

# **Requirements of foreign jurisdictions on the taking of evidence given voluntarily by way of live video-link from a witness located in their jurisdiction in civil proceedings before Singapore courts**

This document contains information on the requirements of specified foreign jurisdictions that must be complied with in order for a witness located in those jurisdictions to voluntarily give evidence via live video-link in civil proceedings before a Singapore court.

The information contained herein has been collated on a best-efforts basis, based on information received from the respective foreign jurisdictions. No part of this publication is intended to be, or should be construed as, legal advice. While care has been taken in the collation of information in this publication, the Singapore Academy of Law and the Government of Singapore do not represent or warrant that any information provided in this publication is up-to-date, complete, sufficient for the purposes of any court application, or accurate (see [Disclaimer](#) below).

Please note that a party that intends to call a witness outside Singapore to give evidence before the Singapore courts via live video-link must also comply with prevailing requirements under Singapore law (including the Evidence Act and the applicable Rules of Court) and any applicable practice directions issued by the Singapore courts.

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## Jurisdictions

### 1. Commonwealth of Australia

Litigants who wish to take evidence from witnesses located in Australia via live video-link in civil proceedings before a Singapore court may refer to the Australia section of the *Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters* portion of the Hague Conference on Private International Law's website (<https://www.hcch.net/en/states/authorities/details3/?aid=485>), in particular the "Practical Information (Information about domestic rules on the taking of evidence)" part, as well as the "Taking evidence across international borders" page on the Australian Attorney-General's Department website (<https://www.ag.gov.au/international-relations/private-international-law/taking-evidence-across-international-borders>) for further information. (These websites were last accessed on 22 July 2021.)

### 2. Hellenic Republic (Greece)

As at 7 April 2021, for witnesses located in Greece, the Greek authorities' permission must be sought for evidence to be given by such witnesses via live video-link in civil proceedings before a Singapore court. Such permission should be obtained through the issuance of a letter of request by the Singapore court to the Hellenic Ministry of Justice pursuant to the *Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters*.

Therefore, litigants who wish to take such evidence should make an application to the relevant Singapore court in accordance with the applicable Rules of Court providing for the taking of evidence by live video link or live television link. If such application is granted, the Singapore court will then issue the said letter of request to the Hellenic Ministry of Justice. Litigants are to take note of Part II(a) of the Country Profile of Greece dated 24 July 2017, relating to the subject "*Taking of Evidence by Video-Link under the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters*", on the Hague Conference on Private International Law's website (<https://www.hcch.net/en/publications-and-studies/details4/?pid=6546&dtid=42>; last accessed on 27 September 2022).

### 3. Japan

As at 25 March 2021, Japan does not allow evidence to be given by witnesses located in Japan via live video-link in civil proceedings before a Singapore court.

#### **4. Kingdom of Spain**

As at 22 April 2021, for witnesses located in Spain, the Spanish authorities' permission must be sought for evidence to be given by such witnesses via live video-link in civil proceedings before a Singapore court. Such permission should be obtained through the issuance of a letter of request by the Singapore court to the Subdirección General de Cooperación Jurídica Internacional, Ministry of Justice of Spain, pursuant to the Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters.

Therefore, litigants who wish to take such evidence should make an application to the relevant Singapore court in accordance with the applicable Rules of Court providing for the taking of evidence by live video link or live television link. If such application is granted, the Singapore court will then issue the said letter of request to the Subdirección General de Cooperación Jurídica Internacional, Ministry of Justice of Spain.

#### **5. Kingdom of Sweden**

As at 11 August 2021, for witnesses located in Sweden, the Swedish authorities' permission must be sought for evidence to be given by such witnesses via live video-link in civil proceedings before a Singapore court. Such permission should be obtained through a request made by the Singapore authorities to the Ministry of Justice of Sweden.

Therefore, litigants who wish to take such evidence should make an application to the relevant Singapore court in accordance with the applicable Rules of Court providing for the taking of evidence by live video link or live television link. If such application is granted, the Singapore court will then arrange to seek the permission of the Ministry of Justice of Sweden.

#### **6. Malaysia**

As at 25 March 2021, for witnesses located in Malaysia, where such witnesses will be giving evidence on a voluntary basis and the intervention of the High Court of Malaysia is not otherwise required, the Malaysian authorities' permission does not need to be sought for evidence to be given by such witnesses via live video-link in civil proceedings before a Singapore court.

#### **7. Republic of Finland**

As at 15 April 2021, for witnesses located in Finland, the Finnish authorities' permission must be sought for evidence to be given by such witnesses via live video-link in civil proceedings before a Singapore court. Such permission should be obtained through the issuance of a letter of request by the Singapore court to the Ministry of Justice of Finland pursuant to the *Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters*.

Therefore, litigants who wish to take such evidence should make an application to the relevant Singapore court in accordance with the applicable Rules of Court providing for the taking of evidence by live video link or live television link. If such application is granted, the Singapore court will then issue the said letter of request to the Ministry of Justice of Finland.

## **8. Republic of France**

As at 8 March 2021, for witnesses located in France, the French authorities' permission must be sought for evidence to be given by such witnesses via live video-link in civil proceedings before a Singapore court. Such permission should be obtained through the issuance of a letter of request by the Singapore court to the Ministère de la Justice (Ministry of Justice of France) pursuant to the *Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters*.

Therefore, litigants who wish to take such evidence should make an application to the relevant Singapore court in accordance with the applicable Rules of Court providing for the taking of evidence by live video link or live television link. If such application is granted, the Singapore court will then issue the said letter of request to the Ministère de la Justice.

## **9. Republic of Korea (“ROK”)**

As at 28 October 2022, for witnesses located in the ROK, the ROK generally does not allow evidence to be given by such witnesses via live video-link in civil proceedings before a Singapore court. However, the ROK may be prepared to consider individual requests made by the Singapore court to the National Court Administration of the ROK on a case-by-case basis if: (i) the witness in question is a Singapore Citizen; and (ii) there is no need for the Korean Central Authority or Korean Court to facilitate (e.g. to provide a courtroom, computer or support to the witness) the taking of evidence.

Therefore, litigants who wish to take such evidence should make an application to the relevant Singapore court in accordance with the applicable Rules of Court providing for the taking of evidence by live video link or live television link. If such application is granted, the Singapore court will then make a judicial cooperation request to seek the permission of the National Court Administration of the ROK (through the Ministry of Foreign Affairs of the ROK).

## **10. Republic of the Philippines**

As at 10 August 2022, the Philippines does not allow evidence to be given by witnesses located in the Philippines via live video-link in civil proceedings before a Singapore court.

## **11. Socialist Republic of Viet Nam**

As at 16 June 2021, for witnesses located in Viet Nam, the Vietnamese authorities' permission must be sought for evidence to be given by such witnesses via live video-link in civil proceedings before a Singapore court. Such permission should be obtained through the issuance of a letter of request by the Singapore court to the Ministry of Justice of the Socialist Republic of Viet Nam, pursuant to the *Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters*.

Therefore, litigants who wish to take such evidence should make an application to the relevant Singapore court in accordance with the applicable Rules of Court providing for the taking of evidence by live video link or live television link. If such application is granted, the Singapore court will then issue the said letter of request to the Ministry of Justice of the Socialist Republic of Viet Nam.

## **12. Sultanate of Oman**

As at 11 July 2021, the Omani authorities' permission does not need to be sought for evidence to be given by witnesses located in Oman via live video-link in civil proceedings before a Singapore court.

## **13. Swiss Confederation (Switzerland)**

As at 19 March 2021, for witnesses located in Switzerland, the Swiss authorities' permission must be sought for evidence to be given by such witnesses via live video-link in civil proceedings before a Singapore court.

The application must be made to the Central Authority for legal assistance in civil and commercial matters (<https://www.rhf.admin.ch/rhf/de/home/zivilrecht/behoerden/zentralbehoerden.html>; last accessed on 27 September 2022) of the canton where evidence is proposed to be taken, and all documents must be submitted in the official language of that canton. A copy of the application and enclosures should also be sent to the Federal Office of Justice, Private International Law Unit, 3003 Berne (Switzerland). A fee of CHF 100 – 5000 will need to be paid beforehand, based on Articles 5 and 13 of the Ordinance on Costs and Remuneration in Administrative Proceedings (SR 172.041.0).

After examining the application, the Central Cantonal Authority will forward the application to the Federal Office of Justice. The Swiss Federal Department of Justice and Police will grant the authorisation upon the meeting of the relevant procedural conditions and safeguards applicable under Swiss law.

Further information is available at <https://www.rhf.admin.ch/rhf/de/home/zivilrecht.html>. Questions may be directed to the Federal Office of Justice at [ipr@bj.admin.ch](mailto:ipr@bj.admin.ch).

## **14. United States of America**

As at 11 October 2022, the United States government generally has no objection to testimony being taken remotely from witnesses located in the United States (including Guam). If the United States government is a party to the proceedings or the witnesses are United States government employees, then permission from the United States government may be required.

If such permission is required, litigants who wish to take such evidence should make an application to the relevant Singapore court in accordance with the applicable Rules of Court providing for the taking of evidence by live video link or live television link. If such application is granted, the relevant Singapore court will arrange for the request to be communicated to the United States government through official state-to-state channels.

# Frequently Asked Questions

## 1. What is the purpose of this document?

Travel restrictions imposed to control the spread of COVID-19 mean that litigants in civil proceedings before the Singapore courts may face difficulties arranging for witnesses located overseas to travel to Singapore to give evidence in person before the Singapore courts.

Singapore law allows witnesses located in foreign jurisdictions to give evidence in civil proceedings before the Singapore courts by live video or live television link. (A brief discussion of the requirements under Singapore law is set out [below](#).)

Depending on the foreign jurisdiction in which the witness is located, there may, in that foreign jurisdiction, be restrictions, prohibitions or requirements on witnesses giving evidence via live video or live television link in civil proceedings in another jurisdiction (such as Singapore civil proceedings).

This document sets out the restrictions, prohibitions or requirements of specific foreign jurisdictions in respect of the giving of evidence by live video or live television link by witnesses located in those foreign jurisdictions in civil proceedings in the Singapore courts.

We hope that this information will be of assistance to litigants in Singapore by providing a quick and easy reference point for the positions of specific foreign jurisdictions. The information in this document has been collated on a best-efforts basis and is current as at the date on which the information was provided by the foreign jurisdictions.

## 2. What are the requirements under Singapore law for taking of evidence by live video or live television link?

[Section 62A](#) of Singapore's [Evidence Act](#) ("Evidence through live video or live television links") allows the Singapore courts to grant permission for a witness who is outside Singapore to give evidence by live video or live television link in civil proceedings before a Singapore court.

In addition, the relevant paragraphs of the [Supreme Court Practice Directions](#), the [Singapore International Commercial Court Practice Directions](#), the [Family Justice Courts Practice Directions](#) and the [State Courts Practice Directions](#) on "Giving of evidence by person outside Singapore through live video or live television link in any proceedings" require that litigants applying for permission under [section 62A](#) of the [Evidence Act](#) ensure that the foreign jurisdiction in which the witness is located raises no objection to that witness giving evidence in that jurisdiction for civil proceedings before the Singapore courts.

The Practice Directions set out certain steps that a litigant may take in order to ensure that no such objection is raised.

## 3. How was the information in this document collated?

The information in this document has been collated by the Singapore [Ministry of Foreign Affairs](#) and the [Ministry of Law](#) on a best-efforts basis, based on information received from the authorities of the specific foreign jurisdictions (see [Disclaimer](#) below).

#### **4. Is the information provided in this document up to date?**

The information provided in this document, in relation to a foreign jurisdiction's position, is current as at the specified date on which that information was provided by that foreign jurisdiction (see [Disclaimer](#) below).

#### **5. My witness is located in a jurisdiction not covered by this document, what do I do?**

We will update this document from time to time as we receive more information from other foreign jurisdictions. You will have to independently ascertain the restrictions, prohibitions and requirements of the relevant foreign jurisdiction, such as by engaging counsel in that jurisdiction.

#### **6. Is this information relevant to circumstances where the witness is being *compelled* to give evidence in civil proceedings before the Singapore courts?**

No. This document only publishes the positions indicated by specific foreign jurisdictions on the specific issue of whether they would permit a person located in their jurisdiction to give evidence by live video or live television link, *voluntarily*, for civil proceedings before the Singapore courts.

#### **7. Is this information relevant to *criminal* proceedings before the Singapore courts?**

No. The information in this document is limited to *civil* proceedings before the Singapore courts.

You may wish to seek advice from a Singapore solicitor with a current practising certificate from the Supreme Court of Singapore on questions regarding the remote taking of evidence by live video or live television link from witnesses located abroad for use in criminal proceedings before the Singapore courts.

A [database](#) of all Singapore solicitors with a current practising certificate from the Supreme Court of Singapore is maintained by Singapore's [Ministry of Law](#). You can, using the "Advanced Search" feature, search the database for "Singapore Practising Certificate" lawyers who have identified "Criminal Law" as one of their practice areas.

#### **8. Is this information relevant to *arbitral* proceedings seated in Singapore?**

No. The information on this document is limited to civil proceedings before the Singapore courts.

You should seek advice from a lawyer on the applicability of the information on this document for use in arbitral proceedings seated in Singapore.

A [database](#) of all Singapore solicitors with a current practising certificate from the Supreme Court of Singapore, as well as all foreign lawyers, individuals and law practice entities registered with Singapore's [Legal Services Regulatory Authority](#), is maintained by Singapore's [Ministry of Law](#). You can, using the "Advanced Search" feature, search the database for lawyers who have identified "Arbitration" as one of their practice areas.

## **9. Is this information relevant to legal proceedings before the courts of jurisdictions *other than Singapore*?**

This document contains information, provided by a foreign jurisdiction, in relation to the specific question whether it is permissible to take evidence, from a witness located in that jurisdiction, by live video or live television link *for use in civil proceedings before the Singapore courts*, and, if so, what are the relevant requirements for, or the limitations on, the taking of evidence in this manner.

### **Disclaimer**

The information provided in this document is for general informational purposes only, and is collated on a best-efforts basis. No part of this publication is intended to be, or should be construed as, legal advice. Any link to a third-party website in this publication is solely for the convenience of the reader, and shall not be taken as a recommendation or endorsement of the third-party website or any content set out therein, nor any representation of the accuracy thereof. While care has been taken in the collation of information in this publication, the Singapore Academy of Law and the Government of Singapore do not represent or warrant that any information provided in this publication is up-to-date, complete, sufficient for the purposes of any court application, or accurate. In accessing this website, you agree that the Singapore Academy of Law and the Government of Singapore shall not be liable for any loss, damage, actions, claims, demands, or costs, arising out of or in connection with the information provided in this publication, or for any reliance on the information herein.