



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA 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: Fidelma Donlon

Date: 2 January 2024

Language: English

Classification: Public

Decision on Veseli Defence Request for Adjustment of the Sitting Schedule for January and February 2024

Specialist Prosecutor
Kimberly P. West

Counsel for Victims
Simon Laws

Counsel for Hashim Thaçi
Gregory Kehoe

Counsel for Kadri Veseli
Ben Emmerson

Counsel for Rexhep Selimi
Geoffrey Roberts

Counsel for Jakup Krasniqi
Venkateswari Alagendra

TRIAL PANEL II (“Panel”), pursuant to Articles 21(4)(c) and 40(2) and (6)(h) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office (“Law”) and Rule 116(1) and (4) of the Rules of Procedure and Evidence before the Kosovo Specialist Chambers (“Rules”), hereby renders this decision.

I. PROCEDURAL BACKGROUND AND SUBMISSIONS

1. On 22 December 2023, the Defence for Kadri Veseli (“Veseli Defence”) filed a motion seeking an adjustment to the upcoming trial schedule (“Request”).¹ The Veseli Defence refers to the current schedule, which sets hearing days for 15-18, 23-25, and 29-31 January 2024, and again for 1, 12-15, 20-22, and 26-28 February 2024.² Due to the very recent and sudden death of Co-Counsel and the subsequent recruitment of new counsel, the Veseli Defence requests that the hearings scheduled for 29-31 January, and 1 and 12-15 February 2024 be cancelled. This, according to the Veseli Defence, would allow new counsel adequate time to become familiar with the evidence.³

2. In support of its Request, the Veseli Defence refers to Article 21(4)(c) and (f),⁴ as well as the jurisprudence of other international criminal tribunals.⁵ The Veseli Defence argues that reasonable adjustments to the schedule are to be made when it is shown that counsel’s unavailability would have an unavoidable impact on the presentation of the defence case.⁶ The Veseli Defence submits that the Request

¹ F02032, Specialist Counsel, *Veseli Defence Request for Adjustment of the Sitting Schedule for January and February 2024*, 22 December 2023, confidential, paras 1-2, 5, 19, 22.

² E-mail from Case Management Unit to Parties and Participants sent at 08:31 on 10 November 2023 (forwarded to Trial Panel II that day at 08:34).

³ Request, paras 2-3.

⁴ Request, para. 11.

⁵ Request, para. 13.

⁶ Request, para. 13.

amounts to an adjournment of only two weeks, and that the requested relief is necessary to ensure that the Accused's fundamental rights are guaranteed.⁷

3. The Veseli Defence submits that the other three Defence teams are supportive of the Request and that the Specialist Prosecutor's Office ("SPO") has indicated in *inter partes* correspondence that it takes no position on the Request, "save that losses in sitting time must not be to the prejudice of the SPO opportunity to present its case or part of any prejudicial assessment regarding the progress of trial".⁸ Victims' Counsel supports the Request.⁹

II. APPLICABLE LAW

4. Article 21(4)(c) provides that the accused shall be guaranteed the right to have adequate time and facilities for the preparation of his or her defence. Article 21(4)(d) provides that the accused shall be entitled to be tried within a reasonable time. According to Article 40(2), a Trial Panel may adopt such procedures and modalities as are necessary to facilitate the fair and expeditious conduct of the proceedings.¹⁰

III. DISCUSSION

5. The Panel finds that the Request is timely as it was filed shortly after the death of Co-Counsel and sufficiently in advance of the relevant sitting period.

6. The Panel recalls that, pursuant to the Order on the Conduct of Proceedings, only one of an Accused's lead or co-counsel must be present in court, and the Panel will not in principle delay the proceedings due to the absence of lead or co-

⁷ Request, paras 15, 18.

⁸ Request, paras 4, 15; F02032/A01, Specialist Counsel, *ANNEX 1 to Veseli Defence Request for Adjustment of the Sitting Schedule for January and February 2024 ("Annex 1")*, 22 December 2023, confidential, p. 3.

⁹ Annex 1, p. 2.

¹⁰ See also Rule 116(1) and (4).

counsel.¹¹ Moreover, the Panel notes that the adjustment to the schedule requested by the Veseli Defence would cause significant disruption to a number of sensitive SPO witnesses and would result in delaying the proceedings. Therefore, the Panel finds that granting the Request in full would be unreasonable. The Panel notes in this regard that Mr Veseli continues to be represented by two Counsel with right of audience, who have participated in all relevant stages of proceedings.

7. Nevertheless, the Panel finds that the Veseli Defence has demonstrated good cause for a limited adjustment to the trial schedule in order to ensure that the new co-counsel can become familiar with the case and that the Veseli Defence's ability to prepare effectively for the cross-examination of upcoming witnesses is unaffected by the circumstances outlined above. The Panel also notes that, according to the Veseli Defence, neither the SPO nor any other Party or participant opposes the Request.

8. Based on the above, the Panel finds it appropriate to vacate only the hearing days scheduled for 12-15 February 2024, and to maintain the rest of the hearing days as previously scheduled.

IV. CLASSIFICATION

9. The Panel notes that the Request is filed as "confidential", although no justification is given for this classification. Thus, pursuant to Rule 82(3) and (5), the Panel orders the Veseli Defence to file a public redacted version of the Request, or request its reclassification as "public", no later than Tuesday, 9 January 2024.

V. DISPOSITION

10. In light of the above, the Panel hereby:

¹¹ F01226/A01, Panel, *Annex 1 to Order on the Conduct of Proceedings*, 25 January 2023, para. 130.

- a) **GRANTS** the Request, in part;
- b) **VACATES** the hearing days scheduled for 12-15 February 2024; and
- c) **ORDERS** the Veseli Defence to file a public redacted version of the Request, or request its reclassification as “public”, by Tuesday, 9 January 2024.



Judge Charles L. Smith, III

Presiding Judge

Dated this Tuesday, 2 January 2024

At The Hague, the Netherlands.