



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: 6 May 2024

Language: English

Classification: Public

**Public Redacted Version of “Confidential Redacted Version of Registry
Assessment Regarding Prosecution’s Request for Video-Conference Testimony
for W04305 and related request”**

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1. Pursuant to Rules 23(2) and 144 of the Rules,¹ and Article 3 of the Practice Direction on Video Links,² the Registrar hereby submits her assessment of the feasibility of facilitating the testimony of witness W04305 via video-link from [REDACTED].

I. PROCEDURAL HISTORY

2. On 19 April 2024, the Specialist Prosecutor's Office ('SPO') filed a request for the testimony of witness W04305 to be heard via video-link from a government building or other appropriate location in [REDACTED] ('Request').³ The SPO has also provided⁴ information on: (a) when the witness is expected to testify;⁵ (b) the expected duration of direct examination (no more than 1 hour);⁶ (c) the country details ([REDACTED]);⁷ (d) whether protective measures have been or will be ordered,⁸ and (e) the language the witness will testify in (Albanian).⁹

3. [REDACTED].¹⁰ Victims' Counsel has requested an estimated 15 minutes.¹¹

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

² 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).

³ KSC-BC-2020-06, F02253, Prosecution request for video-conference testimony for W04305 and related request, 19 April 2024, confidential (*see also* F02253/RED).

⁴ This information is in the Request itself, para. 11, or the case file record (where indicated).

⁵ Request, para.10 (i): "W04305 is anticipated to appear the week of 27 May 2024"; *see also id.*, paras 2, 7.

⁶ Request, para.10(ii): "the expected duration of direct examination of W04305 is no more than one hour".

⁷ Request, para.10(iii): "the SPO requests W04305 to appear via video-conference from an appropriate location in [REDACTED]." *See also* Request, fn. 4: "The SPO anticipates, based on past consultation with the relevant authorities, that the video link location would be in [REDACTED]."

⁸ Request, para.10(iv): "W04305 has protective measures, including pseudonym, and face and voice distortion", and para 10(v): "the SPO is not aware of any special needs." *See also* [REDACTED].

⁹ Request, para.11(vi): "W04305 will testify in Albanian."

¹⁰ [REDACTED].

¹¹ F02215, Victims' Counsel's Twelfth Notification of Wish to Cross-Examine Witnesses, 2 April 2024, confidential, para. 6; *see also* Request, fn. 17.

II. APPLICABLE LAW

4. 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.

5. 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.

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

7. Pursuant to Article 3(4) of the Practice Direction on Video Links, the Registrar’s assessment shall be filed with the Panel within two weeks of receipt of the required information and 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.

III. SUBMISSIONS

A. Feasibility assessment of video-link testimony

8. The Registry has conducted a preliminary assessment in accordance with Article 3(4) of the Practice Direction on Video Links, in light of the envisaged scheduling of the testimony of witness W04305, the expected duration of testimony, the country and location details, the applicable protective measures, and the language of the witness.

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.

9. Based on the available information, the Registry assesses that it is technically feasible to conduct the testimony of the witness via video-link.

10. In its preliminary consultations with the competent [REDACTED] authorities, the Registry has been assured by [REDACTED] counterparts of their willingness and ability to facilitate the testimony of W04305 via video-link on 27, 28 and 29 May 2024, in line with the required measures identified below. For this purpose, the [REDACTED] authorities have identified [REDACTED], as most suitable for facilitating the video-conference testimony of W04305. Should the Panel grant the Request, the Registry will finalise consultations with the [REDACTED] authorities for all logistical matters surrounding the testimony of W04305. This will include obtaining further information regarding the envisaged location, which will enable a full Registry assessment of the location and technical specifications that would be required.

11. The Registry notes that the witness benefits from in-court protective measures, namely use of a pseudonym, testimony with face and voice distortion, and closed or private session for any in-court discussion or testimony identifying the witness.¹² As it can thus be expected that W04305's testimony may take place, at least in part, in private or closed session, the Registry assesses that secure video-teleconference ('VTC') facilities are required.

12. In addition, the Registry assesses that to facilitate the testimony of this witness, the identified location would also need to 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 the competent [REDACTED] authorities) where the confidentiality of the proceedings can be assured;

¹² [REDACTED].

- 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] authorities provide suitable in-situ cabled or wireless 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 will ensure that the video-link has the minimum technical functionality set out in Article 4 of the Practice Direction on Video Links.

15. In line with the conditions outlined above, the minimum amount of time required by the Registry to arrange for video-link testimony for witness W04305 would be [REDACTED] working days prior to the anticipated start of testimony.¹³ This timeframe is required to allow for travel to the location, the set-up and testing of the technical equipment in [REDACTED], and to allow for the Witness Protection and Support Office ('WPSO') to complete the necessary witness information and familiarisation process, adapted to the location of testimony, as required.

B. Health and Special Needs

16. 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.¹⁴

¹³ The indicated timeframe is also subject to [REDACTED].

¹⁴ [REDACTED].

C. Altered Sitting Schedule

17. The SPO notes that in light of the [REDACTED] time difference between the premises of the Specialist Chambers in The Hague¹⁵ and the possible location of video-conference testimony in [REDACTED], an altered sitting schedule would be required. In line with the Request, [REDACTED] authorities have indicated that the earliest start time that can be facilitated for testimony is [REDACTED] time (16:30 The Hague time).

18. Should the Panel so order, the Registry can facilitate, on an exceptional basis, this altered sitting schedule, provided that hearings do not last longer than [REDACTED]. [REDACTED].

D. Conclusion

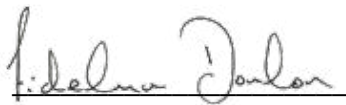
19. In conclusion, at this time, the Registry preliminarily assesses that it is feasible to conduct the testimony of witness W04305 via video-link, should the Panel so order, in line with the above specifications and the Practice Direction on Video Links. Should the Panel grant the Request, the Registry will expeditiously engage with the competent [REDACTED] authorities and inform the Panel should any changes to the above assessment occur.

¹⁵ Request, para.11.

IV. CLASSIFICATION

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

Word count: 1688



Dr Fidelma Donlon

Registrar

Monday, 6 May 2024

The Hague, the Netherlands