



Republic of the Philippines
Supreme Court
Office of the Court Administrator
Manila

OCA CIRCULAR NO. 55-2023

TO : ALL JUDGES OF THE FIRST AND SECOND LEVEL COURTS

SUBJECT : GUIDELINES ON THE CONDUCT OF VIDEOCONFERENCING WITH RESPECT TO REMOTE APPEARANCE FROM ABROAD (ADDENDUM TO OCA CIRCULAR NO. 171-2022 RE: PORTUGAL)

In the letters dated 15 June 2022, 21 June 2022, and 24 June 2022 of Hon. Maria Angela A. Ponce, Assistant Secretary of the Department of Foreign Affairs (DFA), referenced in Office of the Court Administrator (OCA) Circular No. 171-2022¹, the DFA stated that the Philippine Embassy in Lisbon is awaiting the response of the Portuguese government on the conduct of VCH at the Embassy premises on civil cases when it involves the participation of foreign and Portuguese nationals.

DFA Assistant Secretary Hon. Domingo P. Nolasco, in a letter dated 19 January 2023, forwarded to the OCA the abovestated response/comments of Portuguese authorities on both criminal and civil proceedings with distinction as to nationality of the party/ies involved, thus:

PARTICIPATION	CRIMINAL CASE PROCEEDINGS	CIVIL CASE PROCEEDINGS
Filipino nationals	<p><u>Video conferencing NOT allowed</u></p> <p>According to the Portuguese Prosecutor General's Office, videoconference hearings of Filipino citizens can only be done with prior permission and presence of Portuguese authorities to monitor hearings.</p> <p>However, in a subsequent correspondence received from the Portuguese Foreign Ministry and the Prosecutor General's Office, they advised that within the context of criminal proceedings,</p>	<p><u>Video conferencing allowed</u></p> <p>Per opinion from the Directorate General for the Administration of Justice (DGAJ) of the Portuguese Ministry of Justice, <u>videoconference hearings on civilian matters by a competent authority of the Philippines with Filipino nationals as witnesses being an application of Philippine internal law,</u></p>

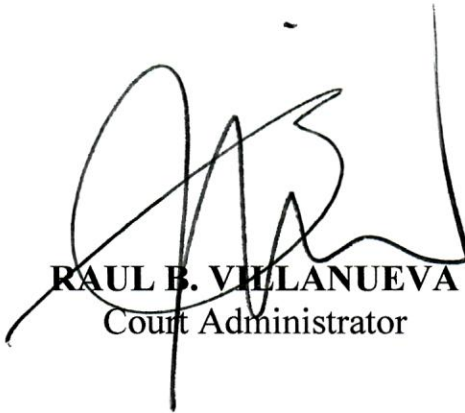
¹Guidelines on the Conduct of Videoconferencing with Respect to Remote Appearance from Abroad and Requirement of Prior Request for Mutual Legal Assistance, Among Others, dated 7 July 2022

	<p><u>videoconferences cannot be held in a foreign consular section or post in Portugal even with the presence of a Portuguese judicial authority as there is lack of legal support for Portuguese authorities to go the premises of diplomatic missions.</u></p>	<p><u>the DGAJ finds no reason why the video conferencing hearing cannot be carried out, but without prejudice to the voluntary nature that the videoconference must have, and not contrary to the fundamental principles of Portugal's domestic law.</u></p>
<p>Portuguese/other Foreign Nationals</p>	<p><u>Video conferencing NOT allowed</u></p> <p>The Portuguese Foreign Ministry and the Prosecutor General's Office advised that within the context of criminal proceedings, <u>videoconferences cannot be held in a foreign consular section or post in Portugal even with the presence of a Portuguese judicial authority as there is lack of legal support for the Portuguese authorities to go to the premises of diplomatic missions.</u> However, it will be necessary to request <u>international judicial cooperation in criminal matters addressed to the Portuguese judicial authorities,</u> which will carry out the inquiry of the concerned persons either by videoconference hearings or in the facilities or premises of the Portuguese courts of the Prosecutor General's Office.</p>	<p><u>Video conferencing allowed</u></p> <p>The DGAJ also premised that the situation under study (on videoconferencing at the Chancery premises of Portuguese/foreign nationals) "represents the obtaining of evidence through videoconference hearings directly by the competent authority of the Philippines at the Philippine Embassy premises and is not the obtaining of evidence by its diplomatic or consular agents, but rather a simple provision of space and equipment for the videoconference." As such, the DGAJ believes that this "would be carried out under the domestic law of the Philippines."</p> <p>The DGAJ concluded that <u>"the use of videoconferencing for inquiry on non-Filipino nationals, if carried out at the Philippine Embassy premises, based on the same principles, namely, the voluntary procedure in which it must be carried</u></p>

		<u>out, without resorting to coercive means, and respectful of the fundamental principles of our (Portuguese) domestic law, then there are no reasons why the collection of evidence cannot be carried out, regardless of the nationality of the witness to be questioned.”</u>
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For information and guidance.

13 February 2023



RAUL B. VILLANUEVA
Court Administrator