

PHYSICAL vs VIRTUAL PRESENCE

DEFENDANTS' PARTICIPATION IN TRIALS BY VIDEOCONFERENCE
EU LAW PERSPECTIVE

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Judge at Sofia City Court

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EUROPEAN INVESTIGATION ORDER

DIRECTIVE
2014/41/EU

Art. 24 HEARING BY VIDEOCONFERENCE

- EIO for the purpose of hearing a suspected or accused person by videoconference
- Consent of the suspect/accused
- Summoning and providing information about the rights
- Exercising the rights of defence effectively
- The role of the executing authority

TRIAL VIA VIDEOCONFERENCE

CASE STUDY

EIO issued by Slovenia

- EUROPEAN INVESTIGATION ORDER - HEARING OF AN ACCUSED
- SUMMONING OF THE ACCUSED, INFORMING HIM OF HIS RIGHTS
- CONSENT TO BE INTERROGATED
- APPOINTMENT OF A LAWYER AND AN INTERPRETER
- HEARING:
 - INFORMATION OF THE RIGHTS
 - EXPLANATION OF THE INDICTMENT
 - GUILTY PLEA
 - ANNOUNCEMENT OF THE SENTENCE

RIGHT TO BE PRESENT

LEGAL GROUNDS

Art. 6 ECHR:

Right to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Rights of the accused:

- (a) to be informed promptly, in their language and in detail, of the nature and cause of the accusation;
- (b) adequate time and facilities to prepare their defence;
- (c) to defend in person or through legal assistance;
- (d) to examine witnesses;
- (e) to have the free assistance of an interpreter.

Art. 47 – 48 CHARTER OF FUNDAMENTAL RIGHTS OF EU

Rights to a fair and public hearing; reasonable time; an independent and impartial tribunal; advised, defended and represented; legal aid available to ensure effective access to justice; right of the defence guaranteed.

RIGHT TO BE PRESENT

BASIC ASPECTS

- Presence in person
- Effective participation in the trial
- Equality of arms
- Adversarial trial
- Hearing within a reasonable time
- Right to interpretation and translation
- Information of the nature and cause of the accusation
- Defence – time and facilities to prepare; legal assistance
- Right to examine witnesses
- Appeal?

TRIAL VIA VIDEOCONFERENCE

EU LAW PERSPECTIVE

- USE OF EIO:
 - guilty plea;
 - acknowledgement of the factual basis of the indictment;
 - consent to an agreement;
 - announcement of the sentence of the issuing court ?
- AMENDMENTS OF THE EIO DIRECTIVE:
 - secrecy of the communication with the lawyer;
 - participation in the interrogation of witnesses;
 - oral pleading;
 - negotiating of an agreement;
 - announcement of the sentence and appeal.
- NEW EU LEGAL INSTRUMENT?

THANK YOU!

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