

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

No.: ICC-01/09-02/11

Date: 9 April 2013

**TRIAL CHAMBER V**

**Before:** Judge Kuniko Ozaki, Presiding Judge  
Judge Christine Van den Wyngaert  
Judge Chile Eboe-Osuji

**SITUATION IN THE REPUBLIC OF KENYA**

**IN THE CASE OF  
*THE PROSECUTOR v. UHURU MUIGAI KENYATTA***

**Public**

**Registry's submissions on modalities of a video link**

**Source:** The Registry

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

**The Office of the Prosecutor**

Ms Fatou Bensouda  
Ms Adesola Adebayo

**Counsel for the Defence**

Mr Steven Kay  
Ms Gillian Higgins

**Legal Representatives of the Victims**

Mr Fergal Gaynor

**Legal Representatives of the Applicants**

**Unrepresented Victims**

**Unrepresented Applicants  
(Participation/Reparation)**

**The Office of Public Counsel for  
Victims**

Ms. Paolina Massida

**The Office of Public Counsel for the  
Defence**

**States' Representatives**

**Amicus Curiae**

**REGISTRY**

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**Registrar**

Ms Silvana Arbia

**Counsel Support Section**

**Deputy Registrar**

Mr Didier Preira

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

**The Registry of the International Criminal Court (the “Court”);**

NOTING the “Defence Request for Mr Kenyatta to be Present During Trial via Video Link” submitted by the Defence for Mr Kenyatta on 28 February 2013<sup>1</sup>;

NOTING the “Victims’ Response to the “Defence Request for Mr Kenyatta to be Present During Trial via Video Link” submitted by the Common Legal Representative for Victims on 8 March 2013<sup>2</sup>;

NOTING the “Order on submissions regarding the accused’s presence at trial via video link” rendered by Trial Chamber V on 26 March 2013<sup>3</sup>

CONSIDERING that the Registry was ordered to file submissions on modalities of a video link by no later than 9 April 2013<sup>4</sup>

TRANSMITS, respectfully, the following observations:

**A. General Remarks:**

1. *In this submission the Registry based itself on the following parameters in relation to the Trial Chamber’s order:*
  - A professional secure video tele conference system is required;
  - The Court will be responsible for supply, installation and operation of equipment and will arrange for an internet connection in Nairobi;

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<sup>1</sup> ICC-01/09-02/11-667

<sup>2</sup> ICC-01/09-02/11-686

<sup>3</sup> ICC-01/09-02/11-705

<sup>4</sup> ICC-01/09-01/11-705, page 3

- A single fixed location, from which the video-link can take place and to be approved by the Registry's Information and Communication Technologies Section (hereinafter "ICTS"), is to be selected for the duration of the trial. The Kenya field Office cannot be considered as such a location;
- All communication between the parties (either present in the courtroom or present at the video-link location) would take place via mobile phones. This was previously done during a status conference;
- There is a higher risk of delays in court proceedings using video-link than the accused being present in the courtroom;
- The Registry maintains its view that a video-link set-up should be an ad hoc solution rather than a structural one.

#### **B. Specific requirements and modalities:**

##### *2. Location requirements (Kenya):*

- Through the field office in Kenya suitable premises with access to a direct connection to Kenyan internet service providers would need to be arranged;
- The ICTS would arrange procurement of a broadband internet connection in co-operation with Kenya field office ;
- A secure location would be required so ICC equipment can be left at all times without the need for a re-occurring set-up and activation on trial days.

Furthermore, it would be beneficial if the location identified could be secured at all instances so the trial proceedings (and subsequent video-link) could take place in a calm atmosphere.

##### *3. Secure communications between the parties:*

The video-link itself is secured by way of encryption. However, there would be no possibility to facilitate and guarantee secure privileged telephone communication

between the parties present in the courtroom and at the remote location. Therefore, any communication would be taking place via the local mobile phone network at the remote location (as was done previously during a status conference).

In the courtroom and pending approval by the Trial Chamber, the Registry's ICTS would install telephones with international dialling facilities to the abovementioned mobile phones at the remote location.

*4. Reliable electricity supply:*

It is essential to have a reliable and constant electricity supply because any break in the circuit would cause the video-link to stop working and delay proceedings. The Registry therefore recommends that a UPS or generator is installed at the location to minimise the risk of this happening.

*5. Audio Quality:*

The Registry would do its best to maximise the audio quality, but noise pollution from outside and or other factors such as heavy rain would obviously be out of the Registry's control.

*6. Remote witness testimony concurring with accused appearing by way of video-link:*

In the event of a decision by the Trial Chamber for a witness to appear by way of a video-link whilst an accused is also appearing via video-link, a mandatory upgrade of courtroom I is required to enable support of two simultaneous video-links. As such, additional video conference and distribution equipment would need to be purchased and added to the current courtroom infrastructure. Also, additional installation and implementation days would need to be scheduled, depending on the courtroom schedule, to allow this work to take place.

A separate mission, including the necessary legal and support staff (i.e. audio visual technician and Court Officer) is required. As mentioned above, all technical

requirements facilitating the “remote witness testimony” should be prepared in the courtroom in advance considering sufficient installation and implementation time.

*7. Time difference (winter months):*

During the winter months, the time difference between The Netherlands and Kenya is 2 hours. Therefore staff in Kenya would be required to work until 21.00 hours in the event of afternoon hearings.

*8. Estimated costs*

Kenya:

- Internet Connection setup costs - €2,000
- Internet Connection subscription - €300 euros/month
- Videoconference system with external camera and microphone - €20,000
- Purchase (locally) of TV - LCD Screen 32" - €1,000

ICC HQ:

- Purchase of a video-conference system - €15,000
- Upgrade of Courtroom I distribution and control systems - €5,000
- Courtroom I Audio system upgrade - €3,000

Based on the abovementioned description, the total ICTS Equipment & Services costs (based on 12 months) are estimated at €49,600.

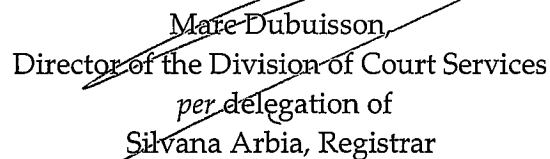
Next to the costs for the ICTS equipment and various services, costs for staff (one additional audio-visual technician) and mission (travel costs and subsequent DSA) are to be taken into consideration. Also, in the event of a “continuous” video-link with an accused, an additional Associate Legal Officer/Courtroom officer within the Court Management Section is required.

As mentioned in paragraph 6, separate audio visual and legal staff will be required in the event of witness appearing by video-link in addition to an accused appearing by video-link.

9. *Time implementation requirements :*

It is estimated that a minimum period of two months would be needed to be fully prepared. This minimum period would allow time for, *inter alia*, procurement of additional equipment & shipping, modifications and installation in Courtroom I and preparation of the location in Nairobi.

Further to the time frame indicated above, the Registry would also like to draw the attention of the Trial Chamber to the fact that proper planning of all court hearings is to be undertaken, especially in light of other on-going trial proceedings, in light of the fact that as a basis, resources are available for consecutive mode, with a view to reducing the possible interference with the case of the Prosecutor v. Uhuru Muigai Kenyatta (ICC-01/09-02/11) to a strict minimum.



Mare Dubuisson,  
Director of the Division of Court Services  
*per* delegation of  
Silvana Arbia, Registrar

Dated this 9 April 2013

At The Hague in The Netherlands