- ex officio, when the judge have to examine undercover operators, persons cooperating with the judicial system and accused of related offences or crimes.

B2. Where – Remote Participation – Face-to-Face Hearing

The venue where the hearing or act takes place is the judicial office, but one or more persons can participate remotely, by means of an audiovisual connection, from another judicial office or from a judicial police office identified by the judicial authority, or from another place, if authorized by the judicial authority.

Persons detained, interned, held in pre-trial detention, or detained after arrest or detention must connect from their whereabouts. Lawyers connect from their respective offices or other appropriate location.

B3. Adversarial procedure through contextual communications

The audiovisual connection shall be implemented in such a way as to safeguard the adversarial procedure and the effective participation of the parties in the act or hearing and to ensure the contextual, effective and reciprocal visibility of the persons present in the different places and the possibility for each of them to hear what has been said by the others. In the event of a public hearing, adequate publicity shall be ensured.

B4. Guarantees

The act or hearing are always organized for audiovisual recording.

In any case, the right of the defenders or their substitutes to be present at the client's place is guaranteed.

The right of lawyers or their deputies to consult confidentially with each other and with the client by appropriate technical means is always guaranteed.

As a rule, an auxiliary of the judge or public prosecutor is present at the place where the persons performing the act or participating in the hearing are located remotely, certifying their identity and drawing up a report of the transactions.

The Ministry of Justice ensures that telematic connections with the judicial offices are carried out through networks or communication channels suitable to guarantee the integrity and security of data transmission.

B5. Fees

No fees are payable to the State for attending hearings by videoconference.

Complementary questions:

Does this legislation cover the use of videoconferencing in the context of national hearings, cross-border hearings, or both?

The videoconferencing legislation is also applicable to cross-border hearings, unless excluded by EU regulation or international conventions.

Does the legislation apply to civil, commercial, criminal matters or all of them? Does it also apply to other areas, such as administrative matters?

Videoconferencing can be used in civil, juvenile, commercial and criminal proceedings, in the cases and within the limits provided for by industry regulations. It can also be used in proceedings before administrative courts, according to a specific discipline provided for by art. 13-c of the implementing provisions of the Code of Administrative Procedure, only for extraordinary hearings dedicated to clearing the backlog.

How do the procedural rules guarantee the right to an effective and equal access to the court, the respect of the adversarial character of the proceedings, the equality of arms, the possibility to present evidence and defend the case, and the fairness of the proceedings?

In civil proceedings, it is expressly provided that the hearing by videoconference is held in such a way as to safeguard the adversarial procedure and to ensure the effective participation of the parties and, if the hearing is not public, its confidentiality. The

minutes acknowledge the declaration of identity of those present, who ensure that there are no links with non-legitimate subjects and that there are no nonlegitimate subjects in the places from which they are connected.

In criminal proceedings, it is expressly provided that the audiovisual link shall be implemented in such a way as to safeguard the adversarial procedure and the effective participation of the parties in the act or hearing and to ensure the contextual, effective and reciprocal visibility of the persons present in the different places and the possibility for each of them to hear what has been said by the others. In the event of a public hearing, adequate publicity shall be ensured.

Those present keep the video function active for the duration of the hearing and they are prohibited from recording the hearing.

Is the right of the party to be assisted by a lawyer prior to and during the hearing safeguarded and how is confidentiality of lawyer-client communication at the hearing ensured?

Yes, confidentiality is insured by law: in criminal hearings with Microsoft Teams, sono previste le Breakout Rooms. In criminal hearings with Avaya Equinox Multi Video Conference, this separate channel is provided by a VoIP system.

For international rogatory, telephony is used on PSTN (Public Switched Telephone Network) lines at the number indicated by the foreign authority.

Is the public character of the hearing preserved and how is this done? How do the procedural rules regulate the privacy of a hearing behind closed doors?

In criminal proceedings, publicity is ensured since the hearing is always held with the judge in person in a physical courtroom of the courthouse, accessible to the public, and audiovisual systems are used exclusively for the remote participation of certain subjects of the trial.

In civil proceedings, the hearing can be held with all the parties connected remotely by videoconference, including the judge but, in the case of a public hearing, the registrar publishes the "link" generated through the Teams application in a special section of the institutional website of the judicial office, intended to collect the "links" to attend public hearings remotely.

The published "link" is accompanied by an indication of the general register number of the procedure, suitable to allow third parties to identify it exactly. The "link" is removed from the

institutional website of the judicial office, by the registrar, at the end of the public hearing. An encrypted channel is used for the connection, with asymmetric encryption algorithms.

Technical considerations and interoperability

Main questions

Do you have technical infrastructure for conducting videoconferencing?

Yes, we have.

What videoconferencing tools/platform do you use for organising court hearings by videoconferencing?

- Customization of Avaya Equinox, with an encrypted communication channel, created on a dedicated telematic network, internal to the Unitary Justice Network, with a dedicated control room, management and control system on the Administration's infrastructure.
- Microsoft Teams, without a control room, with a hybrid cloud management and control system in areas (tenants) of data centers located in the territory of the European Union (Republic of Ireland and Kingdom of the Netherlands) and administered by the Directorate General for Automated Information Systems of the Ministry of Justice, which exclusively holds the access keys to the session logs.

Do you provide some interoperability guidelines to connect to a judicial hearing through VTC?

Yes, we do.

Complementary questions

How do videoconferencing tools/platform, to the extent possible, ensure compatibility between the devices and the software used by participants?

Windows 10 devices are native compatible with Microsoft Teams; WebCam Max Hub & Innex Cube are the most utilized devices in Italian virtual/hybrid hearings (90% of the total hearing rooms). All the criminal hearing rooms are covered by certified and

compatible devices; Multi Video Conference Avaya Equinox have been customized to be compatible.

Do they ensure an experience similar to an in-person hearing in a court room, and if so, how?

Do they allow all participants to the session, especially the judge, to recognise each other visually, and to see both the speaker asking questions or making statements and the reaction of the listeners, during the videoconference, and if so, how?

Do they provide for a sufficient level of assurance as regards the identification and authentication of the parties, and if so, how?

Yes, they do. In criminal hearings, all the webcam frame the Judges and all the parties in the Courtroom or remotely connected at the same time, offering an experience similar to an in person hearing. in civil hearings Italian Ministry of Justice is planning to adopt similar scenarios.

Is a separate, secure and confidential, side-band channel provided that allows for consultations between a party and his/her lawyer?

Yes, it is provided with Microsoft Teams Breakout Rooms. In criminal hearings with Avaya Equinox Multi Video Conference this channel is provided by a VoIP system; for international rogatory, telephony is used on PSTN (Public Switched Telephone Network) lines at the number indicated by the foreign authority.

Is two-way interpretation provided for participants not fluent in the language of the court?

Yes, it is provided with professionals interpreters, as required by Italian law. There is also availability of a technical tools for automatic and live translation and transcription.

Information for individuals

Main question

Is information available for individuals concerning the procedural and technical requirements for organising court hearings by videoconferencing? What does that information cover (how to connect, identify, participate, ...)?

Yes, information is available and they covers:

- How to connect;
- How to participate;
- How to record;
- Help Desk & Troubleshooting.

Complementary question

Are there specific information or materials available for specific groups, in particular vulnerable groups, children, or persons with disabilities?

No, there aren't

Accessibility

Complementary questions

Has national infrastructure been assessed regarding special needs, for example regarding catering for the needs of people with reduced mobility, hard of hearing and visual impairments?

Special devices/furnitures have been purchased to address accessibility topics.

In prisons, some rooms have been provided with special/listening aids for reduced mobility and hearing impairments.

Do the tools/platforms currently used provide accessibility features, such as use of specific fonts, contrasting colours, and text-to-speech/speech-to-text tools?

Microsoft Teams and Windows 10 are natively equipped with "[Accessibility Tools](#)"

Training, feedbacks, and statistics on videoconferencing

Complementary questions

Do you provide special training for judges, competent authorities (depending on national legislation, notaries, bailiffs and others) and court staff? If so, how and by whom is this organised?

No, we don't /to be defined

Do you collect feedback, and how, from the participants (judge, lawyer, citizen, ...)?

No, we don't /to be defined

Do you have statistics or indicators on the use of videoconferencing for court hearings?

Yes, in criminal hearings we collect: amount of hearings per month, and percentage of hearings without technical issues.



Council of the
European Union

**Brussels, 31 May 2024
(OR. en)**

10600/24

LIMITE

**EJUSTICE 39
JAI 934**

NOTE

From:	Presidency
To:	Working Party on e-Justice
Subject:	Questions concerning the use of videoconferencing for the purposes of court hearings in Member States

Delegations will find below a document containing a questionnaire on the use of videoconferencing for the purposes of Court hearings in Member States.

This document will serve as basis for discussions during the meeting of the Working Party on e-Justice on 18 June 2024.

**Questions concerning the use of videoconferencing
for the purposes of court hearings in Member States**

For many years, the topic of the promotion of the use of videoconferencing for the purposes of court hearings has featured prominently on the agenda of the Working Party (WP) on e-Justice. For a time, the topic was addressed within an expert group chaired by the Austrian delegation. The group focused on gathering best practices related to the promotion of the use of videoconferencing for court hearings, notably leading to the adoption of Council Recommendations¹ summarising the findings of the group.

However, this expert group was discontinued after the new WP mandate was approved. At the same time, videoconferencing is still an important part of the new e-Justice Strategy 2024-2028. The Strategy aims at promoting the use of videoconferencing in judicial proceedings. In particular, it tasks the Commission and Member States to improve video conference interoperability (e.g. common requirements, standards or tools for conducting remote hearings). At the same time, the Strategy puts the focus on projects related to videoconferencing, such as real time interpretation and identification of participants.

¹ Promoting the use of and sharing of best practices on cross-border videoconferencing in the area of justice in the Member States and at EU level, OJ C 250, 31.7.2015, p. 1–5, [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32015H0731\(01\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32015H0731(01))

Regulation on Digitalisation of Judicial Cooperation

The Regulation on the Digitalisation of judicial cooperation and access to justice in cross-border civil, commercial and criminal matters (Digitalisation Regulation), adopted in December 2023, establishes a legal basis for using videoconferencing in both civil and commercial matters with cross-border implications, as well as in the context of certain judicial cooperation instruments in criminal matters. Notably, the chapter 4 on the participation to a court hearing through videoconferencing will become applicable from May 1, 2025. Pursuant to Article 17 of the Digitalisation Regulation, by 17 July 2024, Member States are required to inter alia communicate descriptions of their national laws and procedures related to videoconferencing in accordance with Articles 5 and 6 of the Regulation. This obligation is instrumental in order to find out how the applicable national laws, in particular recently adopted or planned ones, are applying to videoconferencing.

National legal framework and Access

While the information communicated by the Member States should provide the precise information on how the national procedural rules, including recently adopted or planned ones, apply to videoconferencing, it may not cover the entire legal landscape that applies to participation in hearings by videoconference for individuals. For instance, they should be aware of the procedural conditions and consequences for attending a VTC hearing, such as the existence of a recording, provision of interpretation, or the possibility of legal assistance.

The digitalisation Regulation states, in its article 6 about the use of VC In criminal matters, that competent authorities must ensure that individuals have access to necessary infrastructure at the premises where the VTC hearing takes place. Member States must establish VTC systems, ready for cross-border cases, even if different IT systems and procedural laws are involved. Ensuring interoperability and adherence to high standards is crucial for the judiciary's effective use of videoconferencing and for ensuring individuals' fundamental rights.

Addressing Questions and Moving Forward

With this note we aim to initiate a discussion on the role the e-Justice WP should play to ensure a smooth application of those articles as of their date of application in May 2025.

To prepare the discussion during the next WP, along with future discussions, we invite delegations to answer the questionnaire below.

Due to the short deadline, we would ask the delegation to **answer by 10 June 2024** on the main questions. If delegations are not able to answer the complementary questions in that timeframe, we would welcome their answers on those by the end of June.

We would also seize the opportunity to have different ongoing initiatives aiming at facilitating hearings through videoconferencing to be presented at the next WP. We would therefore ask you to contact us if your delegation would be interested in briefly presenting such projects or best practices by the end of next week, 7 June 2024.

Questionnaire

Applicable Legal framework

Main question

- Is there specific existing, including recently adopted, or planned legislation for the use of videoconferencing for conducting court hearings in your MS?

In Lithuania the basis for the videoconferencing is the Paragraph 7 of the Article 34 of the Law on Courts of the Republic of Lithuania, which provides that the hearing of cases and the participation of the persons involved in the case and other participants in the process in the court hearings shall be ensured using information and electronic communication technologies (through video conferences, teleconferences, etc.) in accordance with the procedure established by the Minister of Justice, coordinated with the Council of Judges. Using these technologies, reliable identification of persons participating in the case and other participants in the process, objective recording and presentation of data (evidence), access to procedural rights and publicity of the trial in court, as well as confidential communication of the persons participating in the case with the lawyer (representative) shall be ensured. The Paragraph 8 of the Article 34 of the Law on Courts also provides that when the case is examined in the order of oral proceedings using secure information and electronic communication technologies (through video conferences, teleconferences, etc.), the members of the panel of judges may participate in the court session from different premises of the court (courthouse). During the hearing of the case using information and electronic communication technologies (through video conferences, teleconferences, etc.), the persons involved in the case and other participants in the process may be in different court (courthouse) or non-court premises.

The online hearing in court proceedings is also disclosed in the procedural legal regulation:

- a) according to the Paragraph 2 of the Article 8(2) of the Code of the Criminal Process, in exceptional cases, when it is impossible to ensure the hearing of cases in the usual manner established in this Code, the hearing of cases and the participation of process participants, witnesses, experts, specialists, translators and other persons involved in the case in court hearings, if there are suitable technical possibilities, can be ensured using information and electronic communication technologies (through video conferences), when it is reasonably believed that the case will be examined faster in this*

way, this will not prevent a detailed and objective investigation of all the circumstances of the case and the rights of the participants in the process will be ensured. The court usually resolves this issue in a ruling before the case is heard at the court hearing. This ruling is not subject to appeal. The provisions of this part do not apply in cases where the prosecutor, the victim and/or his representative, the accused, his legal representative and/or defense counsel, the civil claimant, the civil defendant and/or their representatives submit an objection to the hearing of the case using information and electronic communication technologies (video conferences);

b) according to the Article 175(2) of the Code of the Civil Process, the hearing of cases and the participation of persons involved in the case and other participants in the process in the court hearings may be ensured using information and electronic communication technologies (through video conferences, teleconferences, etc.) in accordance with the procedure established by the Minister of Justice, coordinated with the Council of Judges. Using these technologies, reliable identification of the persons participating in the case and other participants in the process, objective recording and presentation of data (evidence), access to procedural rights and publicity of the trial in court, as well as confidential communication of the persons participating in the case with the lawyer (representative) shall be ensured. When the case is examined in the order of oral proceedings using secure information and electronic communication technologies (through video conferences, teleconferences, etc.), members of the panel of judges can participate in the court session from different premises of the court (courthouse). During the hearing of the case using information and electronic communication technologies (via video conferences, teleconferences, etc.), the persons participating in the case and other participants in the process may be in different court (courtroom) or non-court premises;

c) according to the Paragraph 2 of the Article 630 of the Code of Administrative Offenses, the hearing of a case in the procedure of oral proceedings and the participation of persons participating in administrative offense proceedings, as well as witnesses, experts, specialists, translators and other persons participating in the process, in court hearings can be ensured using information and electronic communication technologies (through video conferences, teleconferences, etc.). The publicity of the proceedings is ensured by the procedure established by the Minister of Justice and coordinated with the Council of Judges. When using information and electronic communication

technologies, the provisions of the Code of Criminal Procedure shall apply mutatis mutandis;

- d) according to the Paragraph 7 of the Article 13 of the Law on Administrative Proceedings, the examination of cases and the participation of process participants, witnesses, specialists, experts, translators in court hearings can be ensured using information and electronic communication technologies (through video conferences, teleconferences, etc.) in accordance with the procedure established by the Minister of Justice, coordinated with the Council of Judges. Using these technologies, reliable identification of process participants, witnesses, specialists, experts, translators, objective recording and presentation of data (evidence), access to procedural rights and publicity of the trial in court must be ensured, as well as confidential communication of persons participating in the case with the lawyer (representative).*

In cooperation with the Ministry of Justice of the Republic of Lithuania, the Judicial Council, the Lithuanian Bar Association, and other related institutions, the Description of the Procedure for the Use of Video Conferencing Technology in Criminal Cases and the Description of the Procedure for the Use of Video Conferencing and Teleconferencing in Civil and Administrative Cases are approved by Orders of the Minister of Justice.

The Description of Ensuring the Publicity of Court Proceedings Using Technical Means has been approved by Resolution of the Council of Judiciary.

Also, Recommendations on remote meetings has been approved by the Council of Judiciary.

The Code of the Criminal Process as well as the Description of the Procedure for the Use of Video Conferencing Technology in Criminal Cases and the Description of the Procedure for the Use of Video Conferencing and Teleconferencing in Civil and Administrative Cases determine that the court hearing the case decides on the use of specific tools during the court hearing after assessing the circumstances, which are significant for ensuring a safe environment of the court, the protection of personal data, and the requirements for the implementation of the provisions of the relevant legal acts and other circumstances.

Complementary questions:

- Does this legislation cover the use of videoconferencing in the context of national hearings, cross-border hearings, or both?

In The Code of Civil Procedure, The Law on Administrative Proceedings, The Code of Criminal Procedure there are no special provisions regulating cross-border judicial videoconferencing.

- Does the legislation apply to civil, commercial, criminal matters or all of them? Does it also apply to other areas, such as administrative matters?

All of them.

- How do the procedural rules guarantee the right to an effective and equal access to the court, the respect of the adversarial character of the proceedings, the equality of arms, the possibility to present evidence and defend the case, and the fairness of the proceedings?

Using video-conferencing technology, reliable identification of persons participating in the case and other participants in the process, objective recording and presentation of data (evidence), access to procedural rights and publicity of the trial in court, as well as confidential communication of the persons participating in the case with the lawyer (representative) shall be ensured.

- Is the right of the party to be assisted by a lawyer prior to and during the hearing safeguarded and how is confidentiality of lawyer-client communication at the hearing ensured?

See the previous answer.

- Is the public character of the hearing preserved and how is this done? How do the procedural rules regulate the privacy of a hearing behind closed doors?

When the judge hearing the case (panel of judges) decides that the court session will be held using video conferencing and/or teleconferencing technologies and it is not possible to allow individuals to observe this court session directly in the courtroom or another place where the case is being heard, this is noted in Courts Information System (LITEKO). Based on this information, an interactive link is published in the public schedule search, which the user can use to submit a request to the court to observe a remote hearing.

Closed-door court hearings may be conducted via videoconference as well as public court hearings following the same provisions of procedural legal acts.

Technical considerations and interoperability

Main questions

- Do you have technical infrastructure for conducting videoconferencing?

Yes

- What videoconferencing tools/platform do you use for organising court hearings by videoconferencing?

Centralized court equipment or the Zoom platform.

- Do you provide some interoperability guidelines to connect to a judicial hearing through VTC?

It is recommended that when sending the connection data to the remote hearing to the participants of the court proceedings, to provide instructions for using the video conference technology or to inform them where the person can familiarize themselves with it (for example, to provide a link to the information published on the court's website). Some of the technical instructions have been prepared and are publicly available. Users have access to technical instructions.

Complementary questions

- How do videoconferencing tools/platform, to the extent possible, ensure compatibility between the devices and the software used by participants?

The compatibility of the technologies used is assessed during the preparation for the remote court session. Upon receipt of a request from a participant in the court process to consider the case remotely or when the court is planning a remote court hearing on its own initiative, it is recommended to set a deadline for the participants in the court process to submit a written opinion on the possibility of remote consideration of the case. At the court session, according to the procedure of oral proceedings, the participants in the court proceedings can present their opinion orally or in writing within the deadline set by the court. The court report recommends to the participants of the court proceedings:

- *indicate the conference technology used by the court;*

• *offer to confirm that the participant has the necessary technical capabilities to join the remote hearing using court-specified conferencing technology.*

- Do they ensure an experience similar to an in-person hearing in a court room, and if so, how? Do they allow all participants to the session, especially the judge, to recognise each other visually, and to see both the speaker asking questions or making statements and the reaction of the listeners, during the videoconference, and if so, how?

They ensure an experience like an in-person hearing in a court room. In a videoconference hearing, the participant in the process can directly watch the court session taking place in another place on a TV or computer screen, answer or ask questions, share documents with the participants in the process on the other side of the screen. For the latter, the person participating in the remote court session is also visible and they can ask him questions, share available documents or other materials.

- Do they provide for a sufficient level of assurance as regards the identification and authentication of the parties, and if so, how?

Until the day of the remote court hearing, the court may, as needed, ask the participants in the court proceedings to provide the court with copies of a document confirming their personal identity, a lawyer's certificate, documents confirming the powers of the representative (defense counsel), if these documents are not in the case file. By connecting to a remote court session, the identity of the participants in the court process is determined. If the hearing takes place via video conference, the person shall present himself to the court and, upon the court's request, show a document confirming the identity of the person directed to the video camera. If the hearing is held by telephone (teleconference), the person introduces himself and dictates the data requested by the court, such as personal identification number (part thereof), attorney's (assistant attorney's) certificate number, code provided by the court and/or other data that allows identification of the individual. To verify the identity of the person, the court may use other additional methods of identification during the video conference and teleconference, for example, asking the person who has an e-account. in the delivery system, connect to this system and from it send to the court as evidence the code generated by the court or other data specified by the court, and the court may also ask other participants in the process to confirm whether they know the identified person. If a participant in the court proceedings is present at the hearing, whose personal

code, personal identity document data are not or cannot be known to other participants in the court proceedings from the case material, to protect the data of this person, it is recommended to determine the personal identity immediately before the court hearing. In this case, the clerk of the court hearings can contact each participant in the court proceedings individually and ask them to show a document confirming the identity of the person facing the video camera. After the start of the meeting, it is announced that the identity of the persons joining the meeting has been checked and established. Once the court hearing has started, the participant in the court proceedings remains obliged to appear before the court.

- Is a separate, secure and confidential, side-band channel provided that allows for consultations between a party and his/her lawyer?

See the previous answer.

- Is two-way interpretation provided for participants not fluent in the language of the court?

Persons who do not know the Lithuanian language are guaranteed the right to participate in court actions through an interpreter, so participants in the process who do not know the state language have the opportunity to use the services of interpreters working in courts, as well as the services of external translation service providers, usually translation offices, in addition, the participants in the process can use an interpreter of their choice. The translator and the nature of the translation must ensure the rights of the participants in the process, also during a remote court session.

Information for individuals

Main question

- Is information available for individuals concerning the procedural and technical requirements for organising court hearings by videoconferencing? What does that information cover (how to connect, identify, participate, ...)?

It is recommended that when sending the data for connection to the remote hearing to the participants of the court proceedings, to provide instructions for using the video conference technology or to inform where the person can get acquainted with it (for example, to provide a link to the information published on the court's website), as well as to indicate the contact phone number of the court employee and (or) email e-mail address where the person could

contact regarding the organization and participation of the remote meeting. If the court hearing takes place via video conferencing technology (video conference), the person follows the instructions for joining and/or use provided by the court or published on the court's website.

Complementary question

- Are there specific information or materials available for specific groups, in particular vulnerable groups, children, or persons with disabilities?

Information about court activities, including court proceedings and the organization of remote court hearings, is publicly available and intended for all groups of society, it is published both centrally on the website teismai.lt managed by the National Courts Administration, and on the individual websites of individual courts. These websites are adapted for screen readers, as well as the accessibility menu (UserWay) plugins installed on the websites, which allow people with visual impairments to adjust accessibility settings, such as text contrast, size, saturation, available settings for people with disabilities dyslexic disorders and others.

In addition, some of the published information is prepared and accessible specifically for persons with disabilities, for example, informative videos are provided with subtitles, a version of the electronic publication "What should a victim know?" is provided for the visually impaired (PDF format with active links), for the hearing impaired for persons (video with translation into sign language), for persons with intellectual disabilities (second level text in an easily understandable language). Additional information related to support for children or minors can be found in the electronic publication "What you need to know about support for a child in court proceedings?". In addition, some courts publish information about the child's court interviews on their websites.

It should be noted that the video technology system is used in specialized children's interrogation rooms in Lithuanian courts, which are equipped with video and audio recording equipment, thus transmitting the image to the participants in the process in the courtroom, ensuring their right to hear the child's testimony, ask questions and at the same time protecting the child from meeting the process participants, such as suspects - this measure is applied without excluding children with disabilities.

Accessibility

Complementary questions

- Has national infrastructure been assessed regarding special needs, for example regarding catering for the needs of people with reduced mobility, hard of hearing and visual impairments?

After installing special video conferencing equipment in 2014, information technologies in all Lithuanian courts are used to organize court hearings remotely. Such an opportunity ensures more convenient, cheaper and safer participation of vulnerable groups of society, including persons with disabilities, in the court process. Communication technologies make it possible to remotely interview persons who, for example, due to health problems cannot attend court hearings - thus facilitating the participation of persons with disabilities. During remote court hearings, the video technology system is accessible to a large number of persons with physical disabilities, as well as persons with visual, hearing or speech disabilities (with the additional mediation of a sign language interpreter).

When the court evaluates the possibilities of the participants in the court process to participate in the hearing using video conferencing technologies, it is recommended to take into account the technical means available to the person (if such information is known to the court), as well as the situation of vulnerable groups of court process participants, including disabled persons.

It should be noted that digital technology solutions are extremely relevant in ensuring the right of persons with disabilities not to be discriminated against in court proceedings.

- Do the tools/platforms currently used provide accessibility features, such as use of specific fonts, contrasting colours, and text-to-speech/speech-to-text tools?

Both centralized court equipment and the Zoom platform provide accessibility features.

Training, feedbacks, and statistics on videoconferencing

Complementary questions

- Do you provide special training for judges, competent authorities (depending on national legislation, notaries, bailiffs and others) and court staff? If so, how and by whom is this organised?

In courts persons responsible for the use, maintenance and operation of video conferencing equipment have been appointed. Specialized training in this regard is not organized.

- Do you collect feedback, and how, from the participants (judge, lawyer, citizen, ...)?

In order to evaluate the use of the equipment and its benefits, the National Courts Administration asks the specialists in charge of the remote court hearings to provide information about it by filling out a questionnaire after the court session has been held.

- Do you have statistics or indicators on the use of videoconferencing for court hearings?

Statistics on remote court hearings are collected by National Court Administration. Statistics on the organization of remote hearings are analyzed and annually included in the reports of court activities. It should be noted that the use of video technologies in organizing remote court hearings increased significantly in 2020-2021 during the epidemic situation of the Covid-19 disease to avoid physical contact as much as possible. Despite the difficult situation caused by the COVID-19 pandemic, the courts in 2020 continued its activities using various technological means - the number of remote court hearings organized in Lithuanian courts that year continued to reach 3 865 (2 612 in 2019, 1 500 in 2018).

Unfortunately, it is not possible to separate remote court hearings from work meetings. Centralized videoconferencing sets must be used only for court hearings but ZOOM platform for courts hearings is used much more often. In 2023 42 925 ZOOM meetings were held, 878 meetings were held via videoconferencing sets (2022 – 42 954 ZOOM, 1360 videoconference, 2021 – 37 488 ZOOM, 2029 videoconference).

Among other things, the regulation stipulates under what circumstances videoconferencing can be used during court hearings, as well as procedural and technical guarantees. It is up to courts and tribunals to facilitate videoconference, and decide in what specific cases videoconference will be used – only in cases where at least one party expressed a want for videoconference.

In criminal law proceedings, there are two regulations and one decree that are of importance. In regards to the latter, the decree stipulates circumstances and guarantees that need to be met to use videoconferencing in criminal proceedings or proceedings within the meaning of art 94 and 96 of the Aliens Act 2000. An example of guarantees is that videoconferencing should be compliant with international standards.

Both the penal code (*Wetboek van strafrecht*), article 78a, and the criminal procedural code (*Wetboek van strafvordering*), article 131a, allow for the use of videoconferencing in hearing, questioning and interrogation if real time video and sound connection are available. A college president, judge, magistrate or official decides on the use of videoconference after consulting the person involved or his counsellor. For example, for high risk cases the codes allow for unilateral decision for a hearing via videoconference by the court.

Currently, the criminal procedural code is being renewed and should be completed by 2029. The renewed criminal procedural code aims to widen the use of videoconferencing in criminal procedures and to consolidate the legal status of the litigants, whilst maintaining the advantages of the current, flexible arrangement.

Technical considerations and interoperability

- *Do you have technical infrastructure for conducting videoconferencing?*
Most courts in the Netherlands possess facilities to conduct hearings through videoconference. An overview of the specific facilities is found on the [European e-Justice Portal](#) and attached to this document (attachment I).
- *What videoconferencing tools/platform do you use for organising court hearings by videoconferencing?*
Courts in the Netherlands facilitate hearings through videoconference via Microsoft Teams and Cisco Meeting Server (CMS). Hearings in council chambers or courtrooms located in penitentiaries are always conducted through Teams. For other cases, courts decide what videoconferencing software to use. Manuals for the use of Teams and CMS are available on the [website of de Raad voor de Rechtspraak](#).¹

Suspects in criminal procedures can connect to a hearing from a council chamber or courtroom located at penitentiaries. In some cases, a counsellor,

¹ The *Raad voor de Rechtspraak* is the umbrella board of the courts in the Netherlands, responsible for, among other things, business management tasks of all courts and supervision of the courts.

**Directoraat-Generaal
Rechtspleging en
Rechtshandhaving**
Directie Rechtsbestel
Strafr.Bestel en Arbeidsvoor

Datum
5 juni 2024

Onze referentie

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lawyer or other party is allowed to assist the client in the council chamber or courtroom in the penitentiaries. The court will facilitate the connection.

- *Do you provide some interoperability guidelines to connect to a judicial hearing through VTC?*

For civil procedures, no interoperability guidelines are currently provided by Dutch legislation. (Tele)hearings via videoconferencing software are only available through either Teams or CMS, decided by the courts. In both cases, Teams and CMS, are available through common standards: SIP, H323 and webrtc.

In criminal procedures, decision on the use of videoconferencing in criminal proceedings and immigration law stipulates that the videoconferencing system needs to comply with international standards in cases where a person is outside the Netherlands. No specific interoperability guidelines are yet provided by Dutch legislation.

Information for individuals

- *Is information available for individuals concerning the procedural and technical requirements for organising court hearings by videoconferencing? What does that information cover (how to connect, identify, participate, ...)?*
The *Raad voor de Rechtspraak* provides procedural and technical information for participants on hearings by videoconferencing on their website. The information includes manuals about how to connect to an online hearing through Teams and CMS, what options are available during a hearing (e.g. sharing a screen) and how to test video and sound. The manuals are available for phone, tablet and desktop connections, as well as installing an app or connecting through a browser.

An explanatory note about videoconferencing from penitentiary institutions is available. In criminal procedures from penitentiaries, courts are responsible and facilitate the videoconferencing connection.

Additionally, the *Raad voor de Rechtspraak* offers the opportunity to test connection four days in advance on request in specific cases, and offers frequently asked questions. If any questions remain, persons can contact the service center of the courts (*Rechtspraak Servicecentrum*).

**Directoraat-Generaal
Rechtspleging en
Rechtshandhaving**
Directie Rechtsbestel
Strafr.Bestel en Arbeidsvoor

Datum
5 juni 2024

Onze referentie

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Attachment I: videoconferencing equipment in courts in the Netherlands

Directoraat-Generaal
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Location	Number of System ID
Telehearing Multi Camera	56
Hof-ARLE - Leeuwarden	1
IVO Rechtspraak	1
LDCR	1
RB/Hof-DH - Den Haag	2
RB-GEL - Zutphen	1
RB-GEL/Hof-ARN-LEE - Arnhem	4
RB-LIM - Roermond	2
RB-MNL - Lelystad	2
RB-MNL/CRvB - Utrecht	2
RB-NHO - Alkmaar	2
RB-NHO - Haarlem	2
RB-NNL - Assen	1
RB-NNL - Groningen	1
RB-NNL - Leeuwarden	1
RB-OBR - Den Bosch	3
RB-OVE - Almelo	2
RB-OVE - Zwolle	4
RB-ROT - Dordrecht	2
RB-ROT - Rotterdam	5
RB-ZWB - Breda	4
RB-ZWB - Middelburg	1
RB-AMS - Bunker	4
RB-AMS – Parnassusweg	8
Telehearing Single Camera	125
Gerechtshof Amsterdam	4
Hof-ARLE - Leeuwarden	2
IVO Rechtspraak	5
LDCR	2
Raad voor de rechtspraak	2
RB/Hof-DH - Den Haag	22
RB-GEL - Zutphen	1
RB-GEL/Hof-ARN-LEE - Arnhem	6
RB-LIM - Maastricht	3
RB-LIM - Roermond	5
RB-MNL - Lelystad	3
RB-MNL/CRvB - Utrecht	4
RB-NHO - Alkmaar	1
RB-NHO - Haarlem	4
RB-NNL - Assen	2
RB-NNL - Groningen	4
RB-NNL - Leeuwarden	4
RB-OBR - Den Bosch	13
RB-OVE - Almelo	1
RB-OVE - Enschede	1
RB-OVE - Zwolle	2

Datum
5 juni 2024
Onze referentie
-

RB-ROT - Dordrecht	4
RB-ROT - Rotterdam	12
RB-ZWB - Breda	4
RB-ZWB - Middelburg	3
RB-AMS – Parnassusweg	11
Total	181

Directoraat-Generaal
Rechtspleging en
Rechtshandhaving
Directie Rechtsbestel
Strafr.Bestel en Arbeidsvoor

Datum
5 juni 2024

Onze referentie

-

Questionnaire – videoconferencing in Poland

Applicable Legal framework

Main question

- ***Is there specific existing, including recently adopted, or planned legislation for the use of videoconferencing for conducting court hearings in your MS?***

In Poland there is existing legislation for **civil proceedings** regarding:

- 1)** the use of videoconferencing for conducting court hearings– art. 151 Code of Civil Procedure (Journal of Laws of 2023, position 1550 as amended)

Pursuant to § 2 of art. 151, the chairman may order a court hearing to be held using technical devices enabling its conduct at a distance (remote meeting), if this is not prevented by the nature of the activities to be performed at the hearing, and conducting a remote meeting will guarantee full protection of the rights of parties and the correct course of proceedings. In such a case, the court and the court clerk are present in the courtroom, and other persons participating in the meeting do not have to be in the building of the court conducting the proceedings. The image and sound recording of procedural activities taking place in the courtroom is transferred to the place of stay of those participants of the meeting who have declared their intention to participate in the court session remotely, and from the place of stay of those participants of the meeting to the building of the court conducting the proceedings.

The Chairman may order a remote hearing ex officio or at the request of a person who is to participate in the meeting and has provided an e-mail address. The deadline for submitting an application is 7 days from the date of delivery of the notice or summons to the meeting. When ordering a remote hearing, the presiding judge may stipulate that a specific person will participate in the remote meeting outside the building of the court conducting the proceedings if he or she is staying in the building of another court (art. 151 § 3).

The chairman may order that a person deprived of liberty will participate in procedural activities only as part of a remote hearing. In such a case, a representative of the administration of the prison or detention centre, a professional representative, if appointed, and an interpreter, if appointed, take part in the remote hearing at the person's place of stay (art. 151 § 4).

When summoning a remote hearing, its participants are informed about the possibility of appearing in the courtroom or reporting their intention to participate in the meeting remotely, and are also instructed that this intention must be reported no later than 3 business days before the scheduled date of the meeting and that for effective notification it is sufficient to maintain a specific form, i.e. means of distance communication, as long as they ensure certainty as to the person submitting the declaration, while providing an e-mail address. In such a case, information is also provided at least 24 hours before the date of the meeting about the content of art. 151 § 2, 3 and 6-8, the address of the website containing the announcement referred to in art. 151 § 9, and how to join the remote meeting. The obligation to notify the intention to participate remotely in a hearing does not apply to a person deprived of liberty. The

above applies accordingly to participants registering their participation in the meeting as members of the public or persons of trust (art. 151 § 5).

A person who has not effectively submitted the application referred to in art. 151 § 3, first sentence, or has not notified the intention to participate in the meeting remotely in accordance with § 5, first sentence, is obliged to appear at the meeting in the building of the court conducting the proceedings without an additional summons (art. 151 § 6).

Procedural activities performed during a remote hearing by the parties and other participants staying outside the courtroom conducting the proceedings are effective, unless the law requires them to be performed in writing (art. 151 § 7).

A person participating in a remote hearing staying outside the court building is obliged to inform the court about the place where he or she is staying and make every effort to ensure that the conditions at the place of his or her stay are consistent with the dignity of the court and do not constitute an obstacle to carrying out procedural activities with his or her participation. If the person refuses to provide the indicated information or if the person's behaviour raises justified doubts as to the correct course of activities carried out remotely with his or her participation, the court may summon the person to appear in person in the courtroom (art. 151 § 8).

and legislation for **criminal proceedings** regarding:

- 2) the use of videoconferencing for conducting remote evidence, including the examination of a witness, an expert or an incognito witness – art. 177 § 1a , 197 § 3, 184 § 4, art. 185a-185c, 377 § 4, art. 517b Code of Criminal Procedure (Journal of Laws of 2024, position 37 as amended)

Art. 177. Code of criminal procedure - these provisions allow a witness to be questioned using technical devices that allow this activity to be conducted at a distance with direct transmission. This possibility exists in both pre-trial and jurisdictional proceedings. In judicial proceedings, the presence of a court trainee, court registrar, assistant judge or clerk employed by the court in whose district the witness resides is necessary, and in pre-trial proceedings - another authority involved in the activity in the place of residence of the witness. The hearing of a witness may be carried out by using technical devices that allow this activity to be conducted at a distance with simultaneous direct transmission of video and sound (Article 177 § 1a). This refers to devices that allow the transmission of images and sound, such as computers or telephones adapted for videoconferencing. It is necessary that there are special circumstances that justify a departure from the basic rules of questioning, which may be, needs of procedural economy, i.e. the possibility of accelerating the proceedings or avoiding protraction. This includes, for example, the presence of a witness outside the country, whose appearance before the court is impossible or difficult, or witnesses who are subject to special protection, a situation in which bringing a witness to the courtroom involves a huge financial outlay. It is possible to use this procedure to question a witness, including a crown witness, a minor witness who is at least 15 years old at the time of questioning, a victim of a rape crime regardless of age, but only at the request of the victim, an expert witness and an interpreter.

Art. 250. Code of criminal procedure - § 3b-3h introduces an alternative to forcibly bringing a suspect to a court for a pre-trial detention hearing. The suspect may participate in a hearing conducted through technical devices that allow it to be conducted remotely with simultaneous direct video and audio transmission. The videoconference hearing is an exception but the court can order a meeting via technical means whenever it deems it possible and does not violate the suspect's right to defence. A condition of a remote meeting is that the suspect is allowed to participate in it using technical devices that allow the meeting to be conducted remotely in real time, with simultaneous direct transmission of video and audio. The connection with the accused and his defence counsel can be made using another source of a remote audio transmission, such as a telephone.

Art. 374. Code of criminal procedure - the law introduced in 2020, added § 3-7 to Article 374 of the Code of Criminal Procedure the possibility of remote participation in the trial not only of the defendant and his defence counsel, but also of the public, subsidiary and private prosecutor and the interpreter. This rule applies to the defendant, subsidiary or private prosecutor only if they are deprived of liberty. The main purpose of these changes was to expand the possibility of remotely conducting selected activities of criminal proceedings, which will serve to increase their speed, reduce the costs and inconvenience incurred by trial participants in connection with the need to appear in court, and at the same time create opportunities to reduce the risks arising from the state of epidemics COVID-19 for those participating in these activities as a procedural body or participant.

Art. 390. Code of criminal procedure - another possibility provided in Article 390 § 3 is intended to create conditions for the person being questioned to be unhindered by the presence of an accused, and on the other hand provides the accused with participation in such questioning, only that without direct contact with the person being questioned. Questioning under this provision realizes the right of the accused to participate in the trial, as it takes place in this forum, by means of videoconferencing. This is because the person being questioned is outside the courtroom, and the transmission of video and audio from there is carried out using technical equipment. At the place where the explanation or testimony is given, a court registrar, a judge assistant or a court clerk takes part in the questioning activity. The similar manner of conducting the questioning activity is also normalized in the article 517b § 2a.

Art. 517b. Code of criminal procedure - article 517b § 2a-2d deals with “accelerated proceedings”. This special procedure was introduced in order to create the possibility to respond quickly to violations of the law during mass events, including sports events in particular, but also to make it possible to save police forces and resources devoted to carrying out the duty of bringing detained defendants to court. Article 517b § 2a of the Code of Criminal Procedure allows a defendant caught in conditions warranting an expedited procedure to be dispensed with and a hearing to be held in two places simultaneously using teleconferencing technology. In such a case, the hearing is conducted simultaneously in the court where the judge is located and in any other

location where the defendant, his defence counsel and possibly an interpreter are present. Contact between the aforementioned locations shall be maintained by means of a technical device that allows the action to be conducted at a distance with simultaneous direct video and audio transmission. The defendant and his defence counsel shall have copies of the motion for trial and certified copies of all documents of evidence transmitted to the court. At the place where the accused is staying, the order of activities and the fulfilment of all formalities and regulations is supervised by the court, a court registrar or a judge assistant employed by the court in whose district the offender is staying. A consequence of the rules of trial is that the participants in the proceedings may submit motions and other statements and perform procedural acts only orally into the record, while the pleadings of the accused and his counsel, which could not be transmitted to the court, may be read by them at the trial. Such a procedure is possible only before the court of first instance.

Complementary questions:

- ***Does this legislation cover the use of videoconferencing in the context of national hearings, cross-border hearings, or both?***

The aforementioned regulation of Code of Civil Proceedings covers the use of videoconferencing in the context of national hearings. However, there is also regulation concerning cross-border hearings. In the case of a request from Polish court for conducting evidence abroad – art. 1131 § 6 Code of Civil Procedure. The court may consent, in agreement with court or other authority of the requested state, to the conduct of evidence, the nature of which does not oppose it, using technical devices enabling presence or participation in the performance of this activity or its remote conduct. In case of request from foreign court or other authority to Polish court - art. 1135² Code of Civil Procedure. The court may consent to the conduct of evidence, the nature of which does not oppose it, using technical devices enabling presence or participation in the performance of this activity or its remote conduct (art. 1135² § 6 Code of Civil Procedure).

The penal procedure mentioned above (art. 177 of Code of criminal procedure) may be used also within the framework of international legal assistance on the basis of the provisions of the Code of Criminal Procedure or a relevant international agreement, such as the Second Additional Protocol of 8.11.2001 to the European Convention on Mutual Assistance in Criminal Matters drawn up in Strasbourg on 20.04.1959 (Journal of Laws of 2004, item 1476).

- ***Does the legislation apply to civil, commercial, criminal matters or all of them? Does it also apply to other areas, such as administrative matters?***

The legislation apply to civil & commercial matters as well as criminal proceedings (as stated above).

- ***How do the procedural rules guarantee the right to an effective and equal access to the court, the respect of the adversarial character of the proceedings, the equality of arms, the possibility to present evidence and defend the case, and the fairness of the proceedings?***

Holding a remote meeting is possible only if it guarantees full protection of the procedural rights of the parties and the proper course of the proceedings. The general principles of civil and criminal procedures apply and ensure that the parties have the opportunity to submit evidence and participate in the proceedings. The participants shall be informed of the opportunity to appear in the courtroom or to declare their intention to remotely participate in the session. Such a condition follows directly from the cited provisions.

- ***Is the right of the party to be assisted by a lawyer prior to and during the hearing safeguarded and how is confidentiality of lawyer-client communication at the hearing ensured?***

In civil procedure the general rules on the representation of a party by a professional representative apply to remote hearings. The party has a right to be assisted by a lawyer. There are no special arrangements to safeguard the confidentiality of the parties' communications with the lawyer. General rules of civil procedure apply.

In criminal procedure in order to ensure that videoconferencing hearings are conducted with access to a lawyer, the dates for such actions are, as a general rule, set with due regard to the availability of attorneys. Confidentiality of communication can be ensured during the hearing by, for example, breaks ordered by the Court, also at the request of the attorneys (Article 401 Code of criminal procedure). During a break, a party may contact his or her attorney, e.g. by telephone, and it is for the Court to decide whether to order a break to ensure adequate safeguards for the parties.

- ***Is the public character of the hearing preserved and how is this done? How do the procedural rules regulate the privacy of a hearing behind closed doors?***

In civil procedure members of the public or trusted persons can take part in remote sessions based on the regulation of art. 151 § 5 Code of Civil Procedure. The provisions of art. 151 § 5 Code of Civil Procedure applies mutatis mutandis to participants indicating their participation in the session as members of the public or as trusted persons. The members of the public or trusted persons to take part in remote sessions must communicate this intention no later than 3 working days before the scheduled session and provide an email address. If the hearing is behind closed doors, it cannot be conducted remotely. Exceptionally, it may be remote, but the parties may not connect from outside the court but from another court building. An exception to this rule is art. 427 Code of Civil Procedure in regard to matrimonial cases, besides the hearing behind closed doors, the evidence can be conducted remotely.

In criminal procedure as a general rule, the court hearing is held in public. The course of recorded actions, including hearings, may also be recorded by means of a sound or image recording device, of which the persons participating in the action must be informed before the device is activated. In such a case, the party, defence counsel, attorney and legal representative has the right to receive one copy of the sound or image recording against payment (Article 147 of the Code of Criminal Procedure). At the same time, the court may exclude publicity (hearing behind closed doors) of the trial in certain cases, e.g. (Articles 179, 180, 185a, 359, 360), which concern e.g. keeping of relevant professional secrets or regarding minors.

Technical considerations and interoperability

Main questions

– ***Do you have technical infrastructure for conducting videoconferencing?***

Yes, Poland has technical infrastructure for conducting videoconferencing in courts. During the pandemic we built infrastructure to cover the needs of all common courts in Poland.

– ***What videoconferencing tools/platform do you use for organising court hearings by videoconferencing?***

The remote hearing can be conducted only with simultaneous video and audio transmission. The technical requirements for the systems are laid down in the announcement of Minister of Justice referred below. Videoconferencing systems which are standard systems for conducting a remote hearing are Jitsi (WebRTC), Avaya Equinox (H.232, SIP, WebRTC). The two systems are provided and maintained by the Ministry of Justice.

– ***Do you provide some interoperability guidelines to connect to a judicial hearing through VTC?***

In art. 151 § 9 Code of Civil Procedure there is a statutory delegation for the Minister of Justice to announce on the entity's website the Public Information Bulletin, information on the technical standards of software and hardware requirements necessary to participate in a remote session.

The technical standards of software and hardware requirements necessary to participate in a remote session were issued on 5th March 2024 r. by the Minister of Justice, including minimum hardware requirements for PCs, minimum hardware requirements for Macs, and minimum requirements for mobile devices.

In art. 235 § 3 Code of Civil Procedure there is a statutory delegation for the Minister of Justice to issue a regulation on the types of equipment and technical means used in the court building for conducting evidence in a remote session, the manner of using such equipment and means, as well as the manner of storing, reproducing and copying the records made during remote session.

The regulation was issued on 11th March 2024 r. by the Minister of Justice.

The standards are also used in criminal procedure.

Complementary questions

– ***How do videoconferencing tools/platform, to the extent possible, ensure compatibility between the devices and the software used by participants?***

The videoconferencing systems can be used on PCs (web browser), mobile devices (web browser, mobile application) and Macs (web browser), if they meet requirements listed in abovementioned announcement of Minister of Justice. As aforementioned the Ministry of Justice provides two systems Jitsi (preferred) and Avaya Equinox (optional). The first one is preferred as it is open-source and provides the capability to scale to more than a thousand of simultaneous videoconferences. The second one is provided to maintain the backward compatibility with the systems that do not have a capability to work with the WebRTC protocol. It is scaled to provide approximately a hundred of simultaneous videoconferences.

- ***Do they ensure an experience similar to an in-person hearing in a court room, and if so, how? Do they allow all participants to the session, especially the judge, to recognise each other visually, and to see both the speaker asking questions or making statements and the reaction of the listeners, during the videoconference, and if so, how?***

Yes, they ensure an experience similar to an in-person hearing in a courtroom for all participants in the hearing being visible at the same time, both the court and the participants see each other, the judge can recognize each participant visually. The remote session may only be conducted with simultaneous transmission of vision and sound.

- ***Do they provide for a sufficient level of assurance as regards the identification and authentication of the parties, and if so, how?***

At present, general provisions apply to the identification and authentication of the parties. The court may check the personal data of people present on the basis of an ID or other document proving identity. During the remote session parties present their identity document to the camera.

- ***Is a separate, secure and confidential, side-band channel provided that allows for consultations between a party and his/her lawyer?***

There is no separate, secure and confidential side-band channel provided for consultations between a party and his/her lawyer.

- ***Is two-way interpretation provided for participants not fluent in the language of the court?***

The official language before the courts in Poland is Polish. The person who is not sufficiently proficient in Polish shall have the right to appear before the court in the language he knows and to be assisted by an interpreter free of charge. The granting of an interpreter to a person shall be decided by the court competent to hear the case in the first instance. A request for an interpreter made in the course of a case shall be considered by the court of that instance in which the case is pending (art. 5 of the Law on the common courts (Journal of Laws of 2024 r. position 334 as amended)).

Information for individuals

Main question

- *Is information available for individuals concerning the procedural and technical requirements for organising court hearings by videoconferencing? What does that information cover (how to connect, identify, participate, ...)?*

When summoning to a court hearing, the participant shall be informed whether they can participate in the court hearing remotely (art. 150 § 1 Code of Civil Procedure).

When summoning to a remote hearing, the participants shall be informed of the possibility of appearing in the courtroom or indicating the intention to participate remotely in the session, and they shall be advised that this intention must be communicated no later than 3 working days before the scheduled session and that to effectively communicate the intention, it is sufficient to comply with the form specified in Article 2261(2)(b), while simultaneously providing an email address. In such a case, at least 24 hours before the session, information shall also be provided on the content of § 2, 3, and 6-8, the website address containing the announcement referred to in § 9, and the method of joining the remote session (art. 151 § 5 Code of Civil Procedure).

Additional information on court hearings by videoconferencing available to all viewers is published on court websites, including the possibility of carrying out a test connection, contact to the support centre and documents: Rules of Procedure for the Videoconferencing System, Instructions for installing and testing connection of Scopia, Instructions for participating in a hearing conducted via Jitsi and Videoconferencing participant good practice kit. The publication of this information follows well-established good practice.

Complementary question

- *Are there specific information or materials available for specific groups, in particular vulnerable groups, children, or persons with disabilities?*

There is no specific information or materials available for specific groups, just a general information for all concerned.

Accessibility

Complementary questions

- *Has national infrastructure been assessed regarding special needs, for example regarding catering for the needs of people with reduced mobility, hard of hearing and visual impairments?*

The national infrastructure meets the Web Content Accessibility Guidelines 2.1. for the needs of people with reduced mobility, hard of hearing and visual impairments.

- *Do the tools/platforms currently used provide accessibility features, such as use of specific fonts, contrasting colours, and text-to-speech/speech-to-text tools?*

The Jitsi platform is WCAG 2.1 compliant starting with version 2.0.9457 published April 24th

The Avaya Equinox platform is also compliant with WCAG 2.1.

Training, feedbacks, and statistics on videoconferencing

Complementary questions

- *Do you provide special training for judges, competent authorities (depending on national legislation, notaries, bailiffs and others) and court staff? If so, how and by whom is this organised?*

We provide special training for judges and court staff. Representatives of other legal professions, including attorneys, solicitors benefit from training organised by professional self-government bodies or commercial trainings.

- *Do you collect feedback, and how, from the participants (judge, lawyer, citizen, ...)?*

We do not have a separate feedback tool. The opinions are analyzed in an unstructured manner based on the voices of practitioners and doctrine.

- *Do you have statistics or indicators on the use of videoconferencing for court hearings?*

Yes, we have statistics and indicators on the use of videoconferencing for court hearings.



Council of the
European Union

**Brussels, 31 May 2024
(OR. en)**

10600/24

LIMITE

**EJUSTICE 39
JAI 934**

NOTE

From: Presidency
To: Working Party on e-Justice
Subject: Questions concerning the use of videoconferencing for the purposes of court hearings in Member States

Delegations will find below a document containing a questionnaire on the use of videoconferencing for the purposes of Court hearings in Member States.

This document will serve as basis for discussions during the meeting of the Working Party on e-Justice on 18 June 2024.

**Questions concerning the use of videoconferencing
for the purposes of court hearings in Member States**

For many years, the topic of the promotion of the use of videoconferencing for the purposes of court hearings has featured prominently on the agenda of the Working Party (WP) on e-Justice. For a time, the topic was addressed within an expert group chaired by the Austrian delegation. The group focused on gathering best practices related to the promotion of the use of videoconferencing for court hearings, notably leading to the adoption of Council Recommendations¹ summarising the findings of the group.

However, this expert group was discontinued after the new WP mandate was approved. At the same time, videoconferencing is still an important part of the new e-Justice Strategy 2024-2028. The Strategy aims at promoting the use of videoconferencing in judicial proceedings. In particular, it tasks the Commission and Member States to improve video conference interoperability (e.g. common requirements, standards or tools for conducting remote hearings). At the same time, the Strategy puts the focus on projects related to videoconferencing, such as real time interpretation and identification of participants.

¹ Promoting the use of and sharing of best practices on cross-border videoconferencing in the area of justice in the Member States and at EU level, OJ C 250, 31.7.2015, p. 1–5, [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32015H0731\(01\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32015H0731(01))

Regulation on Digitalisation of Judicial Cooperation

The Regulation on the Digitalisation of judicial cooperation and access to justice in cross-border civil, commercial and criminal matters (Digitalisation Regulation), adopted in December 2023, establishes a legal basis for using videoconferencing in both civil and commercial matters with cross-border implications, as well as in the context of certain judicial cooperation instruments in criminal matters. Notably, the chapter 4 on the participation to a court hearing through videoconferencing will become applicable from May 1, 2025. Pursuant to Article 17 of the Digitalisation Regulation, by 17 July 2024, Member States are required to *inter alia* communicate descriptions of their national laws and procedures related to videoconferencing in accordance with Articles 5 and 6 of the Regulation. This obligation is instrumental in order to find out how the applicable national laws, in particular recently adopted or planned ones, are applying to videoconferencing.

National legal framework and Access

While the information communicated by the Member States should provide the precise information on how the national procedural rules, including recently adopted or planned ones, apply to videoconferencing, it may not cover the entire legal landscape that applies to participation in hearings by videoconference for individuals. For instance, they should be aware of the procedural conditions and consequences for attending a VTC hearing, such as the existence of a recording, provision of interpretation, or the possibility of legal assistance.

The digitalisation Regulation states, in its article 6 about the use of VC In criminal matters, that competent authorities must ensure that individuals have access to necessary infrastructure at the premises where the VTC hearing takes place. Member States must establish VTC systems, ready for cross-border cases, even if different IT systems and procedural laws are involved. Ensuring interoperability and adherence to high standards is crucial for the judiciary's effective use of videoconferencing and for ensuring individuals' fundamental rights.

Addressing Questions and Moving Forward

With this note we aim to initiate a discussion on the role the e-Justice WP should play to ensure a smooth application of those articles as of their date of application in May 2025.

To prepare the discussion during the next WP, along with future discussions, we invite delegations to answer the questionnaire below.

Due to the short deadline, we would ask the delegation to **answer by 10 June 2024** on the main questions. If delegations are not able to answer the complementary questions in that timeframe, we would welcome their answers on those by the end of June.

We would also seize the opportunity to have different ongoing initiatives aiming at facilitating hearings through videoconferencing to be presented at the next WP. We would therefore ask you to contact us if your delegation would be interested in briefly presenting such projects or best practices by the end of next week, 7 June 2024.

Questionnaire

Applicable Legal framework

Main question

- **Is there specific existing, including recently adopted, or planned legislation for the use of videoconferencing for conducting court hearings in your MS?**

There is no planned legislation for the use of videoconferencing for the moment.

The main national procedural rules governing the collection of evidence by videoconference in civil, commercial, and administrative matters, from experts, witnesses and parties are as follows:

Experts: Experts from establishments, laboratories or official services are heard by teleconference at their workplace (Article 486(2) of the Code of Civil Procedure – Código de Processo Civil).

Witnesses: Witnesses residing outside the district where the court or bench is located may be heard by means of technological equipment permitting audio and visual communication, in real time, from the court, bench or registered municipal or parish facilities, or other public building in the area in which they reside (Article 502 of the Code of Civil Procedure).

In cases being heard in courts in the metropolitan areas of Lisbon and Porto, no examinations are conducted by means of technological equipment permitting audio and visual communication in real time if the witness is a resident of the respective metropolitan area.

However, where it is impossible or extremely difficult for the person who must give evidence to appear at a court hearing 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 person giving evidence, as long as the nature of the facts to be investigated or clarified is compatible with the procedure (Article 520 of the Code of Civil Procedure).

Without prejudice to the provisions of international or European instruments, witnesses residing abroad are examined by means of technological equipment permitting audio and visual

communication in real time, whenever the necessary technological means are available at the place where they reside.

Parties: The rules for the giving of evidence by teleconference laid down in Article 502 of the Code of Civil Procedure apply to parties residing outside the district or, in the case of the Autonomous Regions, outside the island concerned (Article 456 of the Code of Civil Procedure).

- **In Criminal Matters**, during the investigation, the statement from any individual, except for the defendant, can be taken by videoconferencing or other means of communication, if they reside outside the municipality where the competent Public Prosecutor are placed.

As an exception, during the trial phase, the statement of the assistant, civil parties, witnesses, and experts can be taken by means of technological equipment permitting audio and visual communication in real time, if they reside outside the municipality where the facility of the court is located.

There is also a provision that establishes the possibility for inmates to be heard by videoconferencing from prison, with some exceptions, being one of them if they act as a defendant on those specific proceedings (Article 82-B of the Portuguese Judiciary Organisation Law). Experts from establishments, laboratories or official services are heard by teleconference at their workplace (Article 350(2) of the Code of Penal Procedure).

Complementary questions:

- **Does this legislation cover the use of videoconferencing in the context of national hearings, cross-border hearings, or both?**

When it comes to civil, commercial, and administrative matters, it covers both. On international matters witnesses residing abroad are examined by means of technological equipment permitting audio and visual communication in real time, whenever the necessary technological means are available at the place where they reside. This is without prejudice to the provisions of international or European instruments (mainly the Evidence regulation and the 1970 HCCH Evidence Convention, or bilateral agreements). The same principle applies to the parties. On criminal matters, there is no national legal provision for cross-border hearings. 2000

Convention on Mutual assistance in criminal matters, 1959 Convention on Mutual assistance in criminal matters, or the European Investigation Order, for example, are applicable.

- **Does the legislation apply to civil, commercial, criminal matters or all of them? Does it also apply to other areas, such as administrative matters?**

As already mentioned, the civil procedural code applies to civil, commercial, and administrative matters. For criminal matters, the applicable legislation is the Penal Procedural Code and the Portuguese Judiciary Organisation Law. Videoconferencing applies to all the matters referred above, but the application of the rules is different (criminal matters are stricter in the use of videoconferencing).

- **How do the procedural rules guarantee the right to an effective and equal access to the court, the respect of the adversarial character of the proceedings, the equality of arms, the possibility to present evidence and defend the case, and the fairness of the proceedings?**

In the Portuguese legal system, access to videoconferencing is provided for in Article 502 of the Code of Civil Procedure, and exists precisely to guarantee fairness and equity in the treatment of witnesses. Thus, distance is no longer a determining factor for people to be heard at trial.

Access to videoconferencing can be requested by any of the parties in court, and be granted regardless of the quality of the procedural intervener, i.e. both defendants and plaintiffs can request to be heard by videoconference, thus guaranteeing equality between the parties and the fairness of the process.

On the other hand, any evidence presented during a videoconference can be analyzed by the other party in court, with the judge granting time to do so.

Finally, it should be noted that whenever the judge considers that the use of videoconferencing could distort the proceedings in question, for example by hindering access to certain evidence, or consider that it is not convenient, he or she may refuse access to the videoconference and must give reasons for this decision (which may still be appealed).

- **Is the right of the party to be assisted by a lawyer prior to and during the hearing safeguarded and how is confidentiality of lawyer-client communication at the hearing ensured?**

In criminal matters, although there is no specific provision allowing the use of videoconference for the defendant, the use of videoconferencing can be authorized by the judge, and parties will be informed accordingly.

- **Is the public character of the hearing preserved and how is this done? How do the procedural rules regulate the privacy of a hearing behind closed doors?**

The court, with the presence of the judge and legal representatives, should convene in a courtroom.

Whenever hearings are public, everyone who wants to be present at the hearing can do so. Videoconferencing happens during that hearing in real time, available for all those who are attending. Our procedural law determines that hearings are public, except if the judge determines otherwise (article 606 (1) of the civil procedural code, and 87.º of the Penal Procedural Code - limits or restrictions to the public character can be determined by law or by the judge).

Technical considerations and interoperability

Main questions

- **Do you have technical infrastructure for conducting videoconferencing?**

All court rooms in Portugal are equipped with technical infrastructure for conducting videoconferencing. There are also other rooms within the court facilities with such equipment.

- **What videoconferencing tools/platform do you use for organising court hearings by videoconferencing?**

We have the VTC equipment, and also use the Webex platform.

- **Do you provide some interoperability guidelines to connect to a judicial hearing through VTC?**

There are some guidelines, and also the local support by a technician.

Complementary questions

- **How do videoconferencing tools/platform, to the extent possible, ensure compatibility between the devices and the software used by participants?**

- **Do they ensure an experience similar to an in-person hearing in a court room, and if so, how? Do they allow all participants to the session, especially the judge, to recognise each other visually, and to see both the speaker asking questions or making statements and the reaction of the listeners, during the videoconference, and if so, how?**

Using the most common equipment's and infrastructures it is possible for all participants to see, hear and recognise each other visually. Whenever other means of communication at the distance are used, there might be some limitations.

- **Do they provide for a sufficient level of assurance as regards the identification and authentication of the parties, and if so, how?**

Identification and authentication is different according to the means of communication and platforms used. When heard from another court, people are identified before a court official.

- **Is a separate, secure and confidential, side-band channel provided that allows for consultations between a party and his/her lawyer?**

A platform such as Webex (commonly used for the courts in Portugal) can provide for separate rooms, if necessary, for such purpose.

- **Is two-way interpretation provided for participants not fluent in the language of the court?**

Yes. Parties have the right to an interpreter, if necessary.

Information for individuals

Main question

- **Is information available for individuals concerning the procedural and technical requirements for organising court hearings by videoconferencing? What does that information cover (how to connect, identify, participate, ...)?**

There is no specific document or instructions to provide to the parties. It depends on the means of communication they are going to use, as any means of communication at a distance can be used in Portugal. According to the means of communication that will be used, some instructions are provided from the court. If a platform, such as Webex, is used, a link is provided to have access to the hearing. Basic guidelines are provided on the notification they receive from the court.

Complementary question

- **Are there specific information or materials available for specific groups, in particular vulnerable groups, children, or persons with disabilities?**

There is a specific document for this effect. The document includes information about videoconferencing, the right to an interpreter (including sign language) and if necessary, how to get reimbursed of expenses.

Accessibility

Complementary questions

- **Has national infrastructure been assessed regarding special needs, for example regarding catering for the needs of people with reduced mobility, hard of hearing and visual impairments?**
- **Do the tools/platforms currently used provide accessibility features, such as use of specific fonts, contrasting colours, and text-to-speech/speech-to-text tools?**

Training, feedbacks, and statistics on videoconferencing

Complementary questions

- **Do you provide special training for judges, competent authorities (depending on national legislation, notaries, bailiffs and others) and court staff? If so, how and by whom is this organised?**

The Ministry of Justice provides training to court staff, along with training materials on how to use videoconferencing and recording.

- **Do you collect feedback, and how, from the participants (judge, lawyer, citizen, ...)?**

After training sessions provided to court staff, a link to a survey is sent to the participants, that submit the information anonymously.

- **Do you have statistics or indicators on the use of videoconferencing for court hearings?**

There is data available, particularly when courts use Webex (one of the most used platforms in Portugal). For other means of communication at a distance there is no specific statistics.

Questions concerning the use of videoconferencing
for the purposes of court hearings in Member States – Romania

Applicable Legal Framework

Main question

- Is there specific existing, including recently adopted, or planned legislation for the use of videoconferencing for conducting court hearings in your MS?

Only in criminal matters, the provisions from the Criminal Proceedings Code. In civil matters, temporarily, during the pandemic, there were in force, until July 2023, the Law no. 114/2021 regarding some measures in the field of justice in the context of the COVID-19 pandemic and the Law no. 220/2022 regarding the adapted capitalisation of some measures proven beneficial for the institutions in the field of justice established during the state of alert declared in order to prevent and combat the effects of the COVID-19 pandemic.

Complementary questions:

- Does this legislation cover the use of videoconferencing in the context of national hearings, cross-border hearings, or both?

In criminal cases, when hearing via videoconference is necessary, Law 302/2004 on international judicial cooperation in criminal matters is applicable.

- Does the legislation apply to civil, commercial, criminal matters or all of them? *No, only in criminal cases.*
- Does it also apply to other areas, such as administrative matters? *No.*

In criminal cases, the person in detention can be interviewed at the place of detention by videoconference, in exceptional cases and if the judicial body considers that this does not affect the proper conduct of the process or the rights and interests of the parties. Also, protected victims and injured parties have the right to be heard via videoconference or other technical means of communication at the place where they benefit from the temporary accommodation protection measure. Furthermore, it is possible to hear the threatened or protected witness without him/her being present, by means of audiovisual means of transmission, with distorted voice and image, when the other measures are not sufficient.

These provisions are also applicable for a person who is involved in an undercover investigation.

In the event that it is established through medical expertise that the suspect or defendant suffers from a serious illness, which prevents him from taking part in the criminal trial, the criminal investigation body submits a proposal to suspend criminal investigation to the prosecutor together with the file, in order to order suspension of criminal prosecution. The prosecutor orders the suspension of the criminal investigation only if, considering all the circumstances of the case, he considers that the suspect or the defendant could not be heard at the place where he is located or by means of the video conference, or that hearing him in this way would infringe on the rights or the proper conduct of the criminal investigation. If the suspension of the criminal investigation is not ordered, the questioning of the suspect or the defendant at the place where he is located or via video conference can only take place in the presence of the lawyer.

- How do the procedural rules guarantee the right to an effective and equal access to the court, the respect of the adversarial character of the proceedings, the equality of arms, the possibility to present evidence and defend the case, and the fairness of the proceedings?

During hearing by videoconference, all the procedural rules regulating criminal trial are applicable. The person has the right to be assisted by a lawyer or an interpreter, he/she can exercise his/her rights to propose evidence, to question the witnesses/other parties, to raise exceptions and present conclusions.

- Is the right of the party to be assisted by a lawyer prior to and during the hearing safeguarded and how is confidentiality of lawyer-client communication at the hearing ensured?

In criminal cases, the suspect or defendant has the right to consult with the lawyer both before and during the hearing. When the detained person is heard via videoconference and he/she is in one of the situations when assistance by a lawyer is compulsory, the person can only be heard if he/she is assisted by a lawyer, at the place of detention. If criminal investigation is not suspended, in cases the suspect or defendant suffers from a serious illness, which prevents him from taking part in the criminal trial, the questioning of the suspect or the defendant at the place where he is located or via video conference can only take place in the presence of the lawyer.

Is the public character of the hearing preserved and how is this done?

The general procedural rules apply. The hearing is conducted in the courtroom, the public character of the hearings being the rule in criminal cases. The judgment of the case is made before the court constituted according to the law and is carried out in session, orally, directly and in adversarial proceedings.

How do the procedural rules regulate the privacy of a hearing behind closed doors?

In criminal cases, the minors under 18 can attend public sessions only if they are parties or witnesses. If the trial in open session could harm state interests, morals, dignity or private life of a person, the interests of minors or justice, the court, at the request of the prosecutor, the parties or ex officio, may declare a non-public session for the entire course or for a certain part of the trial of the case. The court session is declared closed for its entire course ex officio or at the express request of the injured person or the prosecutor, if the injured person is a minor and is the victim of one of the following crimes: abuse, family violence, slavery, trafficking in persons or in minors, forced labor, pimping, exploitation, child prostitution. The court can also declare a closed hearing at the request of a witness, if his hearing in public hearing would harm the safety or dignity or intimate life of him or his family members, or at the request of the prosecutor, the injured person or the parties, if a public hearing would endanger the confidentiality of some information.

The declaration of the non-public hearing is done in open hearing, after listening to the parties present, the injured person and the prosecutor. The order of the court is enforceable. While the session is closed to the public, only the parties, the injured person, their representatives, lawyers and other persons whose presence is authorized by the court are admitted to the meeting room. The parties, the injured person, their representatives, lawyers and experts appointed in the case have the right to be aware of the documents and the contents of the file.

The president of the panel has the duty to inform the people who participate in the trial held in closed session of the obligation to preserve the confidentiality of the information obtained during the process.

During the trial, the court may prohibit the publication and dissemination, by written or audiovisual means, of texts, drawings, photographs or images likely to reveal the identity of the injured person, the civil party, the civilly responsible party or witnesses.

Technical considerations and interoperability

Main questions

- Do you have technical infrastructure for conducting videoconferencing? *Yes*
-

- What videoconferencing tools/platform do you use for organising court hearings by videoconferencing?

Custom in-house developed IT solutions / Zoom, Teams etc. which integrates, though a connector, more platforms for videoconferencing. At the level of the courts, for the programming and running of the videoconferences, an IT platform/solution is used for scheduling and conducting videoconferences, which, through a connector, integrates several specific platforms (Zoom, Teams, etc.)

- Do you provide some interoperability guidelines to connect to a judicial hearing through VTC?
Yes

Complementary questions

- How do videoconferencing tools/platform, to the extent possible, ensure compatibility between the devices and the software used by participants?

The participants do not use their own tools, but tools provided by the court. No problems were recorded.

- Do they ensure an experience similar to an in-person hearing in a court room, and if so, how? Do they allow all participants to the session, especially the judge, to recognise each other visually, and to see both the speaker asking questions or making statements and the reaction of the listeners, during the videoconference, and if so, how?

The systems allow, as the case may be, with the exception of the hearing of witnesses with protected identity, both audio stream and video stream. The systems allow, as the case may be, except for the hearing of witnesses with protected identity, both audio and video streams

- Do they provide for a sufficient level of assurance as regards the identification and authentication of the parties, and if so, how? *There is no special technical procedure.*
- Is a separate, secure and confidential, side-band channel provided that allows for consultations between a party and his/her lawyer? *As the case may be, depending on the platform used. For example, if the Zoom platform is used, then it allows the party to have a line with the interpreter.*
- Is two-way interpretation provided for participants not fluent in the language of the court?
Currently developing a speech- to text tool

Information for individuals

Main question

- Is information available for individuals concerning the procedural and technical requirements for organising court hearings by videoconferencing? What does that information cover (how to connect, identify, participate, ...)?

The subpoena may include the mention that the court session will be held by means of audiovisual telecommunication, the indicative time interval for the calling of the case, as well as the technical method of access and authentication. When necessary, the parties will also be notified by telephone, by e-mail or by other such means that ensure the transmission of the notice and confirmation of its receipt about the holding of the court session by means of audiovisual telecommunications, even if they are aware of the deadline.

Complementary question

- Are there specific information or materials available for specific groups, in particular vulnerable groups, children, or persons with disabilities? *No*

Accessibility

Complementary questions

- Has national infrastructure been assessed regarding special needs, for example regarding catering for the needs of people with reduced mobility, hard of hearing and visual impairments?

No

- Do the tools/platforms currently used provide accessibility features, such as use of specific fonts, contrasting colours, and text-to-speech/speech-to-text tools?

Yes, they allow adjusting certain fonts and colours. Currently, a text-to-speech/speech-to-text tool is being developed that will be able to be used in the future.

Training, feedbacks, and statistics on videoconferencing

Complementary questions

- Do you provide special training for judges, competent authorities (depending on national legislation, notaries, bailiffs and others) and court staff? If so, how and by whom is this organised?

Regarding the initial training of future judges and prosecutors, organized by the National Institute of Magistracy, the Informatics discipline provided for in the training program aims to harmonize and complete the notions in the field for judicial auditors with a view to their

complementary training in order to use IT resources, to facilitate activities specific to the field of activity. This training takes place in a face-to-face format, with the use of specific technological means.

The continuous training of judges and prosecutors in the field of digitalization (with the theme Digital tools for planning, organizing and streamlining professional activity), organized by the National Institute of Magistracy, aims to initiate judges and prosecutors in identifying and familiarizing themselves with various digital tools and their specifics, as well as learning the skills to use online resources relevant to their professional field. This type of training is conducted online.

Training is in general provided – at national level at the National School of Clerks - when the object of training is a certain EU instrument or certain EU instruments, like 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) (recast) or the Directive regarding the European Investigation Order in criminal matters adopted on 3 April 2014. The National School of Clerks does not organize training for IT experts. An IT training will be organized at the National School of Clerks if the status of the profession of clerks is modified in this sense

- Do you collect feedback, and how, from the participants (judge, lawyer, citizen, ...)? **No**
 - Do you have statistics or indicators on the use of videoconferencing for court hearings? **Yes**
-



Ministry of Justice
Division for Crime Policy
Senior advisor

[REDACTED]
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SE replies to Questionnaire on Videoconferencing (st 10600/2024)

Applicable Legal framework

Main question

Is there specific existing, including recently adopted, or planned legislation for the use of videoconferencing for conducting court hearings in your MS?

SE reply: All Swedish courts are equipped with technology for the use of videoconferencing. Legislation for the use of videoconference has been in place since 2008 and is applied extensively. The rules were last amended in 2019 to further the use of videoconference even more. There are currently no planned legislation but initiatives have been taken to increase accessibility to the technology in order to enable participation in court hearings by videoconference in more cases.

Chapter 5 Section 10 of The Swedish Code of Judicial Procedure stipulates that the court may decide that a person who is to participate in a hearing or meeting before the court shall participate by audio and video transmission if there are grounds for it. When assessing whether there are grounds for such participation the court should take particular account of

- 1. the costs or inconveniences that would arise if the person who is to participate in the meeting must appear physically in the courtroom,*
- 2. if someone who is to participate in the meeting feels afraid to be present in the courtroom,*
- 3. if it can be assumed that someone who is to participate in the meeting is being pressured, and*
- 4. if it is necessary for security reasons.*

Participation through audio and video transmission may not take place if it is inappropriate with regard to the purpose of the person's participation or other circumstances.

Complementary questions:

Does this legislation cover the use of videoconferencing in the context of national hearings, cross-border hearings, or both?

SE reply: Both. However, when conducting cross-border hearings EU or international rules and regulations have precedence.

Does the legislation apply to civil, commercial, criminal matters or all of them? Does it also apply to other areas, such as administrative matters?

SE reply: All the above.

How do the procedural rules guarantee the right to an effective and equal access to the court, the respect of the adversarial character of the proceedings, the equality of arms, the possibility to present evidence and defend the case, and the fairness of the proceedings?

SE reply: According to the Swedish Code of Judicial Procedure participation by videoconference shall be considered equal to physical participation. The same rights and obligations apply. The court has the responsibility to make sure the rights mentioned are upheld in both situations.

Is the right of the party to be assisted by a lawyer prior to and during the hearing safeguarded and how is confidentiality of lawyer-client communication at the hearing ensured?

SE reply: The same rules apply as for physical participation and the court must make sure that the rules can be upheld in both situations.

Is the public character of the hearing preserved and how is this done? How do the procedural rules regulate the privacy of a hearing behind closed doors?

SE reply: When a party, witness or other person participates through videoconference the public can follow the videoconference from the courtroom. If the doors are closed the public

must leave the courtroom, i.e. the same rules apply as when the party, witness or other person is physically present in the courtroom.

Technical considerations and interoperability

Main questions

Do you have technical infrastructure for conducting videoconferencing?

SE reply: Yes

What videoconferencing tools/platform do you use for organising court hearings by videoconferencing?

SE reply: Cisco and Minivas

Do you provide some interoperability guidelines to connect to a judicial hearing through VTC?

SE reply: Yes

Complementary questions

How do videoconferencing tools/platform, to the extent possible, ensure compatibility between the devices and the software used by participants?

SE reply: We follow video conference standards.

Do they ensure an experience similar to an in-person hearing in a court room, and if so, how?

SE reply: Yes, for example by placing the video conference cameras so that the court personnel naturally look into the cameras.

Do they allow all participants to the session, especially the judge, to recognise each other visually, and to see both the speaker asking questions or making statements and the reaction of the listeners, during the videoconference, and if so, how?

SE reply: Yes, the court clerk is responsible for choosing which camera is showing which person.

Do they provide for a sufficient level of assurance as regards the identification and authentication of the parties, and if so, how?

SE reply: The same rules apply as for physical participation.

Is a separate, secure and confidential, side-band channel provided that allows for consultations between a party and his/her lawyer?

SE reply: No

Is two-way interpretation provided for participants not fluent in the language of the court?

SE reply: Yes, both in the court room and via video conference.

Information for individuals

Main question

Is information available for individuals concerning the procedural and technical requirements for organising court hearings by videoconferencing? What does that information cover (how to connect, identify, participate, ...)?

SE reply: There is some information for the public at the website of the Swedish National Courts Administration (domstol.se), but the courts are responsible for informing everyone of how they will attend the hearing. The information covers everything they need to know to connect and participate in the hearing.

Complementary question

Are there specific information or materials available for specific groups, in particular vulnerable groups, children, or persons with disabilities?

SE reply: Not to our knowledge.

Accessibility

Complementary questions

Has national infrastructure been assessed regarding special needs, for example regarding catering for the needs of people with reduced mobility, hard of hearing and visual impairments?

SE reply: The Swedish courts provide certain infrastructure such as assistive listening systems to individuals who have hard of hearing.

Do the tools/platforms currently used provide accessibility features, such as use of specific fonts, contrasting colours, and text-to-speech/speech-to-text tools?

SE reply: No, the video conference platform does not provide such features.

Training, feedbacks, and statistics on videoconferencing

Complementary questions

Do you provide special training for judges, competent authorities (depending on national legislation, notaries, bailiffs and others) and court staff? If so, how and by whom is this organised?

SE reply: Yes, organised at a central level by the National courts administration.

Do you collect feedback, and how, from the participants (judge, lawyer, citizen, ...)?

SE reply: Yes, continuously.

Do you have statistics or indicators on the use of videoconferencing for court hearings?

SE reply: Yes, but only video conference to /from our court rooms, not the central MCU/CMS. We have statistics going back to 2011.

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ANNEX JAI 2 LIMITE EN

Questionnaire

SK answers

Applicable Legal framework

Main question

– Is there specific existing, including recently adopted, or planned legislation for the use of videoconferencing for conducting court hearings in your MS?

Yes, our civil procedural rules enable to conduct the hearing via videoconference(VTC) if the physical presence of the person is not necessary in order to conduct a fair trial (§ 175 Civil Procedural Code no. 160/2015).

Videoconferencing is utilized across criminal proceedings. According to the provisions of the Criminal Procedure Code (§ 61b and others), for example, it is possible to conduct an interrogation via video conferencing equipment. Furthermore, as an example, in justified cases, interpretation can also be provided through video conferencing equipment (§ 28 para. 8 of the Criminal Procedure Code).

VTC can also be used in administrative justice (§ 117 para. 3 of the Administrative Judicial Code), if the physical presence of a participant in the proceedings at the hearing is not required to ensure a fair process.

In addition, VTC can be used in non-litigation proceedings, based on the subsidiary application of the provisions of the Civil Litigation Code.

Complementary questions:

– Does this legislation cover the use of videoconferencing in the context of national hearings, cross-border hearings, or both?

It is not specified.

– Does the legislation apply to civil, commercial, criminal matters or all of them? Does it also apply to other areas, such as administrative matters?

Yes, the legislation regarding the use of VTC has been implemented in civil, criminal and administrative matters.

– How do the procedural rules guarantee the right to an effective and equal access to the court, the respect of the adversarial character of the proceedings, the equality of arms, the possibility to present evidence and defend the case, and the fairness of the proceedings?

It is up to the judge to make sure that the procedural rules are guaranteed. It follows from the cited provision that the videoconference is possible only if fair trial is followed.

Regarding criminal proceedings, Videoconferencing (VTC) is one of the options that strengthen the position of more vulnerable individuals in the process and whose use is directed towards maintaining a fair trial. For example, § 121 paragraph 4 of the Criminal Procedure Code stipulates that an accused person who is provided with protection and assistance according to a special witness protection regulation may be interrogated via video conferencing equipment. According to the provisions of § 134 and 135 of the Criminal Procedure Code, witnesses who cannot attend the hearing for serious reasons (e.g. due to illness) or witnesses at risk of secondary victimization may also be heard through video conferencing equipment.

– Is the right of the party to be assisted by a lawyer prior to and during the hearing safeguarded and how is confidentiality of lawyer-client communication at the hearing ensured?

VTC is a tool through which the hearing can be carried out. The hearing is realized in the same way as in person. All rules and guarantees are followed (eg. temporary muting the sound during the consolation between clients and attorney).

– Is the public character of the hearing preserved and how is this done? How do the procedural rules regulate the privacy of a hearing behind closed doors?

If the hearing takes place behind closed doors and without presence of public, the public can be later informed about the content/subject matter of the hearing, because hearings are recorded. This recording is part of the electronic judicial file where the access can be granted.

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ANNEX JAI 2 LIMITE EN

Technical considerations and interoperability

Main questions

– Do you have technical infrastructure for conducting videoconferencing?

Yes.

– What videoconferencing tools/platform do you use for organising court hearings by videoconferencing?

Cisco Webex

– Do you provide some interoperability guidelines to connect to a judicial hearing through VTC?

Usually no, but can be provided if needed.

Complementary questions

– How do videoconferencing tools/platform, to the extent possible, ensure compatibility between the devices and the software used by participants?

Cisco Webex has a website based client available through major internet browsers.

– Do they ensure an experience similar to an in-person hearing in a court room, and if so, how?

Do they allow all participants to the session, especially the judge, to recognise each other visually, and to see both the speaker asking questions or making statements and the reaction of the listeners, during the videoconference, and if so, how?

VTC is used mostly for hearing of a witness.

– Do they provide for a sufficient level of assurance as regards the identification and authentication of the parties, and if so, how?

– Is a separate, secure and confidential, side-band channel provided that allows for consultations between a party and his/her lawyer?

No.

– Is two-way interpretation provided for participants not fluent in the language of the court?

No.

Information for individuals

Main question

– Is information available for individuals concerning the procedural and technical requirements for organising court hearings by videoconferencing? What does that information cover (how to connect, identify, participate, ...)?

No.

Complementary question

– Are there specific information or materials available for specific groups, in particular vulnerable groups, children, or persons with disabilities?

Accessibility

Complementary questions

- Has national infrastructure been assessed regarding special needs, for example regarding catering for the needs of people with reduced mobility, hard of hearing and visual impairments?
- Do the tools/platforms currently used provide accessibility features, such as use of specific fonts, contrasting colours, and text-to-speech/speech-to-text tools?

Training, feedbacks, and statistics on videoconferencing

Complementary questions

- Do you provide special training for judges, competent authorities (depending on national legislation, notaries, bailiffs and others) and court staff? If so, how and by whom is this organised?

Yes, training is organized upon request.

- Do you collect feedback, and how, from the participants (judge, lawyer, citizen, ...)?

In this context, we refer to § 61b paragraph 5 of the Criminal Procedure Code, according to which the person being interrogated may raise objections to the quality of the video or audio transmission at any time during the interrogation; this fact is noted in the minutes of the interrogation, and does not prevent the continuation of the interrogation if technical problems with the video and audio transmission have been resolved. We are not aware of any comprehensive collection of feedback regarding the use of VTC.

- Do you have statistics or indicators on the use of videoconferencing for court hearing

No.