

EMBARGO: FOR IMMEDIATE RELEASE

MEDIA STATEMENT BY THE SOUTH AFRICAN LAW REFORM COMMISSION CONCERNING ITS INVESTIGATION INTO THE USE OF ELECTRONIC EQUIPMENT IN COURT PROCEEDINGS (POSTPONEMENT OF CRIMINAL CASES VIA AUDIOVISUAL LINK) (PROJECT 113)

The South African Law Reform Commission has approved a Report containing recommendations and a proposed draft Bill on the use of audiovisual equipment for the postponement of criminal cases against accused persons who are in custody awaiting trial. The Report has been submitted to the Minister for Justice and Constitutional Development on 22 July 2003 for consideration and promotion in Parliament.

The Commission considered a proposal by role-players in the criminal justice system that legislation should be introduced to provide for the postponement of criminal cases via an audiovisual link where the accused person is in custody awaiting trial. This would mean that accused persons would not have to appear physically in courts for the purpose of a mere postponement of the case. The proposal allows for the use of modern technology and the establishment of "video-conference courts" to remand criminal cases against such persons. In terms of the proposal, audiovisual equipment has to be installed at a court point and a remote point (the prison). The initial proposal was limited to postponements and then only after the first appearance of the accused in a court.

In the course of the investigation the Commission, in particular, considered the constitutionality of the proposal. After careful consideration and consultation with relevant role players the Commission concluded that the proposed procedure would not be unconstitutional. The Commission was, however, sympathetic to the view that since the procedure would introduce an innovation, it ought to be implemented incrementally. The Commission also decided to extend the initial proposal to cover bail applications as well as applications for leave to appeal and the hearing of an appeal in respect of persons in custody.

The Commission recommends that -

- legislation be introduced to provide for the use of audiovisual equipment for the purpose of postponing criminal cases against accused persons who are in custody;
- the procedure provides additionally for bail applications, both before conviction and after conviction pending an appeal;
- it should be in the discretion of the presiding officer to order the accused's physical presence in court;
- the procedure also be available for applications for leave to appeal and appeal proceedings in respect of accused persons in custody;
- the legislation be uncomplicated;
- technical matters be provided for in regulations (especially because of continuous changes in technology);
- a prison or place of detention be defined as a prison in terms of the provisions of the Correctional Services Act 111 of 1998, but excluding police cells;
- juveniles (persons younger than 18) be excluded from the process; and
- the point of departure be to allow the procedure unless, in the discretion of the presiding officer, the accused must in the interests of justice be brought before a court.

The report will be made available on the Internet at the following site:
<http://www.law.wits.ac.za/salc/salc.html>

ISSUED BY THE SECRETARY: SA LAW REFORM COMMISSION, PRETORIA

DATE: 22 July 2003

ENQUIRIES IN RESPECT OF MEDIA STATEMENT:

MR W VAN VUUREN (012) 3226440

E-mail: wvuuren@salawcom.org.za

EMBARGO: FOR IMMEDIATE RELEASE