

One can equally imagine recourse to video conference techniques in terms of Chapter II of the Hague Evidence Convention. Authorisation is in this case subject to the same conditions as in the “traditional” cases of authorisation (see III.C.1.2, p. 28). However, the fact that the persons are not in the same location suggests that an identification procedure is required.

The costs related to a hearing by video conference can be charged to the requesting state (Art. 9 para. 2, Art. 14 para. 2 Hague Evidence Convention).

Since 2022 (initially as an exception during the COVID-19 pandemic and as a rule since July 2024), the FDJP has also applied Chapter II of the 1970 Hague Convention to hearings by videoconference that take place in the context of proceedings in a non-contracting state. The provisions in question are only applied here by analogy, based on Art. 271 para. 1 SCC and Art. 31 para. 1 of the Government and Administration Organisation Ordinance (RVOV; SR 172.010.1).

2. Hearing by Telephone

Under the Hague Evidence Convention, a hearing by telephone is conceivable under the same conditions as a hearing by video conference. However, the problem of identifying the parties is even more pronounced in the case of a telephone hearing than in the case of a video conference hearing. In addition, the formal aspect of a normal hearing, which encourages the witness to respond carefully to the questions asked, is lacking in the case of a telephone hearing.

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Modifications of the guidelines

July 1, 2024: III.D.1: Taking of evidence by video-link outside of the 1970 Hague Convention