



KOSOVO SPECIALIST CHAMBERS  
DHOMAT E SPECIALIZUARA TË KOSOVËS  
SPECIJALIZOVANA VEÇA 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

**Filed by:** Registrar

**Date:** 10 September 2024

**Language:** English

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

**Classification:** Public

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**Public Redacted Version of “Registry Assessment Regarding Prosecution’s  
Request for Video-Conference Testimony for W02135 and related request”  
(F02547)**

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1. Pursuant to Rules 23(2) and 144 of the Rules,<sup>1</sup> and Article 3 of the Practice Direction on Video Links,<sup>2</sup> the Registrar hereby submits her preliminary assessment of the feasibility of facilitating the testimony of witness W02135 via video-link from [REDACTED].

## I. PROCEDURAL HISTORY

2. On 3 September 2024, the Specialist Prosecutor's Office ('SPO') filed a request for the testimony of witness W02135 to be heard via video-link from a location in [REDACTED], and that the sitting schedule be adjusted such that the hearing would commence at 10:00 CET, noting among other things, [REDACTED] ('Request').<sup>3</sup> The SPO has provided information on: (a) when the witness is expected to testify (the week commencing 23 September 2024);<sup>4</sup> (b) the expected duration of direct examination "no more than two hours and will likely be reduced in light of [REDACTED]" [REDACTED];<sup>5</sup> (c) the country details [REDACTED];<sup>6</sup> (d) protective measures;<sup>7</sup> (e) the

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

<sup>2</sup> 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).

<sup>3</sup> KSC-BC-2020-06, F02527, Prosecution request for the video-conference testimony of W02135 and related request, 3 September 2024, strictly confidential and *ex parte* (*see also* F02527/CONF/RED and F02527/RED), paras 7, 11.

<sup>4</sup> Request, para. 2: "W02135 is scheduled witness for the evidentiary block between 16 September and 3 October 2024. The SPO intends to call W02135 the week commencing 23 September 2024." *See also* Request para. 10(i).

<sup>5</sup> Request, para.10(ii). *See also* F02507/A03, Annex 3 to Joint Defence Consolidated Response to F02450, F02451, F02460 and F02465, 23 August 2024, confidential, [REDACTED].

<sup>6</sup> Request, para.10(iii): "the SPO requests W02135 to appear via video-link from an appropriate location in [REDACTED]".

<sup>7</sup> *Id.*, para.10(iv): "W02135 has no in-court protective measures".

language the witness will testify in (English);<sup>8</sup> and (f) information on the witnesses health and special needs.<sup>9</sup>

3. [REDACTED].<sup>10</sup>

4. [REDACTED].<sup>11</sup> [REDACTED].<sup>12</sup>

## 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 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;

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<sup>8</sup> Id., para.10(vi): “W02135 will testify in English”.

<sup>9</sup> Id., para.10(v): “due to [REDACTED], the witness may require breaks during testimony, but the SPO is not aware of any other special needs”. See *further* Request, para. 7.

<sup>10</sup> [REDACTED].

<sup>11</sup> [REDACTED].

<sup>12</sup> [REDACTED].

- 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

9. 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 W02135, the expected duration of testimony, the country and location details, any indicated special needs of the witness, and the language of the witness.<sup>13</sup>

The Registry has also assessed the location and technical specifications that would be required to facilitate the testimony of the witness via video-link, 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 preliminarily assesses that it is feasible to conduct the testimony of the witness W02135 via video-link from [REDACTED]. The Registry has conducted preliminary consultations with the relevant state authorities, who have indicated that [REDACTED]. Although a final assessment of feasibility is dependent upon formal confirmation from the state authorities of their willingness and ability to facilitate the testimony of W02135 via video-link, [REDACTED]. Should the Panel grant the Request, the Registry will expeditiously transmit a formal request for assistance to the relevant state authorities in this regard. Based on preliminary indications, [REDACTED].

11. The Registry notes that the witness does not have in-court protective measures.<sup>14</sup> Nevertheless, some of the witness's proposed evidence remains classified as confidential,<sup>15</sup> and it can thus be reasonably expected that W02135's testimony may

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<sup>13</sup> Practice Direction on Video Links, art.3(1).

<sup>14</sup> See fn. 7 above.

<sup>15</sup> [REDACTED].

take place, at least in part, in private or closed session. Therefore, the Registry assesses that secure video-conference ('VTC') facilities are required.

12. In terms of the location of testimony, [REDACTED]. [REDACTED]. The Registry assesses that [REDACTED] may be used, subject to the following measures being implemented:

- a. the competent authorities do not envisage any security concerns with regard to carrying out the video-link testimony from the envisaged location;
- b. the video-link takes place in a room [REDACTED] that is, [REDACTED], sound proof with appropriate lighting and where the risk of disruption from outside noise is minimised; [REDACTED];
- c. the location is equipped with suitable in-situ cabled or wireless open internet connection that is stable and supports video streaming; and
- d. the witness [REDACTED] will be requested to remove all electronic devices from the designated video-link room, and the witness would not be permitted to take any such 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. Following receipt of formal confirmation from the relevant authorities that they are willing and able to facilitate the video-link testimony of W02135 in line with the conditions outlined above, the minimum amount of time required by the Registry to arrange for video-link testimony would be [REDACTED] working days from the moment the relevant authorities grant the Registry's request for assistance. This timeframe is required to allow pre-mission coordination with the competent authorities 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 WPSO to complete the necessary witness information and familiarisation processes, adapted to the location of testimony, as required.

## B. Health and Special Needs

16. Following the completion of the required 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.<sup>16</sup> In this respect, [REDACTED],<sup>17</sup> and the possible need for special measures<sup>18</sup> have already been indicated by the SPO in the Request.

17. WPSO will assess, among other things, whether the witness may require breaks during testimony (and of what duration), and whether there are any other recommended special measures to facilitate the witness's testimony, [REDACTED].

## C. Altered Sitting Schedule

18. The SPO exceptionally requests a slightly modified sitting schedule, so that hearings exceptionally commence one hour later, at 10:00 CET.<sup>19</sup> Further, W02135 has requested, through WPSO, a further adjustment of the sitting schedule, namely to start no earlier than 11:00 CET [REDACTED]. Based on WPSO's initial assessment, [REDACTED].

19. Furthermore, in view of [REDACTED], the Registry recommends [REDACTED]. Therefore, the Registry recommends holding any necessary pre-testimony courtroom familiarisation with the witness [REDACTED] on the first day of testimony, immediately prior to the commencement of the hearing. This would mean commencing the first day of the witness's testimony at 12:00 CET [REDACTED], with subsequent hearing day(s) starting at 11:00 CET [REDACTED].

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<sup>16</sup> 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.

<sup>17</sup> Request, para. 7.

<sup>18</sup> Id., para. 10(v).

<sup>19</sup> Id., para. 11.

20. As mentioned above, [REDACTED].<sup>20</sup>

21. Should the Panel so order, the Registry can facilitate an altered sitting schedule for the duration of the witness's testimony,<sup>21</sup> provided that the hearings do not last longer than [REDACTED]. [REDACTED].

#### **D. Conclusion**

22. In conclusion, at this time, the Registry preliminarily assesses that it is feasible to conduct the testimony of witness W02135 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 authorities and inform the Panel should any changes to the above assessment occur.

#### **IV. CONFIDENTIALITY**

23. Pursuant to Rule 82(3) and (4) of the Rules, this submission is filed as strictly confidential. Furthermore, it is classified as *ex parte* as it contains [REDACTED]. The Registry will promptly file a confidential redacted version, as well as a public redacted version of this submission.

**Word count: 2276**



**Dr Fidelma Donlon**

**Registrar**

Tuesday, 10 September 2024

The Hague, the Netherlands

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<sup>20</sup> [REDACTED].

<sup>21</sup> The Registry notes the feasibility of an altered sitting schedule is a separate matter from any special measures that may be recommended by WPSO to facilitate the witness's testimony, [REDACTED]. See paras 16-17, above.