



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEĆA KOSOVA

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 Guénaél Mettraux
Judge Fergal Gaynor, Reserve Judge

Registrar: Dr Fidelma Donlon

Filed by: Registrar

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**Public Redacted Version of “Registry Assessment Regarding Prosecution’s
Request for Video-Conference Testimony for W01140”**

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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 testimony of witness W01140 via video-link from the [REDACTED].

I. PROCEDURAL HISTORY

2. On 20 November 2023, the Specialist Prosecutor's Office ('SPO') filed a request for the testimony of witness W01140 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 ([REDACTED] 2023);⁴ (b) the expected duration of direct examination (1.5 hours);⁵ (c) the country details ([REDACTED]);⁶ (d) whether protective measures have been or will be ordered;⁷ and (e) the language the witness will testify in ([REDACTED]).⁸

3. [REDACTED].⁹

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

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, F01942, Prosecution request for the video-conference testimony of W01140, 20 November 2023, confidential (*see also* F01942/RED).

⁴ Request, para. 4(i): "W01140 is provisionally anticipated to appear on [REDACTED] 2023".

⁵ Request, para.4(ii): "the expected duration of direct examination is 1.5 hours". [REDACTED].

⁶ Request, para.4(ii): "the SPO requests W01140 to appear via video-link from a suitable location in [REDACTED]". [REDACTED].

⁷ Request, para.4(iv): "W01140 has been granted in-court protective measures"; *see also* F00133/COR, Corrected Version of First Decision on Specialist Prosecutor's Request for Protective Measures, 14 December 2020 (date of original: 10 December 2020), strictly confidential and *ex parte*, para.132(q) (*see also* F00133/COR/CONF/RED, 14 December 2020).

⁸ Request, para.4(v): "W01140 will testify in [REDACTED]".

⁹ [REDACTED].

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 testimony of W01140, the expected duration of testimony, the country and location details, the applicable protective measures, and the language of the witness.¹⁰ 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

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

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. At this stage, no further information is needed to complete the Registry's assessment, and the Registry assesses that it is feasible to conduct the testimony of the witness W01140 via video-link, as further elaborated below.

10. The Registry notes that the witness benefits from in-court protective measures, [REDACTED].¹¹ As it can be expected that W01140's testimony may thus take place, at least in part, [REDACTED], 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]. 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 [REDACTED], 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 [REDACTED] will provide suitable in-situ cabled or open internet connection that is stable and supports video streaming; and
- d. the witness 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 [REDACTED] have confirmed that they are willing and able to facilitate the video-link testimony of W01140 on [REDACTED] 2023, in line with the conditions

¹¹ See fn. above.

outlined above, should the Panel grant the Request. The minimum amount of time required by the Registry to arrange for video-link testimony would be [REDACTED] working days. This timeframe is required to allow pre-mission coordination with the [REDACTED] and internal Registry preparations, including travel to the location, the set-up and testing of the technical equipment in [REDACTED], as applicable, and to allow for the Witness Protection and Support Office ('WPSO') to complete the necessary witness information and familiarisation processes, adapted to the location of testimony, as required.

B. Health and Special Needs

15. 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.¹² In this respect, some health-related factors have already been indicated by the SPO in the Request, and WPSO takes note of the concerns raised therein.¹³

C. Conclusion

16. In conclusion, at this time, the Registry assesses that it is feasible to conduct the testimony of the witness W01140 via video-link from [REDACTED], 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 [REDACTED] on the practical details for implementation.

¹² 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.

¹³ Request, paras 6-8.

IV. CONFIDENTIALITY

17. This submission is filed as confidential and *ex parte*. The Registry will promptly file a confidential redacted version, as well as a public redacted version of this submission.

Word count: 1510

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

Dr Fidelma Donlon

Registrar

Wednesday, 29 November 2023

The Hague, the Netherlands