



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEĆA KOSOVA

In: KSC-BC-2020-06

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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File Name: The Specialist Prosecutor v. Hashim Thaçi, Kadri Veseli,
Rexhep Selimi and Jakup Krasniqi

Classification: Public

**Public Redacted Version of “Registry Assessment Regarding Specialist
Prosecutor’s Request for Video-Conference Testimony for Witness W01129”**

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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 W01129 via video-link from [REDACTED].

I. PROCEDURAL HISTORY

2. On 23 August 2024, the Specialist Prosecutor's Office ('SPO') filed a request for the testimony of (reserve) witness W01129 to be heard via video-link from an appropriate location in [REDACTED] ('Request').³ The SPO has provided information on: (a) when the (reserve) witness is expected to testify (during the week commencing 16 September 2024);⁴ (b) the expected duration of direct examination (1.5 hours);⁵ (c) the country details ([REDACTED]);⁶ (d) whether protective measures have been or will be ordered;⁷ and (e) the language the witness will testify in (Serbian).⁸

3. On 29 August 2024, the Panel instructed, among other things, the Registry to file its assessment regarding the witness's video-link testimony by Wednesday, 4 September 2024 at 16:00.⁹

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, F02506, Prosecution motion for admission of evidence of W01129 pursuant to Rule 154 and request for video-conference testimony with confidential Annexes 1-2, 23 August 2024, confidential (*see also* F02506/RED, 23 August 2024) ('Request').

⁴ Request, para. 14(i): "W01129 is a reserve witness for upcoming evidentiary blocks should the need arise". On 29 August 2024, the SPO subsequently confirmed that the witness will be testifying the week commencing 16 September 2024. *See* CRSPD559, Email from Trial Panel II to CMU regarding Expedited Briefing Schedule Registry Assessment for F02506, 29 August 2024, confidential.

⁵ Request, para. 14(ii): "the expected duration of direct examination is 1.5 hours."

⁶ *Id.*, para. 14(iii): "the SPO requests W01129 to appear via video-link from an appropriate location in [REDACTED]."

⁷ *Id.*, para. 14(iv): "W01129 has in-court protective measures, including a pseudonym and face-voice distortion."

⁸ *Id.*, para. 14(v): "W01129 will testify in Serbian".

⁹ CRSPD561, Email from Trial Panel II to CMU regarding Expedited Briefing Schedule Registry Assessment for F02506, 29 August 2024, confidential.

4. On 29 August 2024, the Specialist Co-Counsel for Mr Veseli informed the Panel that none of the Defence teams intend to respond to the SPO's Request.¹⁰

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.

¹⁰ CRSPD564, Email from Ms Annie O'Reilly, Specialist Co-Counsel, to Court Management Unit regarding the Request (F02506), 29 August 2024.

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 W01129, the expected duration of testimony, the country and location details, and the language of the witness.¹¹ 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. Based on the available information, the Registry assesses that it is technically feasible to conduct the testimony of the witness W01129 via video-link, as further elaborated below.

11. The Registry notes that the witness benefits from in-court protective measures, namely: pseudonym, testimony with face and voice distortion, and closed or private session for any in-court discussion or testimony identifying the witness.¹² It is expected that the testimony of W01129 may take place, at least in part, in private or closed session and in light of this the Registry assesses 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 the [REDACTED], where the confidentiality of the proceedings can be assured;

¹¹ Practice Direction on Video Links, art. 3(1)(a).

¹² See fn. 8 above. The Panel has also ordered the redaction of the witness's name and identifying information from Specialist Chambers' ('SC') public records and non-disclosure to the public of any records identifying the witness. Ibid.

- 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 the video-link testimony of the witness during the week of 16 September 2024, in line with the conditions outlined above, should the Panel grant the Request.
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 the Witness Protection and Support Office ('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 WPSO to complete the necessary witness information and familiarisation processes, adapted to the location of testimony, as required.

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.¹³

C. Conclusion

18. In conclusion, subject to further assessment by WPSO, the Registry assesses that it is feasible to conduct the testimony of the witness W01129 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.

IV. CONFIDENTIALITY

19. 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: 1461



Dr Fidelma Donlon

Registrar

Wednesday, 4 September 2024

The Hague, the Netherlands

¹³ 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.