



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:** 7 March 2025

**Language:** English

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Public redacted version of

Prosecution request for video-conference testimony for W04747

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**Specialist Prosecutor's Office**

Kimberly P. West

**Counsel for Victims**

Simon Laws

**Counsel for Hashim Thaçi**

Luka Mišetić

**Counsel for Kadri Veseli**

Rodney Dixon

**Counsel for Rexhep Selimi**

Geoffrey Roberts

**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 Registry Practice Direction on Video Links,<sup>3</sup> the Specialist Prosecutor's Office ('SPO') requests the Trial Panel to authorise the testimony of W04747 to take place by video-conference from an appropriate location in his home country of [REDACTED] [REDACTED] ('Request').

2. As set out below and in Annexes 1<sup>4</sup>-2<sup>5</sup>, this Request is the result of extensive efforts to secure W04747's evidence before this Trial Panel. In the particular circumstances of this witness, video-link is the only way this testimony could be heard.

## II. PROCEDURAL HISTORY

3. W04747 gave two SPO interviews.<sup>6</sup> These statements have been found suitable for admission pending the satisfaction of the Rule 154 criteria,<sup>7</sup> and W04747 has consistently maintained that these statements are true.<sup>8</sup> [REDACTED].<sup>9</sup>

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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> The unredacted version of this annex is available to the Panel as *ex parte* Annex 3. The materials in these annexes are arranged in order of citation in the present filing.

<sup>5</sup> The unredacted version of this annex is available to the Panel as *ex parte* Annex 4. The materials in these annexes are also arranged in order of citation.

<sup>6</sup> SPO Interview, 083220-TR-ET Parts 2-9, 11, 13, 15-16 and Parts 1,10, 12, 14 RED2, 1-4; SPO Interview, 083221-TR-ET Parts 1-4, 6, 8-9, 11-13, 15 and Parts 5, 7, 10, 14, 16 RED2.

<sup>7</sup> Public Redacted Version of Decision on Prosecution Motion for Admission of Evidence of Witnesses W02586, W03873, W04264, W04393, W04401, W04679, and W04747 pursuant to Rule 154, 14 November 2024, KSC-BC-2020-06/F02720/RED, paras 74-94, 96. *But see* Veseli Defence Request for Exclusion of Evidence, KSC-BC-2020-06/F02864, 27 January 2025, Confidential (pending ruling).

<sup>8</sup> [REDACTED].

<sup>9</sup> [REDACTED].

4. [REDACTED].<sup>10</sup> [REDACTED].<sup>11</sup> [REDACTED].<sup>12</sup> [REDACTED].<sup>13</sup>
5. [REDACTED]. [REDACTED]. [REDACTED].<sup>14</sup>
6. [REDACTED].<sup>15</sup>
7. [REDACTED]. [REDACTED].<sup>16</sup>
8. [REDACTED]. [REDACTED]. [REDACTED].<sup>17</sup> [REDACTED].<sup>18</sup> [REDACTED]<sup>19</sup>  
[REDACTED].<sup>20</sup>
9. [REDACTED]. [REDACTED].<sup>21</sup> [REDACTED].<sup>22</sup> [REDACTED].<sup>23</sup>
10. [REDACTED].<sup>24</sup> [REDACTED]. [REDACTED].<sup>25</sup>
11. [REDACTED].<sup>26</sup> [REDACTED].<sup>27</sup>

### III. SUBMISSIONS

12. Rules 141(1) and 144 expressly permit the testimony of witnesses to be given by means of video-conference, establishing three conditions that must be satisfied in such cases: (i) the technology must permit the witness to be properly examined by the

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

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

<sup>12</sup> [REDACTED]. [REDACTED]. [REDACTED]. *See also* [REDACTED].

<sup>13</sup> [REDACTED].

<sup>14</sup> [REDACTED].

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

<sup>16</sup> [REDACTED].

<sup>17</sup> [REDACTED].

<sup>18</sup> [REDACTED].

<sup>19</sup> [REDACTED].

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

<sup>21</sup> [REDACTED].

<sup>22</sup> [REDACTED].

<sup>23</sup> [REDACTED].

<sup>24</sup> [REDACTED].

<sup>25</sup> [REDACTED].

<sup>26</sup> [REDACTED].

<sup>27</sup> [REDACTED].

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 (iii) the measure must not be prejudicial to or inconsistent with the rights of the accused. No additional criteria are warranted.<sup>28</sup> All of the conditions are met with regard to W04747.

13. The Trial Panel has held that video-conference testimony should not be considered only on an exceptional basis, while acknowledging that in court presence remains the preferred option.<sup>29</sup> The Trial Panel has also found that when considering video-link testimony, it may assess factors such as the 'location, personal 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>30</sup> Procedural considerations, including the efficient conduct of the proceedings,<sup>31</sup> are also relevant.

14. [REDACTED]. [REDACTED]. [REDACTED].

15. As the procedural developments demonstrate, video-link is the only available means by which to attempt to secure W04747's testimony. The situation remains fluid and video-link testimony may yet become foreclosed, but matters have advanced to a point whereby the present request is timely. Video-link testimony at a secure location within W04747's home country is also the means most conducive to truthful and open

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<sup>28</sup> Public Redacted Version of Decision on URGENT Prosecution Motion for Admission of Evidence of W02486 Pursuant to Rule 154 and Request for Video-Conference Testimony (F02270), KSC-BC-2020-06/F02281/RED, 3 May 2024 ('Decision F02281'), para.10. *See also Specialist Prosecutor v. Shala*, Public Redacted Version of Decision on Specialist Prosecutor's request for video-conference testimony for TW4-04, TW4-10 and TW4-11, KSC-BC-2020-04/F00482/RED, 13 April 2023 ('Shala Decision'), para.13.

<sup>29</sup> Decision F02281, KSC-BC-2020-06/F02281/RED, para.21. *See also* Decision on Prosecution Request for Video-Conference Testimony and Special Measure for W04337, KSC-BC-2020-06/F01558, 26 May 2023, Strictly Confidential and *Ex Parte* ('Decision F01558'), para.16; Decision on Prosecution Request for Video-Conference Testimony for W03827, KSC-BC-2020-06/F01776, 8 September 2023, Confidential ('Decision F01776'), para.12.

<sup>30</sup> Decision F02281, KSC-BC-2020-06/F02281/RED, para.21. *See also* Decision F01776, KSC-BC-2020-06/F01776, para.12; Decision F01558, KSC-BC-2020-06/F01558, para.16; Decision on Prosecution Request for Video-Conference Testimony for W04571, KSC-BC-2020-06/F02181, 15 March 2024 ('Decision F02181'), para.7.

<sup>31</sup> *Shala* Decision, KSC-BC-2020-04/F00482/RED, para.14.

testimony, as well as to the witness's safety, physical and psychological well-being, dignity and privacy.

16. Granting the Request would also not be prejudicial to or inconsistent with the rights of the Accused.<sup>32</sup> The available technology allows for W04747 to be examined under the same conditions as he would be in the courtroom.<sup>33</sup> 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.

17. Pursuant to Article 3 of the Practice Direction, the SPO provides the following information: (i) [REDACTED]; (ii) [REDACTED]; (iii) [REDACTED];<sup>34</sup> (iv) [REDACTED]; and (v) [REDACTED]. [REDACTED].

#### IV. CLASSIFICATION

18. This filing is confidential and *ex parte* pursuant to Rule 82(3) since it contains personal information concerning W04747. Confidential and public redacted versions will be filed.

#### V. RELIEF REQUESTED

19. For the reasons set out above, the Trial Panel should grant the Request.

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<sup>32</sup> See Decision F02181, KSC-BC-2020-06/F02181, para.10; Decision F01776, KSC-BC-2020-06/F01776, para.15; Oral Order authorising Witness W03878's testimony to take place via video-conference, 28 February 2024, Transcript, p.13064, lines 6-9.

<sup>33</sup> See Decision on Prosecution Request for Video-Conference Testimony for W04393, KSC-BC-2020-06/F02698, 6 November 2024; 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.

<sup>34</sup> [REDACTED].

**Word Count: 2088**



**Kimberly P. West**

**Specialist Prosecutor**

Friday, 7 March 2025

At The Hague, the Netherlands.