

In: KSC-BC-2020-06
Specialist Prosecutor v. Hashim Thaçi, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi

Before: **Trial Panel II**
Judge Charles L. Smith III, Presiding
Judge Christoph Barthe
Judge Guénaél Mettraux
Judge Fergal Gaynor, Reserve Judge

Registrar: Dr. Fidelma Donlon

Filing Participant: Specialist Counsel for Jakup Krasniqi

Date: 8 October 2024

Language: English

Classification: Public

Public Redacted Version of 'Krasniqi Defence Consolidated Reply to Registrar's Submissions (F02615) and Prosecution's Response (F02618), (F02624)'

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I. INTRODUCTION

1. On 6 October 2024, the Defence for Mr. Jakup Krasniqi (“Defence”) requested the Trial Panel to order an immediate temporary release of Mr. Krasniqi for a period of four days following the passing of his brother, [REDACTED] (“Deceased”), [REDACTED].¹

2. On 7 October 2024, the Trial Panel instructed the SPO, the Registrar and the Defence that:²

(i) [REDACTED];

(ii) [REDACTED];

(iii) [REDACTED].

3. On the same date, the Registrar filed her submissions³ and the Prosecution filed its response.⁴ The Defence notes and appreciates that the Registrar acknowledges that [REDACTED],⁵ and that the SPO does not oppose a custodial visit in principle.⁶

4. This filing is submitted as confidential and *ex parte* in accordance with Rule 82(4) because it replies to submissions with the same classification.

¹ KSC-BC-2020-06, F02613, Krasniqi Defence, *Urgent Krasniqi Defence Request for Temporary Release on Compassionate Grounds with Confidential and Ex Parte Annex 1* (“Request”), 6 October 2024, confidential.

² KSC-BC-2020-06, *E-mail from Trial Panel II to Parties and Participants Regarding the Expedited Briefing Schedule for F02613*, 7 October 2024, confidential.

³ KSC-BC-2020-06, F02615, Registrar, *Registrar’s Submissions on Krasniqi Defence Request for Temporary Release on Compassionate Grounds* (“Registrar’s Submissions”), 7 October 2024, confidential and *ex parte*.

⁴ KSC-BC-2020-06, F02618, Specialist Prosecutor, *Prosecution response to KRASNIQI Defence request for temporary release on compassionate grounds* (“Response”), 7 October 2024, confidential and *ex parte*.

⁵ Registrar’s Submissions, paras 10, 17.

⁶ Response, para. 1.

II. SUBMISSIONS

5. The Registrar states in her submissions that “[REDACTED].”⁷ However, the Deceased’s funeral on 6 October 2024 is followed by a three-day mourning period and “[a]n important part of the rituals is the last day of the mourning period, on which day the imam will visit the family of the deceased to perform the prayer with all family members”.⁸ The last day of the three-day mourning period thus falls on 9 October 2024. As such travel arrangements for Mr. Krasniqi to depart from The Hague on [REDACTED], will deprive him of participating in the prayer ritual with the Imam which will take place on 9 October 2024 and the Defence respectfully request that consideration is given to allowing the custodial visit to commence before [REDACTED].

6. The Defence submits that the SPO’s proposal that Mr. Krasniqi’s custodial visit be limited to one day is unreasonable and inconsistent with Mr. Krasniqi’s right to respect for family life guaranteed by Article 36(1) of the Kosovo Constitution and Article 8(1) of the European Convention on Human Rights.⁹ As mentioned in the Request, Mr. Krasniqi is [REDACTED] and at this difficult time for himself and his family he wishes to provide support and comfort to his close family, [REDACTED], and to receive support from them.¹⁰ Travelling to Kosovo for only one day would also place a strain upon Mr. Krasniqi [REDACTED].

7. The SPO’s proposal is also inconsistent with the periods of compassionate release permitted in other cases before the KSC. Mr. Kadri Veseli was authorised to visit his father, who was in a critical condition, and his immediate family members,

⁷ Registrar’s Submissions, para 18.

⁸ Request, para. 16.

⁹ Request, para 9.

¹⁰ Request, para 14.

for a period of four days.¹¹ Mr. Veseli was thereafter authorised to attend the funerals of his father and his mother, for a period of three days.¹² Similarly, Trial Panel II found that the poor health situation of Mr. Hysni Gucati's mother qualified as a compelling consideration when deciding in favour of granting his custodial visits on two occasions.¹³

8. The Defence would like to clarify that the family home of the Deceased is located in [REDACTED]. The three-day period of mourning is taking place also in [REDACTED], in a building adjacent to the mosque rather than at the family home of the Deceased. From 10 October 2024 onwards, the mourning rituals will continue in [REDACTED]. Considering that Mr. Krasniqi will be required to participate in the praying rituals from his home, the Defence respectfully requests that Mr. Krasniqi be permitted to stay at his family home for a period of three days.

9. The potential risks to which the SPO refers in its response¹⁴ will be sufficiently mitigated by confining Mr. Krasniqi to his family home (which is separate from the location where the main mourning rituals, and hence most of the visitors, will be located).

¹¹ KSC-BC-2020-06, F00271RED, Pre-Trial Judge, *Public Redacted Version of Decision on Veseli Defence Request for Temporary Release on Compassionate Grounds*, 11 May 2021, public, para. 20.

¹² KSC-BC-2020-06, F00386RED, Pre-Trial Judge, *Public Redacted Version of Second Decision on Veseli Defence Request for Temporary Release on Compassionate Grounds*, 16 July 2021, public, para. 15; F00640RED, Pre-Trial Judge, *Public Redacted Version of Third Decision on Veseli Defence Request for Temporary Release on Compassionate Grounds*, 17 January 2022, public.

¹³ KSC-CA-2022-01, F00020RED, Court of Appeals Panel, *Public Redacted Version of Decision on Gucati's Third Request for Temporary Release on Compassionate Grounds ("Third Gucati Decision")*, 4 July 2022, para. 13, referring to: KSC-BC-2020-07, F00618RED, Trial Panel II, *Public Redacted Version of Decision on Second Gucati Defence Request for Temporary Release on Compassionate Grounds*, 3 June 2022, public, paras 19-20, and KSC-BC-2020-07, F00604RED, Trial Panel II, *Public Redacted Version of Decision on Gucati Defence Request for Temporary Release on Compassionate Grounds*, 16 May 2022, public, paras 15-16. Mr. Gucati was subsequently authorised to visit his mother three other times. See Gucati Third Decision, KSC-CA-2022-01, F00043RED, Court of Appeals Panel, *Public Redacted Version of Decision on Gucati's Fourth Request for Temporary Release on Compassionate Grounds*, 22 September 2022, CR001/F00012RED, Single Judge, *Public Redacted Version of Decision on Gucati Request for Fifth Custodial Visit on Compassionate Grounds*, 24 April 2023, public.

¹⁴ Response, para. 2.

10. Once the Request is granted by the Trial Panel, the Defence will submit to the Detention Management Unit the [REDACTED].

III. CONCLUSION

11. The Defence maintains its position as set out in its previous submissions and respectfully requests that Mr. Krasniqi be permitted to stay at his family home in [REDACTED] for a period of three days, and to visit the grave site of the Deceased.

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