



KOSOVO SPECIALIST CHAMBERS  
DHOMAT E SPECIALIZUARA TË KOSOVËS  
SPECIJALIZOVANA VEĆA KOSOVA

**In:** KSC-BC-2020-06  
**The Specialist Prosecutor v. Hashim Thaçi, Kadri Veseli,  
Rexhep Selimi and Jakup Krasniqi**

**Before:** **Trial Panel II**  
Judge Charles L. Smith, III, Presiding Judge  
Judge Christoph Barthe  
Judge Guénaél Mettraux  
Judge Fergal Gaynor, Reserve Judge

**Registrar:** Dr Fidelma Donlon

**Filed by:** Registrar

**Date:** 1 May 2024

**Language:** English

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**Public Redacted Version of “Registry Assessment Regarding Prosecution’s  
Request for Video-Conference Testimony for W02486”**

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1. Pursuant to Rules 23(2) and 144 of the Rules,<sup>1</sup> and Article 3 of the Practice Direction on Video Links,<sup>2</sup> the Registrar hereby submits her assessment of the feasibility of facilitating the testimony of witness W02486 via video-link from [REDACTED].

## I. PROCEDURAL HISTORY

2. On 29 April 2024, the Specialist Prosecutor's Office ('SPO') filed a request for the testimony of witness W02486 to be heard via video-link from an appropriate location in [REDACTED] ('Request').<sup>3</sup> The SPO has provided information on: (a) when the witness is expected to testify (10 May 2024);<sup>4</sup> (b) the expected duration of direct examination (1 hour);<sup>5</sup> (c) the country details ([REDACTED]);<sup>6</sup> (d) whether protective measures have been or will be ordered;<sup>7</sup> and (e) the language the witness will testify in (Serbian).<sup>8</sup> The Registry further notes SPO's indication that the witness requested the presence of her doctor during her testimony.<sup>9</sup>

3. On 30 April 2024, Trial Panel II ('Panel') instructed, among others, the Registry to file its assessment on the feasibility of SPO's Request by Wednesday, 1 May 2024 at 16:00.<sup>10</sup>

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<sup>1</sup> Rules of Procedure and Evidence Before the Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 ('Rules').

<sup>2</sup> Registry Practice Direction on Video Links, KSC-BD-23/COR, 17 July 2020 ('Practice Direction on Video Links'); *see also* Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office, 3 August 2013, art. 34(3).

<sup>3</sup> KSC-BC-2020-06, F02270, URGENT Prosecution motion for admission of evidence of W02486 pursuant to Rule 154 and request for video-conference testimony with two confidential Annexes, 29 April 2024, confidential (*see also* F02270/RED, 30 April 2024).

<sup>4</sup> Request, para. 14(i): "W02486 is anticipated to appear on 10 May 2024".

<sup>5</sup> *Id.*, para.14(ii): "the expected duration of direct examination is 1 hour." On 1 May 2024, the Defence for Mr Selimi informed the Panel that cross-examination estimates will be shared by the Defence teams on 2 May 2024.

<sup>6</sup> *Id.*, para.14(iii): "the SPO requests W02486 to appear via video-link from an appropriate location in [REDACTED]."

<sup>7</sup> *Id.*, para.14(iv): "W02486 does not have in-court protective measures."

<sup>8</sup> *Id.*, para.14(vi): "W02486 will testify in Serbian".

<sup>9</sup> *Id.*, para. 14(v).

<sup>10</sup> CRSPD482, Email from Trial Panel to Registry, Parties, Participants regarding SPO filing F2270, confidential, 30 April 2024.

4. On 1 May 2024, Co-Counsel for Mr Selimi informed the Panel that none of the Defence teams oppose the Request.<sup>11</sup>

## II. APPLICABLE LAW

5. Pursuant to Rule 144 of the Rules, the Panel may order that testimony be received via video-conference, provided that such technology permits the witness to be properly examined. The Registrar shall ensure the efficient and expeditious implementation of any such order.

6. Pursuant to Article 3(1) of the Practice Direction on Video Links, “[t]o ensure the efficient preparation and organization of the Video Link, the Party requesting a Video Link shall, prior to or at the time of the request, inform the Registrar, in writing” of certain specified information.

7. Pursuant to Article 3(3) of the Practice Direction on Video Links, the Registrar may seek additional information, if required, to complete the assessment.

8. Pursuant to Article 3(4) of the Practice Direction on Video Links, the Registrar’s assessment shall address:

- a. any necessary measures to be taken as a result of a potential risk to ensure:
  - (1) the safety, well-being, dignity and privacy of individuals expected to participate in the planned Video Link; and
  - (2) in the event that the Video Link is intended for the taking of witness testimony, that the Video Link is conducted in a venue conducive to the giving of truthful and open testimony;
- b. information on consultations with a State, where applicable;
- c. the time required by the Registry to implement the order for the use of the Video Link; and
- d. the general feasibility of conducting the Video Link.

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<sup>11</sup> Realtime Transcript, 1 May 2024, p. 26 line 5, public.

### III. SUBMISSIONS

#### A. Feasibility assessment of video-link testimony

9. The Registry has conducted an assessment in accordance with Article 3(4) of the Practice Direction on Video Links, in light of the envisaged scheduling of the testimony of W02486, the expected duration of testimony, the country and location details, and the language of the witness.<sup>12</sup> The Registry has also assessed the location and technical specifications that would be required to facilitate the testimony of the witness via video-link at a venue conducive to giving truthful and open testimony, and with necessary measures in place to ensure the safety, well-being, dignity and privacy of the witness.

10. At this stage, no further information is needed to complete the Registry's technical assessment, and the Registry assesses that it is technically feasible to conduct the testimony of the witness W02486 via video-link, as further elaborated below.

11. The Registry notes that the witness does not have in-court protective measures,<sup>13</sup> and it is expected that W02486's testimony will take place in open session. Nevertheless, parts of the witness's statements remain classified as confidential,<sup>14</sup> and the proceedings may thus take place, at least in part, in private session. Therefore, based on the information currently available, the Registry has assessed that secure video-conference ('VTC') facilities, or their equivalent, are required.

12. The Registry has assessed that the most suitable location to facilitate the testimony of this witness is [REDACTED]. This venue for the video-link testimony would comply with the following requirements:

- a. the video-link location is on secure premises free from interference, to the extent possible, within the control of [REDACTED], where the confidentiality of the proceedings can be assured;

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<sup>12</sup> Practice Direction on Video Links, art. 3(1)(a).

<sup>13</sup> See fn. 7 above.

<sup>14</sup> F02270/A01, Annex 1 to URGENT Prosecution motion for admission of evidence of W02486 pursuant to Rule 154 and request for video-conference testimony with two confidential Annexes, 29 April 2024, confidential.

- b. the video-link testimony would take place in a room that is sound proof, with appropriate lighting, and where the risk of disruption from outside noise is minimised;
- c. the [REDACTED] will provide suitable in-situ cabled or open internet connection that is stable and supports video streaming; and
- d. the witness would not be permitted to take any electronic devices into the video-link room.

13. [REDACTED]. [REDACTED].

14. In addition, Registry staff would ensure that the video-link has the minimum technical functionality set out in Article 4 of the Practice Direction on Video Links.

15. The [REDACTED] have confirmed that they are willing and able to facilitate video-link testimony of a witness on 10 May 2024, in line with the conditions outlined above, should the Panel grant the Request. The Registry is in the process of confirming with the [REDACTED] whether the available facilities would enable the presence of W02486's doctor, as well as their agreement to the doctor's presence, if needed. Should additional testimony day(s) be required, depending on the parties' indication of required cross-examination time, the Registry will liaise with the [REDACTED] accordingly.

16. The minimum amount of time required by the Registry to arrange for video-link testimony would be [REDACTED] working days, subject to further assessments by WPSO, as outlined in the following paragraph. This timeframe is required to allow pre-mission coordination with the [REDACTED] and internal Registry preparations, including travel to the location, the set-up and testing of the technical equipment in [REDACTED], as applicable, and to allow for the Witness Protection and Support Office ('WPSO') to complete the necessary witness information and familiarisation processes, adapted to the location of testimony, as required.

## B. Health and Special Needs

17. WPSO received the Witness Information Form (WIF) on 29 April 2024, as well as further additional information from the SPO on 30 April 2024. WPSO is in the process of arranging for all necessary pre-testimony assessments, [REDACTED]. Nevertheless, WPSO notes that [REDACTED]<sup>15</sup> [REDACTED]. For the same reasons as aforementioned, WPSO has not yet assessed the witness' request for her doctor to be present during testimony, nor the latter's willingness and availability to do so on 10 May 2024.

18. Following completion of the WPSO assessments and familiarization process before the commencement of testimony, WPSO will inform the Panel immediately should any special measures be recommended, in accordance with the Registry's relevant internal regulations.<sup>16</sup>

## C. Conclusion

19. In conclusion, subject to further assessments by WPSO, the Registry assesses that it is feasible to conduct the testimony of W02486 *via* video-link from [REDACTED], should the Panel so order, in line with the above specifications and the Practice Direction on Video Links. Should the Panel grant the Request, the Registry will liaise with the [REDACTED] on the practical details for implementation.

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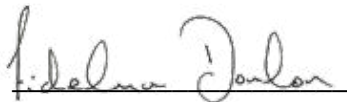
<sup>15</sup> [REDACTED].

<sup>16</sup> See Registry Practice Direction on Psychological Assessments and Support to Facilitate Testimony, KSC-BD-19-Rev1, 9 February 2022, LIMITE; see also Registry Instruction, WPSO Guidelines on Services to Witnesses Appearing Before the Specialist Chambers, KSC-BD-42-Rev2, 7 October 2022, LIMITE.

IV. CONFIDENTIALITY

20. Pursuant to Rule 82(4) of the Rules, this submission is filed as confidential and *ex parte*. The Registry will promptly file a confidential redacted version, as well as a public redacted version of this submission.

**Word count: 1606**



**Dr Fidelma Donlon**

**Registrar**

Wednesday, 1 May 2024

The Hague, the Netherlands