



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEĆA KOSOVA

In: **KSC-BC-2020-04**

The Specialist Prosecutor v. Pjetër Shala

Before: **Trial Panel I**

Judge Mappie Veldt-Foglia, Presiding Judge

Judge Roland Dekkers

Judge Gilbert Bitti

Judge Vladimir Mikula, Reserve Judge

Registrar: Fidelma Donlon

Date: 7 November 2024

Language: English

Classification: **Public**

Public redacted version of

Decision on Victims' Counsel's request for variation of protective measures

To be notified to:

Specialist Prosecutor

Kimberly P. West

Counsel for Pjetër Shala

Jean-Louis Gilissen

Registry

Head of Victims' Participation Office

Head of Witness Protection and Support
Office

Victims' Counsel

Simon Laws

TRIAL PANEL I (Panel) hereby renders this decision on Victims' Counsel's request for variation of protective measures.

I. PROCEDURAL BACKGROUND AND SUBMISSIONS

1. On 19 September 2022, the Pre-Trial Judge granted the application of Victim V03/04 (V03/04) to participate in proceedings and ordered, *inter alia*, the protective measure of non-disclosure of the identity of V03/04 and any identifying records to the public.¹ V03/04 has dual status as a victim-witness in this case and benefits from the same protective measure also as a witness.²

2. On 25 October 2024, the Panel received the "Victims' Counsel's Request on behalf of V03/04" (Request).³ In the Request, Victims' Counsel seeks to obtain a partial variation of the protective measures granted to V03/04, with the aim of permitting disclosure of the status as a victim participating in the proceedings and as a witness in the present case to [REDACTED].⁴ Victims' Counsel clarifies that V03/04 wishes to disclose this status in the present proceedings for the purposes of [REDACTED] and adds that V03/04 consents to the requested variation.⁵ Victims' Counsel further indicates that the Specialist Prosecutor's Office (SPO), having been made aware of the Request, has no objection to the proposed variation.⁶

¹ KSC-BC-2020-04, F00279, Pre-Trial Judge, *Third Decision on Victims' Participation*, 19 September 2022, paras 32, 37, 43. A public redacted version was issued on the same day, [F00279/RED](#). While the protective measure ordered in this decision applied vis-à-vis the public and the Defence, the identity of V03/04 was later disclosed to the Defence and the Accused. See KSC-BC-2020-04, F00433, Trial Panel I, [Decision on victims' procedural rights during trial and related matters](#), 24 February 2023, public, paras 54, 57.

² [REDACTED].

³ KSC-BC-2020-04, F00857, Victims' Counsel, *Victims' Counsel's Request on behalf of V03/04*, 25 October 2024, strictly confidential and *ex parte*, with Annexes 1-2, strictly confidential and *ex parte*. A public redacted version was filed on the same day, F00857/RED.

⁴ Request, paras 11, 12, 16.

⁵ Request, para. 11; see also Annex 1 to the Request.

⁶ Request, para. 13.

3. On 28 October 2024, the Panel ordered the Registry's Witness Protection and Support Office (WPSO), by email, to provide an updated threat and risk assessment in relation to V03/04, on whether the disclosure of the identity of V03/04 as requested by Victims' Counsel could affect the safety, physical and psychological well-being, dignity and privacy of V03/04, or that of the family members of V03/04 or any other person who may be at risk on account of the cooperation of V3/04 with the SPO and the Specialist Chambers (SC). The Panel ordered WPSO to file the updated threat and risk assessment no later than Friday, 1 November 2024, at 12:00.⁷

4. On 1 November 2024, WPSO provided the Panel with the updated threat and risk assessment. WPSO submits that the limited disclosure of V03/04's identity and status as a participating victim and witness in the present case to [REDACTED] would not pose a risk to V03/04, the family members of V03/04, or any other person who may otherwise be at risk on account of V03/04's cooperation with the SPO and the SC.⁸

II. APPLICABLE LAW

5. The Panel notes Articles 23(1) and 40(2) and (6)(f) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office (Law) and Rules 80 and 116(4)(b) of the Rules of Procedure and Evidence before the Kosovo Specialist Chambers (Rules).

⁷ KSC-BC-2020-04, CRSPD177, *Order to WPSO to provide an updated threat and risk assessment*, 28 October 2024, strictly confidential.

⁸ KSC-BC-2020-04, F00858, Registrar, *WPSO Updated Threat and Risk Assessment for V03/04* (WPSO Risk Assessment), 1 November 2024, strictly confidential and *ex parte*, para. 10.

III. ANALYSIS

6. At the outset, the Panel recalls its obligation to conduct proceedings with due regard for the protection of victims and witnesses – an obligation extending to their safety, physical and psychological well-being, dignity and privacy – pursuant to Articles 23(1) and 40(2) of the Law and Rule 80 of the Rules.

7. In the view of the Panel, the partial variation of V03/04's protective measures, as requested by Victims' Counsel, is warranted. In this regard, the Panel notes that: (i) WPSO assesses that such disclosure will not pose a risk to V03/04, the family of V3/04 or any other person;⁹ (ii) V03/04 has consented to such disclosure [REDACTED];¹⁰ (iii) the SPO does not have any objections to such disclosure;¹¹ (iv) [REDACTED]; (v) the disclosure is limited in scope, encompassing only V03/04's status as a victim and witness in the present case and the information will be disclosed only to [REDACTED]; and (vi) V03/04's identity and status will be disclosed under strict confidentiality [REDACTED],¹² thus mitigating any risk associated with the requested disclosure.

8. Accordingly, the Panel decides to grant the Request and varies the existing protective measures in respect of V03/04 so as to permit the disclosure of V03/04's identity and status as a victim and witness in the present proceedings to [REDACTED].

9. In light of the confidential nature of the information to be disclosed, the Panel deems it appropriate, particularly in relation to Annex 2 to the Request, to direct the Victims' Participation Office and/or Victims' Counsel to inform [REDACTED] that all

⁹ WPSO Risk Assessment, para. 10.

¹⁰ Request, para. 11; *see also* Annex 1 to the Request.

¹¹ Request, para. 13.

¹² [REDACTED].

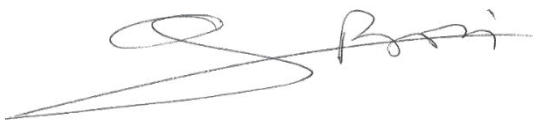
information disclosed related to V03/04's status as a victim-witness in the present case is confidential and shall be treated accordingly.

IV. DISPOSITION

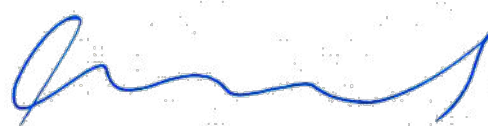
10. For the above-mentioned reasons, the Panel hereby:
- a. **GRANTS** the Request; and
 - b. **DIRECTS** the Victims' Participation Office / Victims' Counsel to inform [REDACTED], that all information in relation to V03/04 is confidential and shall be treated accordingly.



Judge Mappie Veldt-Foglia
Presiding Judge



Judge Gilbert Bitti



Judge Roland Dekkers

Dated this Thursday, 7 November 2024

At The Hague, the Netherlands.