



On approval of the Rules for the use of communications technology enabling to attend a court hearing and requirements therefor

Unofficial translation

Order No.7 of the Head of the Department on ensuring the activity of courts under the Supreme Court of the Republic of Kazakhstan (office of the Supreme Court of the Republic of Kazakhstan) as of October 15, 2019. Registered with the Ministry of Justice of the Republic of Kazakhstan on October 21, 2019, No. 19499.

Unofficial translation

In accordance with part four of Article 133-3 of the Civil Procedure Code of the Republic of Kazakhstan as of October 31, 2015, **I hereby ORDER:**

1. To approve the appended Rules for the use of communications technology enabling to attend a court hearing and requirements therefor.

2. The Department on organizational and legal support of the activity of local courts and registries of the Department on ensuring the activity of courts under the Supreme Court of the Republic of Kazakhstan (office of the Supreme Court of the Republic of Kazakhstan) shall:

1) ensure state registration of this order with the Ministry of the Republic of Kazakhstan;

2) place this order on the official website of the Supreme Court of the Republic of Kazakhstan;

3. This order shall take effect ten calendar days after its first official publication.

Head of the Department

N. AKHMETZAKIROV

"AGREED"

Ministry of Healthcare of
the Republic of Kazakhstan

" ____ " _____ 2019

"AGREED"

Ministry of Labor and
Social Protection of
the Republic of Kazakhstan

" ____ " _____ 2019

"AGREED"

Ministry of Internal Affairs of
the Republic of Kazakhstan

" ___ " _____ 2019

"AGREED"

Ministry of Digital Development,
Innovations and Aerospace Industry of
the Republic of Kazakhstan

_____ 2019

Approved by
Order No.7 of the Head of the
Department on ensuring the
activity of courts under the
Supreme Court of the
Republic of Kazakhstan
(office of the Supreme Court of the
Republic of Kazakhstan)
as of October 15, 2019

Rules for the use of communications technology enabling to attend a court hearing and requirements therefor

Chapter 1. General provisions

1. These Rules for the use of communications technology enabling to attend a court hearing and requirements therefor are developed in accordance with part four of Article 133-3 of the Civil Procedure Code of the Republic of Kazakhstan and establish the procedure for the use of communications technology enabling to attend a court hearing.

2. The following basic terms are used in the Rules:

1) video conferencing – a communication service using information and communication technologies for online conversational interaction of several remote subscribers, enabling them to exchange audio and video information;

2) communications technology - a combination of computer hardware, software and telecommunication technologies to establish a video link for courtrooms of two or more courts, or a courtroom and a room of an institution, as well as technology to establish a video link for a courtroom and persons participating in a case, their representatives, as well as witnesses, experts, specialists, interpreters (hereinafter referred to as trial participants) who use personal communication media connected to the Internet, with installed software for a participant in video conferencing (mobile application of the “Courtroom” service);

3) audio-, video recording of a court hearing - digital recording of video and sound using video cameras and microphones in a courtroom, and also those transmitted through data transfer networks from trial participants, using video conferencing;

4) video conferencing specialists - employees of a structural or territorial unit of the Department/court administrator appointed by the Head of the Department/court administrator to coordinate works on video conferencing;

4) persons ensuring the organization of videoconferencing - employees of a structural or territorial unit of the Judicial administration/department of the Judicial administration, determined by the Head of the Judicial administration/department of the Judicial administration to coordinate the works on conducting videoconferencing;

5) technician - a person who provides technical support for the video conferencing system in courts.

Footnote. Paragraph 2 as amended by the order of the Head of the Judicial administration of the Republic of Kazakhstan dated 06.06.2023 No. 20 (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

3. The procedure for storing and destroying audio and video recordings of court hearings is carried out in accordance with Order No.6001-15-7-6/486 of the Head of the Department on ensuring the activity of courts under the Supreme Court of the Republic of Kazakhstan (office of the Supreme Court of the Republic of Kazakhstan) as of November 24, 2015 “On Approval of the Rules for technical application of audio, video recording technology enabling to fix proceedings of a court hearing, for the storage and destruction of audio, video records, for access to audio, video records” (registered in the State Registration Register of Regulatory Legal Acts on December 22, 2015 under No. 12457).

4. Information security when using communications technology is provided by video conferencing specialists and persons responsible for the technical support of video conferencing in accordance with Law No.418-V of the Republic of Kazakhstan “On Informatization” as of November 24, 2015.

Chapter 2. Procedure for the use of communications technology enabling to attend a court hearing

5. Court hearings with video conferencing are held in courtrooms equipped with communications technology

6. Video conferencing can only be used in an open court hearing. When a court makes a ruling on proceedings in a closed court hearing, it is necessary to stop the use of communications technology.

7. A court hearing using communications technology is held at the initiative of the court or at the request of a trial participant, provided that it is technically feasible in the court considering the case, and also in the court or in the institution indicated in the application.

8. To attend a court hearing with video conferencing, a trial participant shall submit a relevant application. The latter shall be submitted to the court together with a copy of an identity document of the trial participant to confirm the representative’s authority, including a power of attorney.

9. A trial participant shall submit an application for attending a court hearing with personal communication media using the “Courtroom” service together with a photo, using which the presiding judge will establish his/her identity. One can participate in a court

hearing through the mobile application of the “Courtroom” service and using the code word entered when submitting the application.

10. Organizational preparation of a court hearing with video conferencing includes the scheduling of its date, time, place, proper informing of trial participants, including technicians

11. An applicant shall attend a court hearing with video conferencing in person.

12. Based on the resolution of the judge, the secretary of the court session, no later than three working days, shall send an application for the organization of a court session using technical means of communication (hereinafter - the application) in accordance with Appendix 1 to these Rules to the department of Judicial administration of the region in which the case is being considered, as well as to the court or institution ensuring videoconferencing, and the department of Judicial administration of the relevant region (if the participant in the process is not able to participate using personal means of communication). For the purposes of operational interaction, the secretary of the court session may send an application via e-mail, having previously agreed with the court or institution such a method of sending.

Footnote. Paragraph 12 is in the wording of the order of the Head of the Judicial administration of the Republic of Kazakhstan dated 06.06.2023 No. 20 (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

13. The court clerk, having received information on technical unfeasibility of video conferencing on a specific date and time, shall immediately inform the judge considering the case thereon to decide on further consideration of the case.

14. Trial participants, as well as the court or institution involved in the court hearing with video conferencing, shall immediately inform the court clerk on the occurrence of technical problems that might impede the scheduled court hearing. The court clerk immediately informs the judge, and also the court technician, thereon to address technical problems.

15. A video conferencing specialist, based on the application, shall:

1) using available communication media (telephone, e-mail), check technical conditions for holding a court hearing with video conferencing on a specific date and time with a court or institution providing video conferencing, as well as a video conferencing specialist in another region (if trial participants are located in different regions);

2) prepare a response to the application in accordance with Appendix 2 to these Rules, and send the relevant information to the court considering the case;

3) in order to ensure the availability of video conferencing technology at a court hearing, promptly inform the technician on courts involved in video conferencing, trial participants who applied for attending the hearing using personal communication media or the institution involved in the organization of video conferencing;

4) provide the participant in proceedings with video conferencing with registration data (name, password) necessary to establish a video link;

5) on the day of the court hearing with video conferencing, pre-arrange a test communication session among trial participants with the involvement of the technician.

16. On the day of a court hearing with video conferencing, before it starts, the court clerk shall:

- 1) check the readiness of the courtroom for the scheduled video conferencing;
- 2) control the trial participants' appearance in a court with video conferencing or a video conferencing room of the institution;
- 3) together with the person organizing video conferencing in his/her region, start video conferencing with trial participants who applied for attending the hearing using personal communication media.

17. If technical problems disabling to hold a court hearing with video conferencing are detected before the hearing, the court clerk shall immediately inform the person organizing video conferencing in his/her region thereon.

18. If it is impossible to eliminate technical problems, the court considering the case shall decide on further proceedings of the case in accordance with Article 198 of the Civil Procedure Code of the Republic of Kazakhstan. An act shall be drawn up in any form, which is signed by the head of the Administrator of the district and equivalent court and the secretary of the court session and attached to the case materials.

Footnote. Paragraph 18 is in the wording of the order of the Head of the Judicial administration of the Republic of Kazakhstan dated 06.06.2023 No. 20 (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

19. If a technical problem, disabling trial participants to attend a hearing through video conferencing, arises during the hearing, the presiding judge shall adjourn it for technical reasons. In this case, the court clerk takes measures to resume video conferencing with the appropriate court or institution providing video conferencing, or with a trial participant using personal communication media.

20. Upon receipt of an application by a court or institution providing video conferencing, the court or institution shall check whether video conferencing is organizationally and technically feasible on a specific date and time.

21. A video conferencing specialist of the court or institution providing video conferencing, within the next working day of the application's receipt, shall:

- 1) enter the information specified in the application into the schedule of court hearings with video conferencing;
- 2) prepare a response to the application and send the relevant information to the court considering the case;
- 3) in order to ensure the availability of video conferencing technology at a court hearing, promptly inform the technician on the court that provides video conferencing, the courtroom, the date and time of the court hearing.

The response to the application is sent using available communication media, including e-mail.

22. On the day of a court hearing with video conferencing, well in advance, the court clerk of the court providing video conferencing shall check the operability of the video conferencing technology (for the presence of sound, image).

23. If technical problems are detected, the court clerk immediately informs the technician thereon to take measures to resume the functioning of video conferencing equipment.

24. If technical problems arise during a court hearing with video conferencing, the technician shall immediately take measures to resume video conferencing and inform the video conferencing specialist thereon, indicating the timing for the restoration of performance

25. If technical problems arise during a court hearing with video conferencing, the video conferencing specialist informs the court considering the case on the time required to restore video conferencing to decide on further consideration of the case or its adjournment.

26. A court or an institution providing video conferencing checks the attendance and establishes the identity of persons who appeared in court to participate in its hearing, and also checks their credentials to clear up whether they are eligible to participate in the court hearing . In this case, the clerk of the court providing video conferencing or the official of the institution appointed by its head reports to the court considering the case about the persons attending the court hearing with video conferencing.

27. Technicians check the serviceability and control the functioning of the software and hardware of video conferencing, conduct video conferencing, coordinate the possibility of holding court hearings with video conferencing with persons providing the maintenance and conduct of video conferencing in other courts and institutions, and also interact with trial participants using personal communication media.

28. For unambiguous identification of a trial participant, it is necessary that his/her location be sufficiently lit, without extraneous noise, which may interfere with the normal course of the hearing. The trial participant shall speak distinctly, with pauses, minimal body movements.

28-1. The rules of Article 187 of the Civil Procedure Code of the Republic of Kazakhstan on the procedure in a court session conducted using technical means of communication shall be applied taking into account the technical conditions for conducting a specific court session, in accordance with the orders of the presiding judge.

Footnote. The rules have been supplemented by paragraph 28-1 in accordance with the order of the Head of the Department on ensuring the activity of courts under the Supreme Court of the Republic of Kazakhstan (office of the Supreme Court of the Republic of Kazakhstan) dated 20.07.2020 No. 17 (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

29. After the start of a video link with the court that scheduled the hearing, persons under sixteen years of age are barred from attending and watching the transmission, except for those involved in the case or witnesses.

30. Issues related to the organization of court hearings with video conferencing, as well as to the determination of technical feasibility of their holding, with regard to each particular application, are solved by video conferencing specialists. If necessary, technicians can be involved.

31. Information on court proceedings with communications technology enabling to attend a court hearing (indicating the name of the court, courtroom number, date and time of the court hearing, information on communications technology) is posted by the court clerk in the automated information-analytical system of judicial authorities of the Republic of Kazakhstan .

32. The use of the video conferencing system in a court hearing is indicated in the minutes of a court hearing.

33. A person who applied for attending the case consideration with communications technology is allowed to do audio and video recording of court proceedings given the court's permission and taking into account the opinions of trial participants.

Chapter 3. Requirements for communications technology enabling to attend a court hearing

34. A trial participant who applied for attending a court hearing using personal communication media shall use the mobile application of the "Courtroom" service, which enables to establish a video link with a courtroom.

35. Court hearings with video conferencing are held given technical feasibility to ensure the proper quality of video and sound transmission, as well as their screening in a format convenient for the perception by those present in the room. The trial participant located outside the courtroom shall also be provided with high-quality video and sound from the courtroom.

36. Upon establishment of the possibility to hold a court hearing using communications technology, it is necessary to check whether each trial participant can hear and see court proceedings, ask questions and receive answers in real time, exercise other procedural rights and fulfill procedural obligations provided for by the legislation of the Republic Kazakhstan.

37. A trial participant using personal communication media shall ensure high-quality video and audio recording of his/her participation, as well as stable online data transmission.

38. To participate in a court hearing through the mobile application of the "Courtroom" service, it is necessary to have:

- 1) the current version of the mobile application of the "Courtroom" service;
- 2) wireless internet connection of at least 1 MB/s or at least 4G.

communications technology
enabling to attend a court hearing
and requirements therefor To

Address

Application for holding a court hearing using communications technology

The court _____ is considering
(name of the court considering the case)
case No. _____

I hereby request to enable the court considering the above case

(indicate procedural action, procedural status of a trial participant
and his/her surname, name, patronymic (if any)
to use the technology available in _____

(name of the court providing video conferencing, medical (social) facility)
Approximate date of the case consideration is _____

(date, time)

Court clerk _____

(surname, name, patronymic (if any), contact details)

Video conferencing specialist _____

(surname, name, patronymic (if any), contact details)

Presiding judge

(name of the court considering the case) (signature) (surname, name, patronymic (if any))

Appendix 2
to the Rules for the use of
communications technology
enabling to attend a court hearing
and requirements therefor To

Address

Response to the application for holding a court hearing using communications technology

With regard to the application of _____

_____ (name of the court considering the case)

for holding the court hearing using communications technology in respect of

_____ case No _____

we confirm/don't confirm its technical feasibility _____

_____ (date, time) in _____

_____ (name of the court providing the use of communications technology)

For the purposes of organizing a court hearing using communications technology, we provide you with the information below1:

Court clerk _____

_____ (surname, name, patronymic (if any), contact details)

Courtroom number _____

_____ Person organizing the use of communications technology

_____ (surname, name, patronymic (if any), contact details)

Presiding judge

(name of the court providing the use of communications technology) (signature) (surname, name, patronymic (if any)) _____

[1] This information is indicated in case of confirmed feasibility of holding a court hearing using communications technology