



In: KSC-BC-2020-06

The 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 Guénaël Mettraux

Judge Fergal Gaynor, Reserve Judge

Registrar: Fidelma Donlon

Date: 7 January 2025

Language: English

Classification: Public

Public Redacted Version of Decision on Prosecution Motion for Video-Conference Testimony for [REDACTED]

Specialist Prosecutor
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Counsel for Jakup Krasniqi
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TRIAL PANEL II (“Panel”), pursuant to Articles 21(2) and (4)(f), 23(1) and 40(2) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office (“Law”) and Rules 80, 141(1) and 144 of the Rules of Procedure and Evidence before the Kosovo Specialist Chambers (“Rules”), hereby renders this decision.

I. PROCEDURAL BACKGROUND

1. On 20 December 2024, the Specialist Prosecutor’s Office (“SPO”) filed an urgent motion seeking the Panel’s authorisation for the testimony of [REDACTED] (“Witness”) to be received by video-conference from an appropriate location (“Motion”).¹

2. On 23 December 2024, the Panel informed the Parties and participants, and the Registry, *inter alia*, that: (i) any response to the Motion and the Registry’s assessment shall be filed by Thursday, 2 January 2025, at 16:00; and (ii) no reply will be entertained.²

3. On 23 and 24 December 2024, and on 2 January 2025, the Defence for Hashim Thaçi, Kadri Veseli, Rexhep Selimi, and Jakup Krasniqi (collectively, “Defence”), and Victims’ Counsel indicated that they do not object to the Motion.³

4. On 2 January 2025, the Registry filed its assessment on the Motion (“Registry Assessment”).⁴

¹ F02811, Specialist Prosecutor, *Urgent Prosecution Motion for Video-Conference Testimony for [REDACTED]*, 20 December 2024, confidential (a public redacted version was filed on the same day, F02811/RED).

² Correspondence 695.

³ Correspondence 695.

⁴ F02815, Registry, *Registry Assessment Regarding the Specialist Prosecutor’s Office’s Request for Video-Conference Testimony for Witness [REDACTED]*, 2 January 2025, confidential and *ex parte*.

II. SUBMISSIONS

5. The SPO submits that, in light of the Witness's personal circumstances and [REDACTED],⁵ video-conference testimony will enable the Witness to testify.⁶ The SPO argues that granting the Request would not prejudice the right of the Accused as the available technology allows for the Witness to be examined under the same conditions as he would be in the courtroom.⁷

6. The Registrar confirmed the feasibility of the video-link testimony of the Witness.⁸

III. APPLICABLE LAW

7. The Panel incorporates by reference the applicable law as set out in a recent decision regarding a video-conference testimony request.⁹

IV. DISCUSSION

8. The Panel recalls that it has discretion to authorise testimony by means of video-conference when the criteria of Rule 144 are met, although the presence of a witness in court remains the preferred option.¹⁰

9. The Panel emphasises that, when considering whether to allow video-conference testimony, a number of factors may be considered, including:

⁵ [REDACTED].

⁶ Motion, para. 3.

⁷ Motion, para. 4.

⁸ Registry Assessment, para. 19. *See also* Registry Assessment, paras 9-16.

⁹ *See e.g.* F02761, Panel, *Decision on Prosecution Consolidated Request for Protective Measures and Video-Conference Testimony for W02677*, 9 December 2024, confidential, paras 14-15 (a public redacted version was filed on the same day, F02761/RED).

¹⁰ *See e.g.* F02572, Panel, *Decision on Prosecution Request for Video-Conference Testimony of W02135 and Related Request* ("13 September 2024 Decision"), 13 September 2024, para. 5; KSC-BC-2020-07, Transcript of Hearing, 14 January 2022, p. 3034, lines 2-5. *See also* ICTY, *Prosecutor v. Tadić*, IT-94-1-T, Trial Chamber II, [*Decision on the Defence Motions to Summon and Protect Defence Witnesses, and on the Giving of Evidence by Video-Link*](#), 25 June 1996, para. 19.

(i) the location; (ii) personal and health situation of the witness; (iii) the availability and security of the witness; and (iv) the complexity and duration of any logistical travel and other arrangements to be made.¹¹

10. Noting the absence of any objection by the Defence as well as the Registry's assessment that it is feasible to conduct the testimony of [REDACTED] via video-conference from an appropriate location and with necessary arrangements,¹² the Panel is satisfied that the SPO has established that the Witness's personal and health situation warrant his video-conference testimony. The Panel considers, in particular: (i) the Witness's age and [REDACTED]; (ii) the [REDACTED]; and (iii) the fact that video-conference testimony would better safeguard the Witness's well-being, the expeditious conduct of the proceedings and the Witness's ability to provide truthful and open testimony.

11. The Panel is also satisfied that the Witness's video-conference testimony will cause no prejudice to the Accused and is compatible with the effective protection of their rights, as the Witness will be examined under the same conditions as those in the courtroom. Notably, the Panel, the Accused, the Parties and participants will be able to see and hear the Witness testifying in real-time and will have the opportunity to ask questions to the Witness.

12. The Panel therefore grants the Motion and authorises the testimony of the Witness to take place via video-conference.

¹¹ See e.g. 13 September 2024 Decision, para. 5; KSC-BC-2020-07, Transcript of Hearing, 14 January 2022, p. 3034, lines 6-10. See similarly KSC-BC-2020-04, F00482/RED, Trial Panel I, *Public Redacted Version of Decision on the Specialist Prosecutor's Request for Video-Conference Testimony for TW4-04, TW4-10 and TW4-11*, 13 April 2023, paras 13-14.

¹² Registry Assessment, paras 9-17, 19.

V. CLASSIFICATION

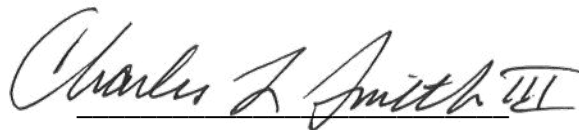
13. The Panel notes that the Registry Assessment has been submitted as confidential and *ex parte*. The Panel therefore orders the Registry to submit a confidential redacted and/or public redacted version of the Registry Assessment by **Monday, 13 January 2025**.

14. The Panel has issued this decision confidentially to preserve the dignity and privacy of the Witness.

VI. DISPOSITION

For the above-mentioned reasons, the Panel hereby:

- a) **GRANTS** the Motion;
- b) **AUTHORISES** the Witness to testify via video-conference;
- c) **ORDERS** the Registry to make the necessary arrangements for the Witness's testimony via video-conference; and
- d) **ORDERS** the Registry to file confidential and/or public redacted versions of the Registry Assessment no later than **Monday, 13 January 2025**.



Judge Charles L. Smith, III

Presiding Judge

Dated this Tuesday, 7 January 2025

At The Hague, the Netherlands.