



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

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**Public Redacted Version of “Registry Assessment Regarding Prosecution’s
Request for Video-Conference Testimony for W04445 and W04501” (F02392)**

Specialist Prosecutor
Kimberly P. West

Counsel for Victims
Simon Laws

Counsel for Hashim Thaçi
Luka Mišetić

Counsel for Kadri Veseli
Ben Emmerson

Counsel for Rexhep Selimi
Geoffrey Roberts

Counsel for Jakup Krasniqi
Venkateswari Alagendra

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 witnesses W04445 and W04501 via video-link from [REDACTED].

I. PROCEDURAL HISTORY

2. On 12 June 2024, the Specialist Prosecutor's Office ('SPO') filed a request for the testimony of witnesses W04445 and W04501 to be heard via video-link from the [REDACTED] ('Request').³ The SPO has provided information on: (a) when the witnesses are expected to testify;⁴ (b) the expected duration of direct examination (no more than 1 hour);⁵ (c) the country details [REDACTED];⁶ (d) whether protective

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, F02378, Prosecution request for video-conference testimony for W04445 and W04501, 12 June 2024, confidential.

⁴ **W04445**: Request, para. 10(i): "W04445 is a reserve witness for the upcoming evidentiary block and may appear as early as 27 June 2024". **W04501**: Request, para.14(i): "W04501 is a reserve witness for the upcoming evidentiary block and may appear as early as 4 July 2024."

⁵ **W04445**: Request, para.10(ii): "the expected duration of direct examination of W04445 is no more than 1 hour." [REDACTED]. **W04501**: Request, para.14(ii): "the expected duration of direct examination of W04501 is no more than 1 hour". [REDACTED].

⁶ **W04445**: Request, para.10(iii): "the SPO requests W04445 to appear via video-conference from [REDACTED]." **W04501**: Request, para.14(iii): "the SPO requests W04501 to appear via video-conference from [REDACTED]."

measures have been ordered,⁷ including an indication of whether the witnesses has any special needs;⁸ and (e) the language the witnesses will testify in (Albanian).⁹

3. [REDACTED].¹⁰

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 witnesses 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 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

⁷ **W04445**: Request, para.10(iv): “the witness has in-court protective measures, including use of a pseudonym and face/voice distortion”; *see also* F00133/COR/CONF/RED, Confidential Redacted Version of Corrected Version of First Decision on Specialist Prosecutor’s Request for Protective Measures, 14 December 2020, confidential, para. 132(q). **W04501**: Request, para.14 (iv): “the witness has in-court protective measures, including use of a pseudonym and face/voice distortion”; *see also* F00133/COR/CONF/RED, para. 132(q).

⁸ **W04445**: Request, para.10(v): “due to his advanced age, level of education, and health conditions, the witness is anticipated to require reading assistance and may require breaks during testimony”. **W04501**: Request, para.14 (v): “the SPO is unaware of any special measures that will be required for his testimony.”

⁹ **W04445**: Request, para.10(vi): “W04445 will testify in Albanian”. **W04501**: Request, para.14 (vi): “W04501 will testify in Albanian.”

¹⁰ [REDACTED].

- (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 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 witnesses W04445 and W04501, the expected duration of testimony, the country and location details, the applicable protective measures, and the language of the witnesses. The Registry has also assessed the location and the technical specifications that would be required to facilitate the testimony of the witnesses via video-link at a venue conducive to giving truthful and open testimony, and with the necessary measures in place to ensure the safety, well-being, dignity and privacy of the witnesses.

9. Based on the available information, the Registry assesses that it is technically feasible to conduct the testimony of witnesses W04445 and W04501 via video-link, as further elaborated below.

10. The Registry notes that the both witnesses W04445 and W04501 benefit from in-court protective measures, namely use of a pseudonym, testimony with face and voice distortion, and [REDACTED].¹¹ As it is expected that the testimony or parts thereof may take place [REDACTED], the Registry assesses that secure video-teleconference ('VTC') facilities are required.

¹¹ See fn. 7 above.

11. The Registry has assessed that the most suitable location to facilitate the testimony of the witness is [REDACTED]. This venue for the video-link testimony would also 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 authorities of [REDACTED], where the confidentiality of the proceedings can be assured;
- b. the video-link testimonies 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 witnesses will not be permitted to take any electronic devices into the video-link room.

12. [REDACTED]. [REDACTED].

13. In addition, Registry staff would ensure that each video-link has the minimum technical functionality set out in Article 4 of the Practice Direction on Video Links, and that the applicable protective measures are fully observed.

14. [REDACTED]. [REDACTED].

15. The minimum amount of time normally required by the Registry to implement any order for the use of video-link testimony is [REDACTED] working days, to allow for travel to the location, set-up and testing of the technical equipment in [REDACTED], and to allow for WPSO to complete the necessary witness information and familiarisation process.

16. Should the Panel order the use of video-link testimony for witnesses W04445 and W04501, the Registry would liaise with [REDACTED] on the practical details for implementation of each testimony.

B. Health and Special Needs

17. 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.¹²

C. Conclusion

18. In conclusion, at this time, the Registry assesses that it is feasible to conduct the testimony of the witnesses W04445 and W04501 via video-link, should the Panel so order, in line with the above specifications and the Practice Direction on Video Links.

IV. CONFIDENTIALITY

19. This submission is filed as confidential and *ex parte* pursuant to Rule 82(3) of the Rules as it contains sensitive operational information. The Registry will file a confidential redacted version of this submission.

Word count: 1605



Dr Fidelma Donlon
Registrar

Wednesday, 19 June 2024
The Hague, the Netherlands

¹² See Registry Practice Direction on Psychological Assessments and Support to Facilitate Testimony, KSC-BD-19-Rev1, 9 February 2022; see also Registry Instruction, WPSO Guidelines on Services to Witnesses Appearing Before the Specialist Chambers, KSC-BD-42-Rev2, 7 October 2022.