



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: 11 October 2024

Language: English

Classification: Public

**Decision on Prosecution Submission of Proposed Lesser Redacted Transcripts
(W04811, W02475, W04446, and W04571)**

Specialist Prosecutor

Kimberly P. West

Counsel for Hashim Thaçi

Luka Mišetić

Counsel for Victims

Simon Laws

Counsel for Kadri Veseli

Rodney Dixon

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 18 March 2024, W04811 and W02475 testified in these proceedings.²
3. On 19 March 2024, W04446 testified in these proceedings.³
4. On 19 and 20 March 2024, W04571 testified in these proceedings.⁴
5. On 3 May 2024, the Specialist Prosecutor's Office ("SPO") filed submissions ("Submissions") in relation to the testimony transcripts of W04811 ("W04811's Transcript"), W02475 ("W02475's Transcript"), W04446 ("W04446's Transcript") and W04571 ("W04571's Transcript"; collectively, "Transcripts"), to which it annexed consolidated proposals of public lesser redacted versions of the Transcripts.⁵
6. The Witness Protection and Support Officer ("WPSO") and Victims' Counsel responded *inter partes* to the SPO, whereby they indicated their agreement with

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

² Transcript of Hearing, 18 March 2024, pp. 13148-13247 (W04811); pp. 13248-13313 (W02475).

³ Transcript of Hearing, 19 March 2024, pp. 13314-13379.

⁴ Transcripts of Hearing, 19 March 2024, pp. 13391-13431; 20 March 2024, pp. 13436-13497.

⁵ F02282, Specialist Prosecutor, *Prosecution Submission of Proposed Lesser Redacted Transcripts (W04811, W02475, W04446, and W04571)*, 3 May 2024, with Annexes 1-3, confidential.

the SPO's redactions and proposed additional redactions. The Defence did not respond.⁶

II. SUBMISSIONS

7. With respect to W04811's Transcript, the SPO submits that the proposed redactions are necessary to protect W04811's identity, and that of his family members and other protected SPO witnesses.⁷ The WPSO and Victims' Counsel agree with the SPO's proposal and propose additional redactions for the protection of the identity and dignity of W04811.⁸ The SPO does not object to Victims' Counsel's and the WPSO's proposals, but finds the WPSO's proposed redactions to references to the gender of W04811 and the prosecution's trial lawyer to be unnecessary.⁹

8. With respect to W02475's Transcript, the SPO submits that the proposed redactions are necessary to protect the identity of other protected SPO witnesses.¹⁰ Though the SPO did not report any *inter partes* communications with the WPSO or Victims' Counsel, the Panel notes that the WPSO proposed several redactions to the transcript of W02475.¹¹

9. With respect to W04446's Transcript, the SPO submits that the proposed redactions are necessary to protect W04446's identity.¹² The WPSO agrees with the SPO's proposal and proposes additional redactions to references to the gender of W04446,¹³ which the SPO considers to be unnecessary.¹⁴

⁶ Submissions, para. 1.

⁷ Annex 1 to the Submissions, para. 1 (W04811).

⁸ Annex 1 to the Submissions, paras 3-4 (W04811).

⁹ Annex 1 to the Submissions, para. 2, fn. 1 (W04811).

¹⁰ Annex 1 to the Submissions, para. 1 (W02475).

¹¹ See Annex 1 to the Submissions (W02475's Transcript), p. 13254, lines 12-13; p. 13255, lines 17, 19; p. 13300, line 20.

¹² Annex 2 to the Submissions, para. 1.

¹³ Annex 2 to the Submissions, para. 3.

¹⁴ Annex 2 to the Submissions, para. 2.

10. With respect to W04571's Transcript, the SPO submits that the proposed redactions are necessary to protect the identity of W04571.¹⁵ The WPSO agrees with the proposed redactions and proposes additional ones to protect the identity and dignity of W04571.¹⁶

III. DISCUSSION

A. W04811

11. The Panel recalls that W04811 has been granted in-court protective measures, including use of a pseudonym, and face and voice distortions.¹⁷ The Panel finds that the redactions to W04811's and the prosecutor's gender pronouns proposed by the WPSO¹⁸ are unnecessary insofar as the underlying information is not identifying.

12. The Panel notes that there appears to be no opposition from any Party or participant to the proposed redactions. The Panel is satisfied that the redactions to W04811's Transcript proposed in Annex 1 to the Submissions are necessary and proportionate to protect the identity of W04811 and that of his family members and other SPO witnesses, and consistent with the effective protection of the rights of the Accused.

¹⁵ Annex 3 to the Submissions, para. 1.

¹⁶ Annex 3 to the Submissions, para. 2.

¹⁷ F00338, Pre-Trial Judge, *Fifth Decision on Specialist Prosecutor's Request for Protective Measures*, 4 June 2021, strictly confidential and *ex parte* (a confidential redacted version was filed on 7 June 2024, F0033/CONF/RED), para. 76(g).

¹⁸ Annex 1 to the Submissions (W04811's Transcript), p. 13138, line 15; p. 13139, lines 11, 13, 21, 22; p. 13140, line 7; p. 13143, line 3; p. 13145, line 21 (redaction only to the word "she" is unnecessary); p. 13156, line 23; p. 13158, lines 10 (only the word "she"), 25; p. 13159, lines 2, 9, 14, 18, 19 (only the word "she"), 21, 22 (only the word "her"); p. 13160, lines 11 (only the word "she"), 12, 13, 17 (only the word "she"); p. 13199, line 24; p. 13200, lines 3, 10; p. 13204, line 15; p. 13210, line 22; p. 13211, line 6; p. 13213, line 11; p. 13214, lines 4, 12; p. 13215, lines 1, 7; p. 13217, line 14; p. 13218, line 3; p. 13222, lines 4, 8, 14. *See also* Annex 1 to the Submissions, para. 2.

13. In the interest of guaranteeing to the greatest possible extent the publicity of the proceedings, the Panel finds that any confidential portion of W04811's Transcript which is not the subject of a proposed redaction in the Submissions, subject to the changes specified in paragraph 11 above, can be reclassified as public.

B. W02475

14. The Panel notes that W02475 has not been granted in-court protective measures. However, the proposed redactions are intended to protect witnesses mentioned in W02475's testimony who have been granted protective measures.¹⁹ The Panel further notes that these proposed redactions are limited in scope. Therefore, the Panel is satisfied that the redactions to W02475's Transcript proposed in Annex 1 to the Submissions are necessary and proportionate to protect the identity of other SPO witnesses, and consistent with the effective protection of the rights of the Accused.

15. In the interest of guaranteeing to the greatest possible extent the publicity of the proceedings, the Panel finds that any confidential portion of W02475's Transcript that is not the subject of a proposed redaction in the Submissions can be reclassified as public.

C. W04446

16. The Panel recalls that W04446 has been granted in-court protective measures, including use of a pseudonym, and face and voice distortion.²⁰

¹⁹ Annex 1 to the Submissions, para. 1 (W02475).

²⁰ F00133/CORR, Pre-Trial Judge, *Corrected Version of First Decision on Specialist Prosecutor's Request for Protective Measures*, 10 December 2020, strictly confidential and *ex parte* (a confidential redacted version was filed on 14 December 2020, F00133/CORR/CONF/RED), para. 132(q).

17. The Panel preliminarily notes that the in-court redaction order at p. 13362, lines 15, 20 and 22, remains necessary and proportionate to protect W04446 and is consistent with the effective protection of the rights of the Accused.²¹

18. The Panel further observes that the Parties and Victims' Counsel agreed that revealing the gender of W04446 would not be identifying.²² Therefore, the Panel finds that gender-related redactions proposed by the WPSO²³ are unnecessary insofar as the underlying information is not identifying.

19. Further to the Parties' and participants' submissions,²⁴ the Panel is satisfied that the remaining redactions proposed in Annex 2 to the Submissions are necessary and proportionate to protect the identity of W04446, and consistent with the effective protection of the rights of the Accused.

20. The Panel further considers that additional redactions²⁵ are necessary for reasons of consistency with other proposed redactions that are necessary and proportionate to protect W04446's identity and that 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 any confidential portion of W04446's Transcript which is not referred to in paragraphs 17, 19 and 20, and subject to the changes specified in paragraph 18 above, can be reclassified as public.

²¹ F02189, Panel, *In-court Redaction Order, Hearing on 19 March 2024*, 19 March 2024 (a public redacted version was filed on 25 March 2024, F02189/RED).

²² Annex 2 to the Submissions, para. 2.

²³ Annex 2 to the Submissions (W04446's Transcript), p. 13314, line 22; p. 13321, lines 21, 22, 24; p. 13322, lines 1, 3; p. 13328, line 24 (redaction only to the word "his" is unnecessary); p. 13332, lines 21, 22 (only the word "his"); p. 13378, line 25.

²⁴ Annex 2 to the Submissions, paras 1-3.

²⁵ Annex 2 to the Submissions (W04446's Transcript), p. 13335, line 16.

D. W04571

22. With respect to W04571's Transcripts, the SPO submits that the proposed redactions are necessary to protect the witness's identity.²⁶ The Panel notes that W04571 has been granted in-court protective measures.²⁷ The Panel is satisfied that the redactions proposed by the SPO in Annex 3 to the Submissions are necessary and proportionate to protect W04571's identity, and consistent with the effective protection of the rights of the Accused.

23. Turning to the WPSO's proposal, the Panel finds that redactions related to gender and to the physical health of W04571²⁸ are not necessary as such information does not identify the witness nor does it infringe the witness' right to privacy.

24. In the interest of guaranteeing to the greatest possible extent the publicity of the proceedings, the Panel finds that any confidential portion of W04571's testimony which is not the subject of a proposed redaction in the Submissions, and subject to the changes specified in paragraph 23 above, can be reclassified as public.

²⁶ Annex 3 to the Submissions, para. 1.

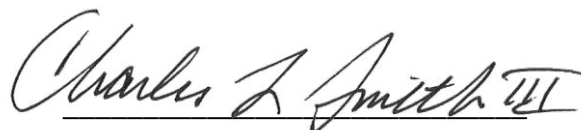
²⁷ F00133/CORR, Pre-Trial Judge, *Corrected Version of First Decision on Specialist Prosecutor's Request for Protective Measures*, 10 December 2020, strictly confidential and *ex parte* (a confidential redacted version was filed on 14 December 2020, F00133/CORR/CONF/RED), para. 132(q).

²⁸ Annex 3 to the Submissions (W04571's Transcript), p. 13395, line 18; p. 13396, line 18; p. 13397, line 14; p. 13400, line 17 (redaction only to the word "his" is unnecessary); p. 13401, line 2; p. 13404, line 15; p. 13411, line 9; p. 13412, line 11; p. 13413, line 8; p. 13415, line 23; p. 13416, lines 7, 8, 15, 17, 18; p. 13418, lines 18-20 (only the word "his"); p. 13419, lines 2, 4 (only the word "his"); p. 13421, lines 11, 24; p. 13422, lines 2, 19; p. 13423, line 15; p. 13431, line 7; p. 13459, line 6; p. 13462, line 8; p. 13464, line 11; p. 13465, line 20; p. 13475, line 18; p. 13476, line 5; p. 13477, line 14; p. 13494, line 2; p. 13500, lines 9, 14; p. 13502, line 7; p. 13503, line 1; p. 13515, line 23.

IV. DISPOSITION

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

- a) **APPROVES** the proposed redactions as set out in Annexes 1-3 to the Submissions, subject to the changes specified in paragraphs 11, 18 and 23 above;
- b) **FINDS** that the remaining portions of the Transcripts identified in Annexes 1-3 to the Submissions, subject to the changes specified in paragraph 20 above, as suitable for reclassification can be reclassified as public;
- c) **DIRECTS** the SPO to communicate to the Registry the public lesser redacted versions of the Transcripts in accordance with the redactions approved in the present decision;
- d) **DIRECTS** the Registry to ensure, upon receipt of the public lesser redacted version of the Transcripts, that the same redactions are implemented in the Albanian and Serbian versions of the Transcripts as well as the respective audio-video records, to the extent technically feasible; and
- e) **DIRECTS** the Parties and participants to duly consider in-court redactions orders when proposing future public lesser redacted versions of transcripts.



Judge Charles L. Smith, III

Presiding Judge

Dated this Friday, 11 October 2024

At The Hague, the Netherlands.