



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:** 17 January 2025

**Language:** English

**Classification:** Public

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**Public Redacted Version of 'Corrected Version of "Prosecution request for video-conference testimony for W02714 and related request"'**

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**Specialist Prosecutor's Office**

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**Counsel for Kadri Veseli**

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**Counsel for Rexhep Selimi**

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**Counsel for Jakup Krasniqi**

Venkateswari Alagenda

## 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 Practice Direction,<sup>3</sup> the Specialist Prosecutor's Office ('SPO') requests the Trial Panel to: (i) authorise the testimony of W02714 to take place by video-conference from an appropriate location in [REDACTED] ('Request');<sup>4</sup> and (ii) order an expedited briefing schedule.

2. W02714 has been notified as a suitable reserve witness for upcoming evidentiary blocks,<sup>5</sup> and the SPO anticipates that it may be necessary to call him as early as [REDACTED]. In light of W02714's personal circumstances, video-conference testimony is needed to ensure the witness's health and well-being, and to facilitate his testimony in an expeditious manner. 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 witness.

## II. SUBMISSIONS

3. Pursuant to Rules 141(1) and 144, three conditions must be satisfied in order to permit the examination of a witness by video-conference: (i) the technology must permit the witness to be properly examined by the Parties and the Panel; (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 witness; and

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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> Based on preliminary consultations and in line with the agreed practice, the facilities of the [REDACTED] are likely to be made available for testimony by video-conference link. Alternatively, the witness may testify from other suitable premises designated by the [REDACTED] authorities.

<sup>5</sup> ANNEX 1 to Prosecution submissions concerning post-January 2025 witnesses, KSC-BC-2020-06/F02833/A01, 14 January 2025, Confidential, p.39. See also ANNEX 2 to Prosecution submission of list of witnesses for 22 April to 18 July 2024, KSC-BC-2020-06/F02195/A02, 14 January 2025, Confidential, pp.19-22.

(iii) the measure must not be prejudicial to or inconsistent with the rights of the accused. All of the conditions are met with regard to W02714.

4. 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>6</sup> These factors may also include procedural considerations, including the efficient conduct of the proceedings. In this respect, video-conference testimony enables the scheduling flexibility required for a reserve witness.<sup>7</sup>

5. W02714 is a Rule 154 crime base witness whose evidence relates primarily to crimes alleged to have been perpetrated by certain KLA members [REDACTED]. His evidence was considered appropriate for admission, once the relevant Rule 154 requirements are met.<sup>8</sup>

6. W02714, who is [REDACTED]. His medical condition has impacted his willingness to cooperate and, for these reasons, he has previously requested video-link testimony. In these circumstances, granting video-conference testimony would allow W02714 to provide evidence from his country of residence with access to his healthcare provider and without the significant physical and psychological stress caused by travelling to The Hague. Further, his evidence is of limited scope and nature, and the timing of his testimony – which is anticipated to last approximately one day – is dependent on the completion of witnesses scheduled before him.

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<sup>6</sup> Decision on Prosecution Motion for Admission of Evidence of W04500 Pursuant to Rule 154 and Request for Video-Conference Testimony, KSC-BC-2020-06/F02816, 6 January 2025, Confidential ('W04500 Decision'), para.19.

<sup>7</sup> W04500 Decision, KSC-BC-2020-06/F02816, para.20.

<sup>8</sup> Decision on Prosecution Motion for Admission of Evidence of W01978, W02540, W02677, W02714, W02951, W03865, W03881, W04371, W04710, and W04850 Pursuant to Rule 154 and Amendment of Exhibit List (F02196), KSC-BC-2020-06/F02245, 16 April 2024, Confidential, paras 50, 96(a)-(b).

7. In these circumstances, video-conference testimony appropriately minimises risks of: (i) harm to the witness, thereby supporting the witness's ability to provide truthful and open testimony; and (ii) disruption to the court schedule.

8. Granting the Request would also not be prejudicial to or inconsistent with the rights of the Accused. The available technology allows for W02714 to be examined under the same conditions as he would be in the courtroom. He would testify before the Panel, after taking his solemn declaration, in real-time, in the presence of the Parties and Victims' Counsel, who will be able to question him as if he was physically present in the courtroom. The Panel will also be able to observe his demeanour and assess his credibility.

9. Pursuant to Article 3 of the Practice Direction, the SPO provides the following information: (i) W02714 may appear as early as [REDACTED];<sup>9</sup> (ii) the expected duration of direct examination of W02714 is 1 hour;<sup>10</sup> (iii) the SPO requests W02714 to appear via video-conference from the premises of the [REDACTED] or from other suitable premises designated by the [REDACTED] authorities; (iv) the witness does not have protective measures; (v) due to his health condition, the witness may require breaks during testimony, but the SPO is not aware of any other special needs; and (vi) W02714 will testify in [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 W02714.

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<sup>9</sup> To the extent his testimony is not required this block, he will be a reserve or scheduled witness for future blocks.

<sup>10</sup> The SPO previously estimated 1.5 hours, but has since reduced its direct examination estimate to 1 hour.

IV. RELIEF REQUESTED

11. For the reasons set out above, the Trial Panel should: (i) order an expedited briefing schedule; and (ii) authorise W02714 to testify by video-conference.

**Word Count: 1013**



Kimberly P. West

Specialist Prosecutor

Friday, 17 January 2025

At The Hague, the Netherlands.

Explanatory Notes: The dates were corrected in paragraphs 2, 9, and the signature block, and clerical errors were corrected in the last sentence of paragraph 4 and the last sentence of paragraph 7.