



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:** Fidelma Donlon

**Date:** 16 May 2024

**Language:** English

**Classification:** Public

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**Public Redacted Version of Decision on Prosecution Submission of Proposed  
Public Lesser Redacted Transcripts (W04043, W04444, W04448 and W04765)**

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**TRIAL PANEL II** (“Panel”), pursuant to Articles 21(2), 23 and 40(6)(f) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office (“Law”) and Rules 80, 84(1) and 116(4)(b) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers (“Rules”), hereby renders this decision.

## I. PROCEDURAL BACKGROUND

1. On 7 November 2023, the Panel issued an oral order on the review of private session portions of hearing transcripts in view of their reclassification, wherein it set out the procedure to be followed by the Parties and participants.<sup>1</sup>
2. On 9 November 2023, W04043 testified in these proceedings.<sup>2</sup>
3. On 9 and 13 November 2023, W04444 testified in these proceedings.<sup>3</sup>
4. On 14-15 November 2023, W04448 testified in these proceedings.<sup>4</sup>
5. On 13, 15-16 November and 4-5 December 2023, W04765 testified in these proceedings.<sup>5</sup>
6. On 2 February 2024, the Specialist Prosecutor’s Office (“SPO”) filed submissions (“Submissions”) in relation to the testimony transcripts of W04043 (“W04043’s Transcript”), W04444 (“W04444’s Transcript”), W04448 (“W04448’s Transcript”) and W04765 (“W04765’s Transcript”; collectively, “Transcripts”), to

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<sup>1</sup> Transcript of Hearing, 7 November 2023, p. 9444, line 14 to p. 9446, line 21.

<sup>2</sup> Transcript of Hearing, 9 November 2023 (“9 November 2023 Transcript”), pp. 9706-9776.

<sup>3</sup> 9 November 2023 Transcript, pp. 9779-9819; Transcript of Hearing, 13 November 2023 (“13 November 2023 Transcript”), pp. 9825-9880.

<sup>4</sup> Transcript of Hearing, 14 November 2023 (“14 November 2023 Transcript”), pp. 9977-10094; Transcript of Hearing, 15 November 2023 (“15 November 2023 Transcript”), pp. 10100-10154.

<sup>5</sup> 13 November 2023 Transcript, pp. 9885-9974; 15 November 2023 Transcript, pp. 10155-10211; Transcript of Hearing, 16 November 2023 (“16 November 2023 Transcript”), pp. 10229-10363; Transcript of Hearing, 4 December 2023 (“4 December 2023 Transcript”), pp. 10367-10480; Transcript of Hearing, 5 December 2023 (“5 December 2023 Transcript”), pp. 10481-10516.

which it annexed consolidated proposals of public lesser redacted versions of some of the Transcripts (“Annex 1”).<sup>6</sup>

7. The Witness Protection and Support Office (“WPSO”) and Victims’ Counsel responded *inter partes* to the SPO, whereby WPSO proposed additional redactions and Victims’ Counsel indicated his agreement with the SPO’s and WPSO’s proposed redactions.<sup>7</sup> The Defence did not respond.

## II. SUBMISSIONS

8. With respect to W04043’s Transcript, the SPO, WPSO and Victims’ Counsel agree that the redactions to the private session portion can be lifted, as that portion does not address sensitive information and as the witness name and location discussed therein are now publicly known.<sup>8</sup>

9. With respect to W04444’s Transcript, the SPO and WPSO are of the view that the redactions proposed by them in Annex 1<sup>9</sup> are necessary to protect, in particular, W04444’s identity.<sup>10</sup> Victims’ Counsel agrees with the redactions proposed by the SPO and WPSO and has no additional proposals.<sup>11</sup>

10. With respect to W04448’s Transcript, the SPO and WPSO are of the view that the redactions proposed by them in Annex 1<sup>12</sup> are necessary to safeguard the privacy and other interests of W04448, another witness, and their family.<sup>13</sup> Victims’ Counsel agrees with the redactions proposed by the SPO and WPSO and has no additional proposals.<sup>14</sup>

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<sup>6</sup> F02101, Specialist Prosecutor, *Prosecution Submission of Proposed Lesser Redacted Transcripts (W04043, W04444, W04448, W04765)*, 2 February 2024, with Annex 1, confidential.

<sup>7</sup> Submissions, para. 1.

<sup>8</sup> Annex 1, para. 1 (p. 3).

<sup>9</sup> Annex 1, pp. 84-85, 89, 91-96, 109-117, 119-121, 128-142, 144-161, 164-165, 167-170, 172-178, 181.

<sup>10</sup> Annex 1, paras 2-3 (p. 4).

<sup>11</sup> Annex 1, para. 4 (p. 4).

<sup>12</sup> Annex 1, pp. 332, 364-369, 404, 406, 408-409, 411-413, 415, 417-432, 434-435, 437-440.

<sup>13</sup> Annex 1, paras 5-6 (p. 5).

<sup>14</sup> Annex 1, para. 7 (p. 5).

11. With respect to W04765's Transcript, the SPO, WPSO and Victims Counsel agree that no additional redactions are required to W04765's testimony.<sup>15</sup>

### III. DISCUSSION

#### A. W04043

12. The Panel notes that the SPO, WPSO and Victims' Counsel agree that the private session portions of W04043's testimony can be lifted. Thus, in the interest of guaranteeing to the greatest possible extent the publicity of the proceedings, the Panel finds it appropriate to reclassify from confidential to public pages 9750-9751 of the 9 November 2023 Transcript.

#### B. W04444

13. The Panel first notes that the in-court redaction orders on pages 9777, lines 5-6 and 15<sup>16</sup> (relating to an open session portion about a procedural matter) and 9875, lines 12-14, remain necessary and proportionate to protect personal information and are consistent with the effective protection of the rights of the Accused.

14. Second, the Panel notes that protective measures were granted for W04444,<sup>17</sup> in particular pseudonym, face and voice distortion. The Panel notes that there appears to be no opposition from any Party or participant to the proposed redactions. Nevertheless, the Panel considers that some sections of the witness's testimony, particularly where there are block redactions, could be redacted in a way that better promotes the publicity of proceedings. The Panel thus considers that the proposed redactions remain necessary and proportionate to protect, in particular, W04444,

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<sup>15</sup> Annex 1, para. 8 (p. 6).

<sup>16</sup> F01919, Panel, *In-Court Redaction Orders, Hearing on 9 November 2023*, 9 November 2023, confidential, (a public redacted version was issued on the same day, F01919/RED).

<sup>17</sup> F00133/COR, Pre-Trial Judge, *Corrected Version of First Decision on Specialist Prosecutor's Request for Protective Measures*, 14 December 2020, strictly confidential and *ex parte*, para. 132(d), (q) (a confidential redacted version was issued on the same day, F00133/COR/CONF/RED).

and are consistent with the effective protection of the rights of the Accused, except as follows:

- Page 9790, lines 1-25, redactions only necessary in relation to [REDACTED];
- Page 9791, lines 1-25, redactions only necessary in relation to [REDACTED];
- Page 9792, lines 1-6, redactions only necessary in relation to [REDACTED];
- Page 9793, lines 3-25, redactions only necessary in relation to [REDACTED];
- Page 9808, lines 1-25, redactions only necessary in relation to [REDACTED];
- Page 9809, lines 11-25, redactions only necessary in relation to [REDACTED];
- Page 9810, lines 1-7 and 13-25, redactions only necessary in relation to [REDACTED];
- Page 9811, lines 1-17, redactions only necessary in relation to [REDACTED];
- Page 9812, lines 9-25, redactions only necessary in relation to [REDACTED];
- Page 9813, lines 1-25, redactions only necessary in relation to [REDACTED];
- Page 9814, lines 1-23, redactions only necessary in relation to [REDACTED];
- Page 9817, lines 12-25, redactions only necessary in relation to [REDACTED];
- Page 9818, lines 1-25, to page 9819, lines 1-3, redactions only necessary in relation to [REDACTED];
- Page 9828, lines 8-25, redactions only necessary in relation to [REDACTED];
- Page 9829, lines 1-25, redactions only necessary in relation to [REDACTED];
- Page 9830, lines 1-25, redactions only necessary in relation to [REDACTED];
- Page 9831, lines 1-25, redactions only necessary in relation to [REDACTED];
- Page 9832, lines 1-25, redactions only necessary in relation to [REDACTED];
- Page 9833, lines 1-25, redactions only necessary in relation to [REDACTED];
- Page 9834, lines 1-25, redactions only necessary in relation to [REDACTED];

- Page 9835, lines 1-25, redactions only necessary in relation to [REDACTED];
- Page 9836, lines 1-25, redactions only necessary in relation to [REDACTED];
- Page 9837, lines 1-25, redactions only necessary in relation to [REDACTED];
- Page 9838, lines 1-25, redactions only necessary in relation to [REDACTED];
- Page 9839, lines 1-25, redactions only necessary in relation to [REDACTED];
- Page 9840, lines 1-7, redactions only necessary in relation to [REDACTED];
- Page 9842, lines 9-25, redactions only necessary in relation to [REDACTED];
- Page 9843, lines 1-25, redactions only necessary in relation to [REDACTED];
- Page 9844, lines 1-25, redactions only necessary in relation to [REDACTED];
- Page 9845, lines 1-25, redactions only necessary in relation to [REDACTED];
- Page 9846, lines 1-25, redactions only necessary in relation to [REDACTED];
- Page 9847, lines 1-25, redactions only necessary in relation to [REDACTED];
- Page 9848, lines 1-25, redactions only necessary in relation to [REDACTED];
- Page 9849, lines 4-25, redactions only necessary in relation to [REDACTED];
- Page 9850, lines 1-18, redactions only necessary in relation to [REDACTED];
- Page 9853, line 1 to page 9854, line 2, redactions only necessary in relation to [REDACTED];
- Page 9855, lines 13-25, redactions only necessary in relation to [REDACTED];
- Page 9856, lines 1-25, redactions only necessary in relation to [REDACTED];
- Page 9857, line 1 to page 9858, line 3, redactions only necessary in relation to [REDACTED];
- Page 9865, line 11 to page 9866, line 2, redactions only necessary in relation to [REDACTED];
- Page 9866, lines 14-25, redactions only necessary in relation to [REDACTED];

- Page 9867, lines 1-12, redactions only necessary in relation to [REDACTED];
- Page 9873, lines 15-25, redactions only necessary in relation to [REDACTED];
- Page 9874, lines 1-8, redactions only necessary in relation to [REDACTED];
- Page 9875, lines 12-14 and 20-25, redactions only necessary in relation to [REDACTED];
- Page 9876, lines 1-17, redactions only necessary in relation to [REDACTED].

15. The Panel considers that for reasons of consistency with other proposed redactions that are necessary and proportionate to protect W04444 and that are consistent with the effective protection of the rights of the Accused, references to [REDACTED] on page 9875, lines 3 and 8 should also be redacted.

16. In the interest of guaranteeing to the greatest possible extent the publicity of the proceedings, the Panel finds that the remaining parts of W04444's private session testimony can be reclassified as public.

### C. W04448

17. The Panel recalls that while no protective measures were granted for W04448, part of his testimony was made in private session in order to protect, in particular, the identity of a protected witness and W04448's privacy.<sup>18</sup> The Panel notes that there appears to be no opposition from any Party or participant to the proposed redactions.<sup>19</sup>

#### 1. W04448's 14 November 2023 Transcript<sup>20</sup>

18. With respect to the redactions proposed on page 10030,<sup>21</sup> the Panel finds that they: (i) remain necessary and proportionate to protect the identity of a protected

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<sup>18</sup> 14 November 2023 Transcript, p. 10028, line 9 to p. 10032, line 7; p. 10062, line 12 to p. 10068, line 21; 15 November 2023 Transcript, p. 10101, line 12 to p. 10141, line 22.

<sup>19</sup> See also Submissions, para. 1; Annex 1, paras 5-7 (p. 5).

<sup>20</sup> 14 November 2023 Transcript, pp. 9976-10097 (including related procedural matters).

<sup>21</sup> See Annex 1, p. 332.

witness and/or their family; and (ii) are consistent with the effective protection of the rights of the Accused.

19. With respect to the redactions proposed on pages 10062-10067,<sup>22</sup> the Panel finds that the following redactions are *not* necessary, as the content is sufficiently general in nature so as not to prejudice W04448's interests and as very similar information is not proposed for redaction elsewhere on pages 10064-10066: (i) page 10063, lines 3-5; (ii) page 10064, lines 3-8 and 10-11; (iii) page 10065, lines 6-14; and (iv) page 10066, lines 7-9.

20. The remaining redactions proposed on pages 10062-10067 remain necessary and proportionate to protect the privacy and/or other interests of W04448 and his family, and are consistent with the effective protection of the rights of the Accused.

21. In the interest of guaranteeing to the greatest possible extent the publicity of the proceedings, the Panel finds that the remaining parts of W04448's 14 November 2023 private session testimony<sup>23</sup> can be reclassified as public.

## **2. W04448's 15 November 2023 Transcript<sup>24</sup>**

22. The Panel finds that the redactions proposed on pages 10102-10138:<sup>25</sup> (i) remain necessary and proportionate to protect the privacy or other interests of W04448 and his family, the identity of a protected witness and/or their family, and/or other confidential information; and (ii) are consistent with the effective protection of the rights of the Accused.

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<sup>22</sup> See Annex 1, pp. 364-369.

<sup>23</sup> See above, fn. 18.

<sup>24</sup> 15 November 2023 Transcript, pp. 10098-10154 (including related procedural matters; the remaining pages pertain to another witness).

<sup>25</sup> See Annex 1, pp. 404-440 (redactions proposed on pp. 10102, 10104, 10106-10107, 10109-10111, 10113, 10115-10130, 10132-10133, 10135-10138).



23. In the interest of guaranteeing to the greatest possible extent the publicity of the proceedings, the Panel finds that the remaining parts of W04448's 15 November 2023 private session testimony<sup>26</sup> can be reclassified as public.

24. This said, the Panel observes that the in-court redaction order on page 10154, line 20<sup>27</sup> (relating to an open session portion) is not reflected in Annex 1. The Panel finds that the respective redaction: (i) remains necessary and proportionate to protect personal information of staff; and (ii) is consistent with the effective protection of the rights of the Accused. Accordingly, the Panel orders the SPO to reflect this in-court redaction order in the public redacted version to be communicated to the Registry. The Panel directs the Parties and participants to duly consider in-court redaction orders when submitting lesser redacted transcript proposals.

#### D. W04765

25. The Panel recalls that while no protective measures were granted for W04765, a small portion of his testimony was made in private session for the protection of witnesses and/or confidential information.<sup>28</sup>

26. Furthermore, the Panel observes that while Annex 1 indicates that the SPO, WPSO and Victims' Counsel 'agree that no additional redactions are required to W04765's testimony' and that 'the transcripts for this witness are therefore not annexed',<sup>29</sup> Annex 1 includes portions of W04765's testimony<sup>30</sup> with proposed redactions.<sup>31</sup> Accordingly, the Panel will address these and, where necessary, further portions.

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<sup>26</sup> See above, fn. 18.

<sup>27</sup> F01930, Panel, (2) *In-Court Redaction Orders, Hearing on 15 November 2023* ("15 November 2023 Redaction Orders"), 15 November 2023, confidential, p. 1 (a public redacted version was issued on the same day, F01930/RED).

<sup>28</sup> 13 November 2023 Transcript, p. 9913, line 8 to p. 9914, line 4; 15 November 2023 Transcript, p. 10214, line 22 to p. 10226, line 12.

<sup>29</sup> Annex 1, para. 8 and fn. 5 (p. 6).

<sup>30</sup> See Annex 1, pp. 187-276, 457-513.

<sup>31</sup> See Annex 1, pp. 215-216, 219.

## 1. W04765's 13 November 2023 Transcript<sup>32</sup>

27. The proposed redactions pertain to parts of a private session portion<sup>33</sup> and of a public session portion.<sup>34</sup> However, no justification was provided for these redactions.<sup>35</sup>

28. With respect to the redactions proposed on pages 9913-9914,<sup>36</sup> pertaining to a private session portion, the Panel understands that they are proposed to protect the identity of a protected witness and their family. The Panel finds that these redactions remain necessary and proportionate to protect this witness and their family and that they are consistent with the effective protection of the rights of the Accused.

29. In the interest of guaranteeing to the greatest possible extent the publicity of the proceedings, the Panel finds that the remaining parts of W04765's 13 November 2023 private session testimony<sup>37</sup> can be reclassified as public.

30. With respect to the redaction proposed on page 9917,<sup>38</sup> pertaining to an open session portion, the Panel considers that while elsewhere the redaction of this information is justified,<sup>39</sup> keeping it unredacted on page 9917 would not jeopardise the protection of witness-related or other confidential information. The Panel therefore finds that the redaction proposed on page 9917 is not necessary.

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<sup>32</sup> 13 November 2023 Transcript, pp. 9885-9975 (including related procedural matters; the remaining pages pertain to another witness); Annex 1, pp. 187-277.

<sup>33</sup> Annex 1, pp. 215-216.

<sup>34</sup> Annex 1, p. 219.

<sup>35</sup> See Annex 1, para. 8 (p. 6).

<sup>36</sup> See Annex 1, pp. 215-216.

<sup>37</sup> See above, fn. 28.

<sup>38</sup> See Annex 1, p. 219.

<sup>39</sup> See above, [REDACTED]. See also Annex 1, paras 2-3 (p. 4).

## 2. W04765's 15 November 2023 Transcript<sup>40</sup>

31. The Panel observes that the in-court redaction order on page 10183, line 7 (relating to an open session portion)<sup>41</sup> is not reflected in Annex 1. The Panel finds that the respective redaction: (i) remains necessary and proportionate to protect personal information of staff; and (ii) is consistent with the effective protection of the rights of the Accused. Accordingly, the Panel orders the SPO to reflect this in-court redaction order in the public redacted version to be communicated to the Registry. The Panel reminds the Parties and participants to duly consider in-court redaction orders when submitting lesser redacted transcript proposals.

32. The Panel further observes that after W04765 had stood down on 15 November 2023,<sup>42</sup> a portion of the hearing continued in private session.<sup>43</sup> The Panel understands that the Parties and participants did not consider this portion of the transcript<sup>44</sup> and will therefore assess *proprio motu* whether this portion of the transcript can be made public.

33. The Panel finds that redaction of lines 3-10 on page 10218 remains necessary and proportionate to protect the dignity and privacy of the witness and is consistent with the effective protection of the rights of the Accused. The remainder of the above-mentioned private session portion<sup>45</sup> contains information which has already been made public elsewhere and/or does not contain any information which needs to remain confidential. In the interest of guaranteeing to the greatest possible extent the publicity of the proceedings, the Panel therefore finds that, save for lines 3-10 on page 10218, the above-mentioned private session portion can be reclassified as public.

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<sup>40</sup> 15 November 2023 Transcript, pp. 10155-10226 (including related procedural matters; the remaining pages pertain to another witness); Annex 1, pp. 457-528.

<sup>41</sup> 15 November 2023 Redaction Orders, p. 2.

<sup>42</sup> 15 November 2023 Transcript, p. 10211, line 18.

<sup>43</sup> 15 November 2023 Transcript, p. 10214, line 22 to p. 10226, line 12.

<sup>44</sup> See Annex 1, p. 6.

<sup>45</sup> See above, fn. 43.

34. As the remaining parts of W04765's 15 November 2023 Transcript are already public, there is no need for the Panel to address them any further.

### 3. W04765's 16 November and 4-5 December 2023 Transcripts<sup>46</sup>

35. With respect to W04765's transcripts of 16 November and 5 December 2023, the Panel notes that they are already classified as public in their entirety. Consistent with the submissions reflected in Annex 1,<sup>47</sup> there is no need for the Panel to address these transcripts any further to the extent they relate to W04765.

36. With respect to W04765's transcript of 4 December 2023, the Panel notes that, save for very few redactions pursuant to in-court redaction orders,<sup>48</sup> which shall remain in place, this transcript is already classified as public in its entirety. Consistent with the submissions reflected in Annex 1,<sup>49</sup> there is no need for the Panel to address this transcript any further.

## IV. DISPOSITION

37. For the above-mentioned reasons, the Panel hereby:

- a) **APPROVES** the proposed redactions as set out in Annex 1, subject to the changes specified in paragraphs 14, 19 and 30 above;
- b) **ADDITIONALLY FINDS** that the portions identified in paragraphs 15, 24, 31 and 33 above shall also be redacted;
- c) **FINDS** that the remaining portions of the Transcripts identified in Annex 1 as suitable for reclassification can be reclassified as public;
- d) **DIRECTS** the SPO to communicate to the Registry the public lesser

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<sup>46</sup> 16 November 2023 Transcript, pp. 10227-10363; 4 December 2023 Transcript, pp. 10364-10480; 5 December 2024 Transcript, pp. 10481-10516 (the remaining pages pertain to another witness).

<sup>47</sup> Annex 1, p. 6.

<sup>48</sup> See 4 December 2023 Transcript, p. 10440, lines 2 and 16; F01981, Panel, (2) *In-Court Redaction Orders, Hearing on 4 December 2023*, 4 December 2023, confidential (a public redacted version was issued on the same day, F01981/RED).

<sup>49</sup> Annex 1, p. 6.

redacted versions of the transcripts of 9 and 13-15 November 2023 in accordance with the redactions approved or ordered in the present decision;

- e) **DIRECTS** the Registry to ensure, upon receipt of the public lesser redacted version of the transcripts mentioned in sub-paragraph (d) above, that the same redactions are implemented in the Albanian and Serbian versions of these transcripts as well as the respective audio-video records, to the extent technically feasible; and
- f) **DIRECTS** the Parties and participants to duly consider in-court redactions orders when proposing future public lesser redacted versions of transcripts.



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**Judge Charles L. Smith, III**

**Presiding Judge**

Dated this Thursday, 16 May 2024

At The Hague, the Netherlands.