



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: 5 July 2024

Language: English

Classification: Public

**Decision on Prosecution Submission of Proposed Public Lesser Redacted
Transcripts (W01140)**

Specialist Prosecutor

Kimberly P. West

Counsel for Hashim Thaçi

Luka Mišetić

Counsel for Victims

Simon Laws

Counsel for Kadri Veseli

Ben Emmerson

Witness Protection and Support Office

Head of Office

Counsel for Rexhep Selimi

Geoffrey Roberts

Counsel for Jakup Krasniqi

Venkateswari Alagendra

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.¹
2. On 28 February 2024, W01140 testified in these proceedings.²
3. On 15 April 2024, the Specialist Prosecutor’s Office (“SPO”) filed submissions (“Submissions”) in relation to the testimony transcript of W01140 (“W01140’s Transcript”), to which it annexed consolidated proposals for a public lesser redacted version of the transcripts (“Annex 1 to the Submissions”).³
4. The Witness Protection and Support Office (“WPSO”) and Victims’ Counsel responded *inter partes* to the SPO,⁴ indicating that: (i) the WPSO agrees with the SPO’s proposed redactions and proposes additional redactions; and (ii) Victims’ Counsel agrees, generally, to the SPO’s proposed redactions and proposes additional redactions to W01140’s testimony, but considers that certain redactions may be lifted as they are not identifying.⁵ The Defence teams did not respond to the Submissions.

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

² Transcripts of Hearing, 28 February 2024, pp. 13015-13134.

³ F02238, Specialist Prosecutor, *Prosecution Submission of Proposed Lesser Redacted Transcripts (W01140)* (“Submissions”), 15 April 2024, with Annex 1, confidential.

⁴ Submissions, para. 1.

⁵ See, e.g., Annex 1 to the Submissions, p. 43.

II. DISCUSSION

5. With respect to W01140's Transcript, the SPO submits that the proposed redactions are necessary to protect the witness' identity.⁶ The SPO considers that the redactions proposed by the WPSO in relation to gender are not necessary.⁷ Lastly, the SPO disagrees with a suggestion of Victim's Counsel to lift a redaction in a particular paragraph.⁸

6. The Panel recalls that W01140 was granted in-court protective measures of pseudonym, face and voice distortion and closed or private session for in-court discussion or testimony identifying the witness to avoid identification by the public.⁹ The Panel is satisfied that the redactions proposed by the SPO and Victims' Counsel are necessary and proportionate to protect W01140's identity. The relevant portions of W01140's testimony should therefore be confidential.

7. Turning to the WPSO's proposals, the Panel agrees with the SPO that gender-related redactions are not necessary in relation to W01140 and third-parties as such information is not identifying. Thus, the Panel rejects the WPSO's proposed redactions to: p. 13043, line 9 reference to "Mr"; p. 13048, lines 23 and 24 reference to "man"; p. 13068, lines 7, 10, 16, 18 reference to "her"; p. 13069, line 15 reference to "he" and "his"; p. 13122, line 20 reference to "he"; and p. 13125, lines 3, 4 reference to "him".

8. In the interest of guaranteeing to the greatest possible extent the publicity of the proceedings, the Panel finds that any portion of W01140's testimony currently

⁶ Annex 1 to the Submissions, p. 3, para. 1.

⁷ Annex 1 to the Submissions, p. 3, para. 3.

⁸ Annex 1 to the Submissions, p. 3, para. 2.

⁹ F00133, Pre-Trial Judge, *First Decision on Specialist Prosecutor's Request for Protective Measures*, 10 December 2020, strictly confidential and *ex parte*, para. 132(q). A corrected version was filed on 14 December 2020 (F00133/COR). A confidential redacted version was filed on 14 December 2020 (F00133/COR/CONF).

classified as confidential that is not proposed for redaction by the SPO, the WPSO, or Victims' Counsel can be reclassified as public, subject to paragraph 7 above.

III. DISPOSITION

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

- a) **FINDS** that, with the exception of the portions identified in paragraph 7 above, the redactions to W01140's Transcript identified in Annex 1 to the Submissions proposed by the SPO, the WPSO, and Victims' Counsel are necessary and proportionate, and any remaining portions of the transcript are suitable for reclassification and can be reclassified as public;
- b) **APPROVES** the proposed redactions as set out in Annex 1 to the Submissions, subject to the changes specified in paragraph 7 above;
- c) **DIRECTS** the SPO to communicate to the Registry the public lesser redacted versions of W01140's Transcript in accordance with the redactions approved in the present decision; and
- d) **DIRECTS** the Registry to ensure, upon receipt of the public lesser redacted version of W01140's Transcript mentioned in sub-paragraph (c) 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.



Judge Charles L. Smith, III
Presiding Judge

Dated this Friday, 5 July 2024

At The Hague, the Netherlands.