



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

Filed by: Registrar

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Language: English

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

Classification: Public

**Public Redacted Version of Registry Assessment Regarding Prosecution's Request
for Video-Conference Testimony for Witness W02677**

Specialist Prosecutor's Office
Kimberly P. West

Counsel for Victims
Simon Laws

Specialist Counsel for Hashim Thaçi
Luka Mišetić

Specialist Counsel for Kadri Veseli
Rodney Dixon

Specialist Counsel for Rexhep Selimi
Geoffrey Roberts

Specialist Counsel for Jakup Krasniqi
Venkateswari Alagendra

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 W02677 via video-link from [REDACTED].

I. PROCEDURAL HISTORY

2. On 14 November 2024, the Specialist Prosecutor's Office ('SPO') filed a request for the testimony of (reserve) witness W02677 to be heard via video-link from an appropriate location in [REDACTED] ('Request').³ The SPO has provided information on: (a) when the witness is expected to testify (in the evidentiary blocks between [REDACTED], although in light of his availability and the current schedule, it is not anticipated that he would be called before [REDACTED]);⁴ (b) the expected duration of direct examination (no more than one hour;⁵ [REDACTED]);⁶ (c) the country details ([REDACTED]);⁷ (d) the requested in-court protective measures,⁸ including an indication that the SPO is not aware of any special needs;⁹ and (e) the language the witness will testify in ([REDACTED]).¹⁰

3. [REDACTED].¹¹

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

² Registry Practice Direction on Video Links, KSC-BD-23/COR, 17 July 2020, public ('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, F02721, Prosecution consolidated request for protective measures and video-conference testimony for W02677, confidential, 14 November 2024 ('Request').

⁴ Request, para. 9(i).

⁵ Request, para. 9(ii): "the expected duration of direct examination is no more than one hour".

⁶ [REDACTED].

⁷ Request, para. 9(iii): "the SPO requests W02677 to appear via video-conference from [REDACTED]".

⁸ Request, paras 4 and 9(iv).

⁹ Request, para. 9(v).

¹⁰ Request, para. 9(vi).

¹¹ [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 a preliminary assessment in accordance with Article 3(4) of the Practice Direction on Video Links, in light of the expected duration of the testimony of witness W02677, the envisaged scheduling of the testimony, the country and location details, the requested protective measures, and the language of

the witness.¹² 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.

9. Based on the available information, the Registry assesses that it is technically feasible to conduct the testimony of witness W02677 via video-link, as further elaborated below.

10. The Registry notes that the SPO has requested in-court protective measures for the witness, namely use of a pseudonym, redaction of the witness's name and identifying information, non-disclosure to the public of any records identifying the witness, testimony with face and voice distortion, and private session for any in-court discussion or testimony identifying the witness.¹³ As it can be expected that witness W02677's testimony may thus take place, at least in part, in private session, the Registry assesses that secure video-conference ('VTC') facilities are required.

11. The Registry has assessed that the most suitable location to facilitate the testimony of this witness is [REDACTED],¹⁴ [REDACTED]. This venue for the video-link testimony complies 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

¹² Practice Direction on Video Links, art. 3(1)(a).

¹³ Request, para. 4.

¹⁴ [REDACTED].

- d. the witness would not be permitted to take any electronic devices into the video-link room.
12. [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, and that any applicable protective measures are fully observed.
14. The competent authorities have in general agreed that video-link testimony could be facilitated from their premises in line with the conditions outlined above. In light of the reserve status of this witness and the uncertain date(s) of testimony, the Registry will make the necessary arrangements and liaise expeditiously with the competent authorities once the exact date(s) of testimony are known.
15. The minimum amount of time normally required by the Registry to implement any order for the use of 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 WPSO to complete the necessary witness information and familiarisation process, adapted to the location of testimony.

B. Health and Special Needs

16. 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.¹⁵

¹⁵ 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*.

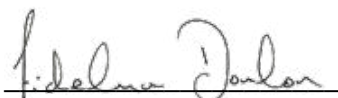
C. Conclusion

17. In conclusion, subject to further assessment by WPSO and confirmation from the competent authorities once the exact date(s) of witness W02677's testimony are known, the Registry assesses that it is feasible to conduct the testimony of witness W02677 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. This submission is filed as confidential and *ex parte* pursuant to Rule 82(4) of the Rules, 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: 1,441



Dr Fidelma Donlon

Registrar

Friday, 29 November 2024
The Hague, the Netherlands