



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 Witnesses
[REDACTED]”**

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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 testimonies of witnesses [REDACTED] via video-link from [REDACTED].

I. PROCEDURAL HISTORY

2. On 27 September 2024, the Specialist Prosecutor's Office ('SPO') filed submissions before Trial Panel II ('the Panel'), requesting, *inter alia*, that the testimonies of witnesses [REDACTED] be heard via video-link from an appropriate location in [REDACTED] ('Request').³ The SPO has provided information on: (a) when the witnesses are expected to testify ([REDACTED]);⁴ (b) the expected duration of direct examination (1 hour each for direct examination, [REDACTED]);⁵ (c) the country details ([REDACTED]);⁶ (d) whether protective measures have been or will be ordered;⁷ and (e) the language the witnesses will testify in ([REDACTED]).⁸

3. [REDACTED].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, F02603, Prosecution request for Rule 107 measures for witnesses [REDACTED], 27 September 2024, confidential (*see also* F02603/RED, 27 September 2024) ('Request').

⁴ Request, para.7(i): "currently anticipated to testify [REDACTED]".

⁵ Request, para. 7(ii): "the expected duration of their direct examinations is 1 hour each." *See also* [REDACTED]. [REDACTED]. [REDACTED].

⁶ Request, para. 7(iii): "the SPO requests [REDACTED] to appear via video-link from an appropriate location in [REDACTED]."

⁷ *Id.*, para. 7(iv): "the SPO is requesting in-court protective measures for [REDACTED], including pseudonym and face/voice distortion." *See also*, Request, para. 3(iv).

⁸ *Id.*, para. 7(v): "[REDACTED] will testify in [REDACTED]".

⁹ [REDACTED].

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 witness 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
 - (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 testimonies of [REDACTED], the expected duration of their testimonies, the country and location details, and the language of the witnesses.¹⁰ The Registry has also

¹⁰ Practice Direction on Video Links, art. 3(1)(a).

assessed the location and technical specifications that would be required to facilitate the testimonies of the witnesses 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 witnesses.

9. Based on the available information, the Registry assesses that it is technically feasible to conduct the testimonies of the witnesses [REDACTED] via video-link, as further elaborated below.

10. The Registry notes that the SPO's request for protective measures for witnesses [REDACTED] is currently before the Panel.¹¹ The Registry further notes that parts of the witnesses' statements remain classified as confidential;¹² therefore, irrespective of the outcome of the SPO's request for protective measures, it is expected that the testimonies of [REDACTED] may thus take place, at least in part, in private or closed session. Therefore, based on the information currently available, the Registry assesses that secure video-conference ('VTC') facilities, or their equivalent, are required.

11. The Registry has assessed that the most suitable location to facilitate the testimonies of these witnesses are [REDACTED] ('[REDACTED]' or 'the competent authorities'). 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 competent authorities, where the confidentiality of the proceedings can be assured;
- 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 competent authorities will provide suitable in-situ cabled or open internet connection that is stable and supports video streaming; and

¹¹ See fn. 7 above.

¹² [REDACTED].

d. the witnesses would not be permitted to take any electronic devices into the video-link room.

12. [REDACTED]. [REDACTED].

13. 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.

14. The competent authorities have confirmed that they are willing and able to facilitate the video-link testimony of the [REDACTED] witnesses in [REDACTED], in line with the conditions outlined above, should the Panel grant the Request. Should the anticipated date(s) of testimony change or extend beyond [REDACTED], the Registry will liaise with the competent authorities accordingly.

15. 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 competent authorities and internal Registry preparations, including travel to the location, the set-up and testing of the technical equipment at the place of testimony, 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

16. Following completion of the WPSO assessments and familiarisation 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

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.

C. Conclusion

17. In conclusion, subject to further assessment by WPSO, the Registry assesses that it is feasible to conduct the testimonies of [REDACTED] 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 liaise with the competent authorities on the practical details for implementation.

IV. CONFIDENTIALITY

18. Pursuant to Rule 82(3) of the Rules, this submission is filed as confidential and *ex parte* as it contains sensitive operational information. The Registry will promptly file a confidential redacted version, as well as a public redacted version of this submission.

Word count: 1576

A handwritten signature in dark ink, appearing to read 'Fidelma Donlon', written over a horizontal line.

Dr Fidelma Donlon
Registrar

Monday, 14 October 2024
The Hague, the Netherlands