



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:** Fidelma Donlon

**Date:** 5 September 2024

**Language:** English

**Classification:** Public

---

**Public Redacted Version of Decision on Prosecution Motion for Admission of  
Evidence of W01129 pursuant to Rule 154 and Request for Video-Conference  
Testimony (F02506)**

---

**Specialist Prosecutor**

Kimberly P. West

**Counsel for Hashim Thaçi**

Luka Mišetić

**Counsel for Victims**

Simon Laws

**Counsel for Kadri Veseli**

Rodney Dixon

**Counsel for Rexhep Selimi**

Geoffrey Roberts

**Counsel for Jakup Krasniqi**

Venkateswari Alagendra

**TRIAL PANEL II** (“Panel”), pursuant to Articles 21, 23(1), 37 and 40 of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office (“Law”) and Rules 137, 138, 141(1), 144, and 154 of the Rules of Procedure and Evidence before the Kosovo Specialist Chambers (“Rules”), hereby renders this decision.

## I. PROCEDURAL BACKGROUND

1. On 23 August 2024, the Specialist Prosecutor’s Office (“SPO”) filed a Rule 154 motion with regard to witness W01129 (“Motion”), wherein the SPO also requested authorisation for the witness to testify via video-conference.<sup>1</sup>
2. On 4 September 2024, pursuant to the Panel’s instructions for an expedited briefing schedule,<sup>2</sup> the Registry filed its assessment regarding the feasibility of facilitating the Request (“Registry Assessment”).<sup>3</sup>
3. The Defence teams for Hashim Thaçi, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi (collectively, “Defence” and “Accused”) did not respond to the Motion.<sup>4</sup>

---

<sup>1</sup> F02506, Specialist Prosecutor, *Prosecution Motion for Admission of Evidence of W01129 pursuant to Rule 154 and Request for Video-Conference Testimony*, 23 August 2024, confidential (a public redacted version was filed on the same day, F02506/RED), with Annexes 1-2, confidential.

<sup>2</sup> CRSPD561, *Email from Trial Panel II to CMU regarding Expedited Briefing Schedule Registry Assessment for F02506*, 29 August 2024, confidential.

<sup>3</sup> F02528, Registry, *Registry Assessment Regarding Specialist Prosecutor’s Request for Video-Conference Testimony for Witness W01129*, 4 September 2024, confidential and *ex parte* (a confidential redacted version was filed on the same day, F02528/CONF/RED).

<sup>4</sup> CRSPD564, *Email from Veseli Defence to CMU on Message to Trial Panel II regarding F02506*, 29 August 2024, confidential.

## II. SUBMISSIONS

4. The SPO requests admission of the statements, together with one associated exhibit, of W01129 (collectively, “W01129’s Proposed Evidence”).<sup>5</sup> The SPO submits that W01129’s Proposed Evidence meets the requirements of Rules 138(1) and 154 and that its admission is not outweighed by any prejudice and is therefore in the interests of justice.<sup>6</sup>

5. The SPO further requests the Panel to authorise W01129’s testimony to take place via video-conference from an appropriate location.<sup>7</sup> The SPO submits that video-conference testimony would minimise the risks to the witness’s well-being and livelihood, would promote the efficient conduct of the proceedings, and would not result in undue prejudice to the Accused.<sup>8</sup>

6. The Registry preliminarily assesses that it is technically feasible to conduct the testimony of W01129 via video-conference.<sup>9</sup> The Registry further submits that the competent authorities have confirmed their willingness and ability to facilitate the testimony of W01129 in line with certain conditions.<sup>10</sup>

---

<sup>5</sup> Motion, paras 1, 16.

<sup>6</sup> Motion, para. 2.

<sup>7</sup> Motion, paras 1, 16.

<sup>8</sup> Motion, paras 11-13.

<sup>9</sup> Registry Assessment, paras 10, 18.

<sup>10</sup> Registry Assessment, para. 15. These conditions include the following: (i) the video-conference location is on secure premises free from interference (to the extent possible, within the control of the competent authorities), where the confidentiality of the proceedings can be assured; (ii) the video-conference 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; (iii) the competent authorities provide suitable in-situ cabled or wireless open internet connection that is stable and supports video streaming; and (iv) the witness would not be permitted to take any electronic devices into the video-conference room; *see* Registry Assessment, para. 12.

### III. APPLICABLE LAW

7. The Panel incorporates by reference the applicable law as set out in the Panel's first decision regarding the admission of evidence under Rule 154.<sup>11</sup>

8. The Panel also incorporates by reference the applicable law as set out in the Panel's past decisions on requests for video-conference testimony.<sup>12</sup>

### IV. DISCUSSION

#### A. REQUEST FOR ADMISSION PURSUANT TO RULE 154

9. The SPO submits that W01129's Proposed Evidence<sup>13</sup> is: (i) relevant;<sup>14</sup> (ii) *prima facie* authentic and reliable;<sup>15</sup> and (iii) suitable for admission under Rule 154.<sup>16</sup>

10. *W01129's Statements*. Regarding relevance, W01129 was allegedly abducted, detained and mistreated by members of the Kosovo Liberation Army ("KLA").<sup>17</sup> The incident allegedly occurred during the Indictment period, in locations relevant to the charges.<sup>18</sup> The SPO relies upon W01129's Proposed Evidence in respect of, *inter alia*, the circumstances of the witness's abduction, detention, and

---

<sup>11</sup> F01380, Panel, *Decision on Admission of Evidence of First Twelve SPO Witnesses Pursuant to Rule 154*, 16 March 2023, confidential (a public redacted version was filed on 7 November 2023, F01380/RED), paras 26-35.

<sup>12</sup> See, e.g., F02396, Panel, *Decision on Prosecution Request for the Video-Conference Testimony of W04445 and W04501*, 20 June 2024, paras 4-7, and references therein.

<sup>13</sup> W01129's Proposed Evidence consists of the following statements, including any translations thereof ("W01129's Statements"), and one associated exhibit ("W01129's Associated Exhibit"). W01129's Statements consist of: (i) 003298-TR-ET Part 1 RED and 003298-TR-ET Parts 2-4; (ii) 003282-003297-ET Revised RED, pp. 003282-003295; (iii) [REDACTED]; and (iv) 041987-041994-ET RED2. W01129's Associated Exhibit is 003282-003297 RED, pp. 003296-003297. See Annex 1 to the Motion.

<sup>14</sup> Motion, paras 3-5.

<sup>15</sup> Motion, para. 6

<sup>16</sup> Motion, paras 7-8.

<sup>17</sup> Motion, paras 3-4.

<sup>18</sup> F00999/A01, Specialist Prosecutor, *Annex 1 to Submission of Confirmed Amended Indictment ("Indictment")*, 30 September 2022, confidential, paras [REDACTED].

mistreatment, and the identification by W01129 of KLA bases and commanders.<sup>19</sup> The Panel is, therefore, satisfied that W01129's Statements are relevant to the charges in the Indictment.<sup>20</sup>

11. Regarding *prima facie* authenticity and reliability, the Panel notes that W01129's Statements consist of: (i) transcripts of the witness's interview with the Special Investigative Task Force ("SITF Interview");<sup>21</sup> and (ii) records of his statements before other international and national jurisdictions.<sup>22</sup> Each statement contains multiple indicia of authenticity and reliability, including: (i) the verbatim transcript of the audio-video recorded SITF Interview; (ii) indication of the date and/or time and place of the statements; (iii) the attendees present; (iv) the witness's personal details; (v) witness warnings, rights and/or acknowledgments; and (vi) confirmation by W01129 that the statements are true and accurate.<sup>23</sup> In light of the above, the Panel is satisfied of the *prima facie* authenticity and reliability of W01129's Statements.

12. The Panel is satisfied that W01129's Statements also bear *prima facie* probative value.

13. Regarding suitability for admission pursuant to Rule 154, the Panel notes that W01129's Statements are 161 pages in length (in English). The Panel is satisfied that admission of W01129's Statements under Rule 154: (i) would contribute to the expeditiousness of the proceedings as it would significantly reduce the number of hours required for direct examination, which currently stands at 1.5 hours;<sup>24</sup> and (ii) would not cause unfair prejudice to the Defence, as the Defence will have an

---

<sup>19</sup> Annex 2 to the Motion, p. 1.

<sup>20</sup> Indictment, paras [REDACTED]; see also F01594/A03, Specialist Prosecutor, *Annex 3 to Prosecution Submission of Updated Witness List and Confidential Lesser Redacted Version of the Pre-Trial Brief*, 9 June 2023, confidential, paras [REDACTED].

<sup>21</sup> 003298-TR-ET Part 1 RED and 003298-TR-ET Parts 2-4.

<sup>22</sup> [REDACTED]; 003282-003297-ET Revised RED, pp. 003282-003295; 041987-041994-ET RED2.

<sup>23</sup> See, e.g., 003298-TR-ET Part 1 RED, pp. 1-3; 003282-003297-ET Revised RED, pp. 003282-003285, 003295; [REDACTED]; 041987-041994-ET RED2, pp. 041987, 041994.

<sup>24</sup> Motion, para. 8.

opportunity to cross-examine the witness. The Panel further notes that the Defence did not register any objection to the Motion. The Panel therefore finds that the *prima facie* probative value of W01129's Statements is not outweighed by any prejudicial effect, and that W01129's Statements are suitable for admission pursuant to Rule 154.

14. *W01129's Associated Exhibit*. The Panel observes that W01129's Associated Exhibit is a map<sup>25</sup> that was marked by the witness during his SITF Interview and therein discussed.<sup>26</sup> The Panel considers that the map constitutes an indispensable and inseparable part of the SITF Interview, as, without it, the relevant portions of the SITF Interview would become incomprehensible or of lesser probative value. The Panel is also satisfied that W01129's Associated Exhibit is relevant, *prima facie* authentic and probative. The Panel also finds that, given that the Defence will have an opportunity to cross-examine W01129, the *prima facie* probative value of W01129's Associated Exhibit is not outweighed by any prejudicial effect. Accordingly, the Panel finds that W01129's Associated Exhibit is appropriate for admission under Rules 138(1) and 154.

15. In light of the above, the Panel finds that W01129's Proposed Evidence is relevant, *prima facie* authentic, and has *prima facie* probative value which is not outweighed by any prejudicial effect, and is therefore appropriate for admission pursuant to Rules 138(1) and 154.

---

<sup>25</sup> 003282-003297 RED, pp. 003296-003297.

<sup>26</sup> 003298-TR-ET Part 4, pp. 23-25.

## B. VIDEO-CONFERENCE REQUEST

16. The Panel notes the SPO's submissions that in-person testimony would be harmful to W01129's psychological well-being, as well as potentially detrimental to his livelihood, due to the nature of his occupation.<sup>27</sup> The Panel further considers: (i) the preliminary assessment of the Registry that it is feasible to conduct the testimony of W01129 via video-conference;<sup>28</sup> (ii) the assurances of the relevant authorities that they will be able to facilitate the necessary logistical, technical, and security arrangements;<sup>29</sup> and (iii) the absence of objection by the Defence.

17. Having carefully considered the Motion, the Panel is satisfied that the SPO has established that W01129's personal circumstances, as detailed in the Motion, warrant allowing the witness to testify via video-conference. The Panel considers that allowing W01129 to testify via video-conference from an appropriate location would be more conducive to W01129's well-being than transferring him to The Hague to testify in person. The Panel also considers that receiving W01129's testimony via video-conference might help expedite proceedings.

18. The Panel is also of the view that hearing W01129's testimony via video-conference would not be prejudicial to or inconsistent with the rights of the Accused. The Panel, the Accused, the Parties and participants will be able to see and hear the witness testifying in real-time and the Panel, the Parties and Victims' Counsel will have the opportunity to ask questions to the witness. The Panel further notes that the Defence did not register any objection to W01129's testimony taking place via video-conference.

19. For these reasons, the Panel finds it appropriate to hear the testimony of W01129 by way of video-conference.

---

<sup>27</sup> Motion, para. 11.

<sup>28</sup> Registry Assessment, paras 10, 18.

<sup>29</sup> Registry Assessment, para. 15.

20. The Panel further notes that a final assessment will be conducted by the Registry following a decision by the Panel and subject to further assessments by the Witness Protection and Support Office.<sup>30</sup> In this regard, the Panel encourages the Registry to work expeditiously to ensure that the relevant measures are implemented without delay to make the proposed venue suitable for video-conference testimony and to report to the Panel once all preparations have been made for such video-conference.

#### V. CLASSIFICATION

21. The Panel notes that the Registry Assessment was filed confidentially. The Panel orders the Registry to file a public redacted version of the Registry Assessment by **Friday, 13 September 2024**.

#### VI. DISPOSITION

22. For the above-mentioned reasons, the Panel hereby:

- a) **GRANTS** the Motion;
- b) **FINDS** W01129's Statements and Associated Exhibit appropriate for admission once the requirements of Rule 154(a)-(c) are met;
- c) **AUTHORISES** W01129 to testify via video-conference;
- d) **ORDERS** the Registry to make the necessary arrangement for W01129's testimony via video-conference; and

---

<sup>30</sup> Registry Assessment, paras 17-18.



- e) **ORDERS** the Registry to file a public redacted version of the Registry Assessment no later than **Friday, 13 September 2024**.

A handwritten signature in black ink, reading "Charles L. Smith, III". The signature is written in a cursive style and is positioned above a horizontal line.

**Judge Charles L. Smith, III**  
**Presiding Judge**

Dated this Thursday, 5 September 2024

At The Hague, the Netherlands.