



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

OCA CIRCULAR NO. 139-2023

TO : ALL JUDGES OF THE FIRST AND SECOND LEVEL COURTS

SUBJECT : VIDEOCONFERENCING HEARINGS CONDUCTED AT THE PHILIPPINE EMBASSY IN SEOUL, SOUTH KOREA

Acting on the letter dated 13 March 2023 of Officer-in-Charge (OIC) Roussel R. Reyes of the Department of Foreign Affairs (DFA), Office of Treaties and Legal Affairs, seeking the assistance of the Office of the Court Administrator (OCA) in ensuring observance by the concerned courts and parties of the relevant guidelines on the responsibilities of Foreign Service Posts in the conduct of videoconferencing hearings and of the proper decorum in each host country, all concerned are hereby **REMINDED** of the following, particularly of the duty of the courts to ascertain, among others, the integrity of the location and means of communication of the witness/party without violating the domestic laws of the receiving state as well as pertinent international laws:

A.M. No. 20-12-01-SC¹

II. General Procedure, B. Hearing Proper

5. *Virtual inspection of remote locations.* – At the start of the videoconferencing hearing, the court shall require participants at remote locations to pan their cameras across the room to demonstrate that they are alone in the room, the windows and doors are closed, and there are no unauthorized means of communication available to them. This is to ensure that there will be no coaching or disturbance that may affect the proceedings.
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IV. Additional Procedure for Videoconferencing for Overseas Filipino Workers, Filipinos Residing Abroad or Temporarily Outside the Philippines, and Non-resident Foreign Nationals

1. *Videoconferencing from Philippine embassies or consulates.* – xxx Such videoconferencing may be conducted only from an embassy or consulate of the Philippines.

2. Philippine embassies and consulates shall conduct videoconferencing in accordance with the technical and operational standards laid out in these Guidelines.

¹ Re: Proposed Guidelines in the Conduct of Videoconferencing, December 9, 2020.

3. *Motion for videoconferencing.* – xxx The same requirements for the contents of the motion under Item II(2)(a) of these Guidelines shall apply, with the additional requirement that the concerned embassy or consulate of the Philippines has allowed the use of its facilities for videoconferencing.
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OCA Circular Nos. 133-2021² and 133A-2021³

xxx motions for videoconferencing from Philippine embassies or consulates may now be acted upon, provided "that the concerned embassy or consulate of the Philippines has allowed the use of its facilities for videoconferencing," pursuant to Item IV (3), A.M. No. 20-12-01- SC, **taking into account their views on the applicable laws and regulations of, and agreement with, their respective host countries, and operational concerns by reason of COVID-19 and other circumstances.** In any case, the videoconferencing hearings must be scheduled during the working hours of the Philippine courts, with proper coordination with the concerned embassy or consulate, at the expense of the moving party, if any. Furthermore, in the conduct of the said videoconferencing hearings, priority in the court calendars must be given by the Judges to those cases where witnesses/parties will remotely appear from abroad. (emphasis added)

Vienna Convention on Consular Relations⁴

Article 5. Consular functions

Consular functions consist in:

(a) protecting in the receiving State the interests of the sending State and of its nationals, both individuals and bodies corporate, **within the limits permitted by international law;**

xxx

(j) transmitting judicial and extrajudicial documents or executing letters rogatory or commissions to take evidence for the courts of the sending State **in accordance with international agreements in force or, in the absence of such international agreements, in any other manner compatible with the laws and regulations of the receiving State;**

xxx

(m) performing any other functions entrusted to a consular post by the sending State which are **not prohibited by the laws and regulations of the receiving State or to which no objection is taken by the receiving State** or which are referred to in the international agreements in force between the sending State and the receiving State. (emphasis supplied)

Apropos the specific regulations on the conduct of videoconferencing as relayed by the Republic of Korea National Court Administration, through the Ministry of Foreign Affairs, the aforementioned letter is partially quoted hereunder:

² 3 November 2021

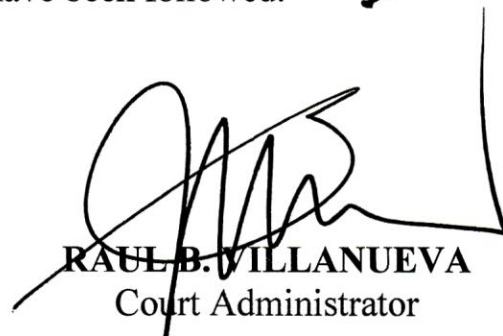
³ 7 December 2021

⁴ 24 April 1963

“Seoul PE further reported that the ROK National Court Administration, through the MOFA, has (1) already objected to the deposition-taking of ROK and third-country nationals at the chancery; and (2) raised misgivings on the conduct of VCH, with both grounds based on ROK’s accession to the HCCH Evidence Convention, to which the Philippines has not yet acceded. Hence, at present, **Seoul PE conducts VCH for Filipino nationals only**, considering the leeway given by the ROK Ministry of Foreign Affairs (MFA) under Art. 5(j) of the Vienna Convention on Consular Relations (VCCR), and in keeping with its mandate to protect and promote the interests of Overseas Filipinos in ROK.” (emphasis ours)

Finally, all judges are **REMINDED** that, in view of the prohibitions under Korean law, as reported by OIC Reyes, the taking of photos/videos within the premises of the Philippine Embassy in Korea without the consent of the individual/s being filmed, is **PROHIBITED**, subject to the issuance of guidelines therefor by the DFA, if it deems necessary/appropriate. As an alternative, the Embassy may issue a Certification that the requirements under Item II(B)(5) of A.M. No. 20-12-01-SC have been followed.

29 March 2023



RAUL B. VILLANUEVA
Court Administrator