

**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 Christoph Barthe  
Judge Guénaél Mettraux  
Judge Fergal Gaynor, Reserve Judge

**Registrar:** Dr Fidelma Donlon

**Filing Participant:** Specialist Counsel for Kadri Veseli

**Date:** 22 January 2025

**Language:** English

**Classification:** Public

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**Veseli Defence Submissions Pursuant to the Panel's Order on Review of  
Detention Conditions (F02805)**

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Simon Laws

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## I. INTRODUCTION

1. The Defence for Mr. Kadri Veseli, (the “Defence”) hereby files this request to the Trial Panel for review and amendment of the conditions of detention set out in the Panel’s Further Decision on the Prosecution’s Urgent Request for Modification of Detention Conditions for Hashim Thaçi, Kadri Veseli, and Rexhep Selimi<sup>1</sup> (the “Decision on Detention Conditions”).
2. The restrictions and monitoring conditions imposed by the Decision on Detention Conditions are no longer necessary, and by extension, no longer proportionate to the risks which the Panel sought to mitigate when the Decision was rendered in December 2023. Those conditions should therefore be rescinded.

## II. PROCEDURAL BACKGROUND

3. On 17 November 2023, the Trial Panel imposed interim restrictions on the Accused<sup>2</sup> following an urgent request from the Prosecution filed earlier the same day.<sup>3</sup>
4. On 1 December 2023, the Panel issued the Decision on Detention Conditions and imposed heightened restrictions and limitations on the detention conditions of Hashim Thaçi, Kadri Veseli and Rexhep Selimi (together the “Three Accused”). The Panel ordered the Registrar to implement the relevant restrictions and to file updates on the measures in place in this respect.<sup>4</sup>

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<sup>1</sup> F01977, Trial Panel, *Further Decision on the Prosecution’s Urgent Request for Modification of Detention Conditions for Hashim Thaçi, Kadri Veseli, and Rexhep Selimi*, 1 December 2023 (the “Detention Conditions Decision”), public.

<sup>2</sup> F01936, Trial Panel, *Decision on Prosecution Urgent Request for Modification of Detention Conditions*, 17 November 2023, confidential.

<sup>3</sup> F01933, Specialist Prosecutor, *Prosecution Urgent Request for Modification of Detention Conditions*, 17 November 2023, confidential, with Annexes 1-5, confidential.

<sup>4</sup> F01989, Registry Update on Implementation Pursuant to Trial Panel II’s Further Decision on the Prosecution’s Urgent Request for Modification of Detention Conditions with confidential Annex 1 and confidential and ex parte Annexes 2, 3 and 4, 7 December 2023 (“Registry Implementation Update”).

5. On 7 December 2023, the Registry provided the Accused with a letter which explained its plans to implement those conditions. Enclosed with the letter was a schedule of Mr Veseli's allotment of calls and visits for the months of December 2023 and January 2024.<sup>5</sup>
6. On 13 December 2024, the Selimi Defence requested<sup>6</sup> that the Panel amend the Decision on Detention Conditions as the measures imposed by the Decision are no longer necessary or proportionate.
7. On 19 December 2024, the Trial Panel issued the Order on the Selimi Defence's Request for an Expedited Briefing Schedule for F02785.<sup>7</sup> The Panel found that the Decision on Detention Conditions should be reviewed with fully informed submissions from all Parties and participants and ordered the defence for Mr. Thaçi and Mr. Veseli to file submissions in this respect.<sup>8</sup>

### III. SUBMISSIONS

8. It is significant that, more than a year ago, the only justification for the imposition of the conditions in respect of Mr. Veseli was the Panel's finding that there was a risk that the Three Accused may impermissibly disclose privileged information to unauthorised third parties.<sup>9</sup> The SPO has not brought any charges against Mr. Veseli, and he has not been further warned or informed of any additional evidence or ongoing suspicion which supports the proposition that the Accused has sought to engage in any behaviour which compromises the integrity of the proceedings.

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<sup>5</sup> F01989, Registry, *Registry Update on Implementation Pursuant to Trial Panel II's Further Decision on the Prosecution's Urgent Request for Modification of Detention Conditions*, 7 December 2023.

<sup>6</sup> F02785, Specialist Counsel, *Selimi Defence Request to the Trial Panel to Amend Decision F01977*, 13 December 2025, public.

<sup>7</sup> F02805, Trial Panel, *Order on the Selimi Defence's Request for an Expedited Briefing Schedule for F02785*, 19 December 2024, public ("Panel Order of 19 December").

<sup>8</sup> Panel Order of 19 December, para. 15.

<sup>9</sup> Decision on Detention Conditions, para.37.

9. The Defence submits that the conditions of detention should now revert to the conditions previously in place prior to the modification. The restrictions and monitoring conditions imposed by the Decision on Detention Conditions are no longer necessary given that the risks originally outlined by the SPO are no longer substantiated. By extension, the restrictions are no longer proportionate. Their disproportionate nature is particularly egregious in respect of Mr Veseli's wife and four children – two of whom remain minors and none of whom are a party to these proceedings. As a result, there is no ascertainable "legitimate aim" justifying the continued imposition of the conditions.
10. In particular, the Defence requests that the Panel review the restrictions set out in the Decision on Detention Conditions and, at the minimum remove:
- a. the conditions requiring approval by the Registrar of all non-privileged in person visits<sup>10</sup> and video and telephone visits and communications,<sup>11</sup>
  - b. active monitoring of all non-privileged in-person meetings<sup>12</sup>, and
  - c. active monitoring, to the extent it is in place, of video and audio visits and communications.<sup>13</sup>
11. The Defence additionally requests that the Registry-imposed time limits currently in place for in-person visits, video and telephone calls be rescinded and that Mr Veseli's previous entitlements to phone calls and personal visits be reinstated. The current situation is that:

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<sup>10</sup> Decision on Detention Conditions, paras.51-53.

<sup>11</sup> *Ibid*, para.62.

<sup>12</sup> *Ibid*, para.57.

<sup>13</sup> *Ibid*, paras. 66 and 70.

- a. Mr. Veseli is limited to five (5) actively monitored non-privileged single-visitor in person visits of 40 minutes each, subject to prior approval by the Registrar.<sup>14</sup>
  - b. He is further limited to (5) video visits per month of 40 minutes each, subject to prior approval by the Registrar and are recorded.<sup>15</sup>
  - c. In relation to telephone calls, Mr. Veseli is required to make advanced requests for telephone calls up to a month in advance, indicating who he wants to communicate with.<sup>16</sup> Notably, Mr. Veseli is limited to: **one** telephone call on court days, lasting 15 minutes; **two** telephone calls per weekday on non-court days, each lasting a maximum of 15 minutes; and **one** telephone call per weekend day, last a maximum of 20 minutes.<sup>17</sup>
12. The Panel has acknowledged that the heightened restrictions cannot continue indefinitely and “should only be maintained for as long as they serve a legitimate aim and continue to be necessary and proportionate.”<sup>18</sup> There is no indication that the Defence sought to use his communications with his family and close relations to interfere with the integrity of proceedings or disclose confidential information. It is submitted that there is no legitimate aim which is served by the continued interference with the Defence’s right to private and family life resulting from the restrictions.
13. It is important to bear in mind that, taken together, the conditions imposed by the Decision on Detention Conditions amount to a heightened surveillance regime on Mr. Veseli’s visits and communications while in detention. The

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<sup>14</sup> Annex 1 of Registry Implementation Update, p.2.

<sup>15</sup> Annex 1 of Registry Implementation Update, pp.5-6.

<sup>16</sup> Annex 1 of Registry Implementation Update, p.7

<sup>17</sup> *Ibid.*

<sup>18</sup> Detention Conditions Decision, para.25.

impact of this – especially on a person who has been in detention in a foreign country for over four years – cannot be underestimated.

14. The Defence draws attention to the conditions set out above in para.11 in particular due to their impact on the rights and wellbeing of Mr Veseli's family and close relations (who make up most of his in-person visitors):
  - a. The condition that requires visitors to see him alone<sup>19</sup> has forced his relations to visit him individually at greater expense and inconvenience than if they were allowed to visit together. Given that his relations must travel great distances in order to see Mr Veseli, it is particularly regrettable that these visits have been limited to just forty minutes.
  - b. The limitations on his telephone and videocalls have significantly strained his ability to maintain meaningful contact with his wife and children. In particular the prohibition on unannounced visitors on phone calls<sup>20</sup> has been particularly difficult for his children, who are not even permitted to say hello to their father when he calls to speak to his wife. It has introduced an element of anxiety into the children's relationship with their father which, at this stage, is entirely unjustifiable.
15. The Defence further notes that prior to the modified conditions, Mr Veseli's family was allowed to visit him during the morning and afternoon of the days they were in The Hague each month. Under current arrangements, they are permitted only to visit him during the morning. While recognising that this is a discretionary matter, the Defence observes that a return to the previous

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<sup>19</sup> Decision on Detention Conditions, para. 55.

<sup>20</sup> Decision on Detention Conditions, para. 67.

schedule of morning and afternoon visits would be significant for Mr Veseli and his family.

16. The appropriate conditions of detention and practice in respect of the Defence's right to communicate with his close relations – including his family and extended family - have already been set out in the Registry Practice Direction: Rules on Detention<sup>21</sup> and the Registry Practice Direction on Detainees: Visits and Communications.<sup>22</sup> It is submitted that this existing regime is sufficient to allay any concerns the Panel may still have at this stage.
17. In accordance with the protections afforded to all persons in detention by Article 8 of the European Convention on Human rights, the Panel has previously stressed that it is an essential part of a detainee's right to respect for family life that contact with close relatives be maintained.<sup>23</sup> In circumstances where the conditions imposed by the Decision on Detention Conditions are plainly no longer necessary, they cannot be said to be proportionate. In order to strike an appropriate balance between the Defence's rights and the legitimate aims of the Court, the conditions should be removed.

#### IV. CONCLUSION

18. The Defence requests the Trial Panel to amend its Further Decision on the Prosecution's Urgent Request for Modification of Detention Conditions and to remove the measures as set out herein.

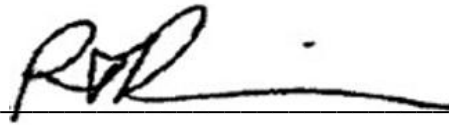
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<sup>21</sup> KSC-BD-08-Rev1, Registrar, *Registry Practice Direction: Rules on Detention*, 20 September 2020.

<sup>22</sup> KSC-BD-08-Reb1, Registrar, *Registry Practice Direction on Detainees: Visits and Communications*, 23 September 2020.

<sup>23</sup> Detention Conditions Decision, para.46.



Rodney Dixon KC

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Wednesday, 22 January 2025,

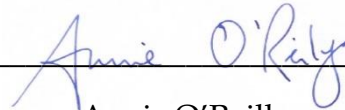
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