



SPECIALIST PROSECUTOR'S OFFICE  
ZYRA E PROKURORIT TË SPECIALIZUAR  
SPECIJALIZOVANO TUŽILAŠTVO

**In:** KSC-BC-2020-06  
**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

**Filing Participant:** Specialist Prosecutor's Office

**Date:** 5 September 2024

**Language:** English

**Classification:** Public

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**Public Redacted Version of 'Prosecution request for video-conference testimony for W01163'**

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**Specialist Prosecutor's Office**

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**Counsel for Hashim Thaçi**

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**Counsel for Kadri Veseli**

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## I. INTRODUCTION

1. Pursuant to Articles 23(1) and 40(2) of the Law,<sup>1</sup> and Rules 80, 141(1), and 144 of the Rules,<sup>2</sup> and noting the Registry Practice Direction on Video Links,<sup>3</sup> the Specialist Prosecutor's Office ('SPO') requests that the Trial Panel authorise the testimony of W01163 to take place by video-conference from the [REDACTED] ('Request').

2. W01163 is a scheduled witness for the evidentiary block between 16 September and 3 October 2024.<sup>4</sup> The SPO intends to call W01163 on 1 October 2024. In light of the witness's personal circumstances, video-conference testimony will ensure the witness's physical and psychological well-being. Video-conference testimony is therefore appropriate and would not result in undue prejudice to the Accused, as the Defence will be fully able to cross-examine the witnesses.

## II. SUBMISSIONS

3. Rules 141(1) and 144 expressly permit the testimony of witnesses to be given by means of video-conference, establishing three conditions that must be satisfied in such cases: (i) the technology must permit the witness to be properly examined by the Parties and the Panel, at the time they are testifying; (ii) the venue chosen must be conducive to the giving of truthful and open testimony and to the safety, physical and psychological well-being, dignity and privacy of the witnesses; and (iii) the measure

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<sup>1</sup> Law No.05/L-053 on Specialist Chambers and Specialist Prosecutor's Office, 3 August 2015 ('Law').

<sup>2</sup> Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 ('Rules'). All references to 'Rule' or 'Rules' herein refer to the Rules, unless otherwise specified.

<sup>3</sup> Registry Practice Direction on Video Links, KSC-BD-23/COR, 17 July 2020 as corrected on 5 August 2020 ('Practice Direction').

<sup>4</sup> ANNEX 1 to Prosecution submission of list of witnesses for 19 August to 7 November 2024, KSC-BC-2020-06/F02451/A01, 16 July 2024, Confidential, p.124.

must not be prejudicial to or inconsistent with the rights of the accused. No additional criteria are warranted.<sup>5</sup>

4. Video-link testimony should not be considered only on an exceptional basis.<sup>6</sup> When considering whether to permit video-conference testimony, the Panel may consider a number of factors, such as the location, personal and health situation, availability and security of the witness, as well as the complexity and duration of any logistical travel and other arrangements to be made.<sup>7</sup> These factors may also include procedural considerations, including the efficient conduct of the proceedings.<sup>8</sup>

5. W01163 is a Rule 154 crime-base witness, whose evidence primarily relates to crimes alleged to have occurred in [REDACTED], specifically the abduction of W01163's husband and neighbour by the KLA.

6. While W01163, [REDACTED], is willing and available to testify, she stated that she is not able to travel due to her work and family obligations. She works multiple shifts with a frequently changing work schedule, and is currently the [REDACTED]. Further, her evidence is of limited scope and nature, and the timing of her testimony – which is anticipated to take less than a day – is dependent on the completion of witnesses scheduled before her.

7. In these circumstances, using video-conference aligns best with minimising the risk of harm and disruptions not only to the life of the witness and her family, but also to the court schedule, while supporting the witness's ability to provide truthful and

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<sup>5</sup> Public Redacted Version of Decision on Specialist Prosecutor's request for video-conference testimony for TW4-04, TW4-10 and TW4-11, KSC-BC-2020-04/F00482/RED, 13 April 2023 ('Shala Decision'), para.13.

<sup>6</sup> Decision on Prosecution Request for Video-Conference Testimony and Special Measure for W04337, KSC-BC-2020-06/F01558, 26 May 2023, Strictly Confidential and *Ex Parte* ('Decision F01558'), para.16; Decision on Prosecution Request for Video-Conference Testimony for W03827, KSC-BC-2020-06/F01776, 8 September 2023, Confidential ('Decision F01776'), para.12.

<sup>7</sup> Decision F01776, KSC-BC-2020-06/F01776, para.12; Decision F01558, KSC-BC-2020-06/F01558, para.16. See also KSC-BC-2020-07, Transcript of Hearing, 14 January 2022, p. 3034, lines 6-10.

<sup>8</sup> Shala Decision, KSC-BC-2020-04/F00482/RED, para.14.

open testimony. For these reasons, participating via video-link will improve the quality of W01163's evidence, and ensure her physical and psychological well-being.<sup>9</sup>

8. Granting the Request would also not be prejudicial to or inconsistent with the rights of the Accused.<sup>10</sup> The available technology allows for W01163 to be examined under the same conditions as she would be in the courtroom. She would testify before the Panel, after taking her solemn declaration, in real-time, in the presence of the Parties and Victims' Counsel, who will be able to question her as if she was physically present in the courtroom. The Panel will also be able to observe her demeanour and assess her credibility.

9. Pursuant to Article 3 of the Practice Direction, the SPO provides the following information: (i) W01163 is currently anticipated to testify on 1 October 2024; (ii) the expected duration of direct examination of W01163 is no more than one hour and a half; (iii) the SPO requests W01163 to appear via video-conference from [REDACTED]; (iv) W01163 has no in-court protective measures; (v) due to [REDACTED], the witness may require breaks during testimony, but the SPO is not aware of any other special needs; and (vi) W01163 will testify [REDACTED]. The SPO remains available should the Registry require any further information.

### III. CLASSIFICATION

10. This filing is confidential pursuant to Rule 82(3) since it contains personal information concerning W01163.

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<sup>9</sup> See *Shala* Decision, KSC-BC-2020-04/F00482/RED, para.18; Decision F01776, KSC-BC-2020-06/F01776, para.14; Oral Order authorising Witness W03878's testimony to take place via video-conference, 28 February 2024, Transcript, p. 13064, lines 2-5; Decision on URGENT Prosecution Motion for Admission of Evidence of W02486 Pursuant to Rule 154 and Request for Video-Conference Testimony (F02270), KSC-BC-2020-06/F02281, 3 May 2024, Confidential, para.23.

<sup>10</sup> See Decision F01776, KSC-BC-2020-06/F01776, para.15.

IV. RELIEF REQUESTED

11. For the reasons set out above, the SPO requests that the Panel grant the Request for video-conference testimony.

**Word Count: 965**



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**Kimberly P. West**

**Specialist Prosecutor**

Wednesday, 5 September 2024

At The Hague, the Netherlands.