

**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:** Dr Fidelma Donlon

**Filing Participant:** Counsel for Rexhep Selimi

**Date:** 30 January 2026

**Language:** English

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**Public Redacted Version of Selimi Defence Request for Rescission of Contact  
Restrictions**

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## I. INTRODUCTION

1. Pursuant to paragraph 77 of the Decision modifying the Accused's detention conditions,<sup>1</sup> the Defence for Mr. Rexhep Selimi ("the Defence") hereby files its Request for Rescission of Contact Restrictions. In light of the current stage of proceedings, the contact restrictions imposed upon by Mr. Selimi for over two years<sup>2</sup> are no longer necessary or proportionate to the risks identified in Decision F01977 and [REDACTED].<sup>3</sup> Accordingly, the contact restrictions imposed therein should be rescinded.

## II. PROCEDURAL HISTORY

2. The Defence incorporates the procedural history outlined in its previous request for review<sup>4</sup> and in [REDACTED].<sup>5</sup>

## III. SUBMISSIONS

### A. The contact restrictions are no longer necessary

3. At this stage, in light of the closure of the evidentiary proceedings<sup>6</sup> and the recent submission of the Parties' final trial briefs<sup>7</sup> and the Victims' Counsel's Impact

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<sup>1</sup> KSC-BC-2020-06/F01977, Further Decision on the Prosecution's Urgent Request for Modification of Detention Conditions for Hashim Thaçi, Kadri Veseli, and Rexhep Selimi, 1 December 2023 ("Decision F01977"), para. 77.

<sup>2</sup> Decision F01977.

<sup>3</sup> [REDACTED].

<sup>4</sup> KSC-BC-2020-06/F02785, Selimi Defence Request to the Trial Panel to Amend Decision F01977 with Confidential Annexes 1 and 2, 13 December 2024, paras. 5-18.

<sup>5</sup> [REDACTED].

<sup>6</sup> KSC-BC-2020-06/F03639, Notice Regarding the Close of Evidentiary Proceedings, 18 December 2025.

<sup>7</sup> KSC-BC-2020-06/F03667, Prosecution Final Trial Brief with Confidential Annexes 1-2, 19 January 2026; KSC-BC-2020-06/F03664, Thaçi Defence Final Trial Brief with Confidential Annexes 1 and 2, 19 January 2026; KSC-BC-2020-06/F03666, Final Trial Brief on Behalf of Kadri Veseli with Confidential Annexes 1 and 2, 19 January 2026; KSC-BC-2020-06/F03665, Selimi Defence Final Brief with Confidential Annex 1, 19 January 2026; KSC-BC-2020-06/F03668, Krasniqi Defence Final Trial Brief with Confidential Annexes 1-3 and Confidential and *Ex-Parte* Annex 4, 19 January 2026.

Statement,<sup>8</sup> the considerations identified by the Trial Panel in Decision F01977 and in [REDACTED] as warranting the imposition and maintenance of the contact restrictions are no longer pervasive.<sup>9</sup> Further, the eventuality that the contact restrictions were intended to avoid, namely the continued dissemination of protected witness information,<sup>10</sup> has not materialized. With the disclosure process completed, and there being no further witnesses to be called, the risk that the Accused will interfere with any witnesses has drastically diminished. Additionally, all arguments in favour of the Accused's innocence have been placed before the Trial Panel, and the Panel's instructions concerning the forthcoming closing statements do not envisage any possibility for additional evidence being presented at that stage.<sup>11</sup> These factors further reduce the purported risk of interference or unauthorized disclosure, as there is no opportunity to alter the evidentiary matrix underpinning the Trial Panel's further determination of the Accused's guilt, or to raise further arguments in support of their innocence based on evidence deriving from prohibited acts.

4. The jurisprudence of other international tribunals has confirmed that the completion of the evidentiary proceedings significantly reduces the risk of interference with witnesses.<sup>12</sup> Consequently, several chambers have either fully

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<sup>8</sup> KSC-BC-2020-06/F03663/CONF/RED, Confidential Redacted Version of "Victims' Counsel's Statement on the Impact of the Alleged Crimes on the Participating Victims in Case 06 with confidential Annex 1 and strictly confidential and ex parte Annex 2" with one confidential redacted Annex, 19 January 2026.

<sup>9</sup> Decision F01977, paras. 31-33, referring to the Accused's increased knowledge of the evidence against them amplifying the risk of interference of witnesses yet to testify; [REDACTED].

<sup>10</sup> Decision F01977, para. 37.

<sup>11</sup> KSC-BC-2020-06/F03639, Notice Regarding the Close of Evidentiary Proceedings, 18 December 2025, paras. 23-25.

<sup>12</sup> ICC, *The Prosecutor v. Yekatom and Ngaïssona*, Case No. ICC-01/14-01/18 A, Decision on restrictions to Mr Yekatom's contacts and communications in detention, 16 September 2025, para. 24; *The Prosecutor v. Yekatom and Ngaïssona*, Case No. ICC-01/14-01/18 A, Decision on request for variation of restrictions to Mr Ngaïssona's contacts and communications in detention, 9 October 2025, para. 22; *The Prosecutor v. Al Hassan*, Case No. ICC-01/12-01/18, Public redacted version of Decision reviewing the measures restricting Mr Al Hassan's contacts whilst in detention following the closure of the submission of evidence, 3 July 2023, para. 25; *The Prosecutor v. Ntaganda*, Case No. ICC-01/04-02/06, Public redacted version of 'Decision on the present restrictions on Mr Ntaganda's contacts, 19 February 2018, paras. 21,

rescinded, or significantly amended the scope of, the contact restrictions on the Accused at that stage, and also before that stage,<sup>13</sup> even where the conduct forming the basis for instituting such restrictions in those cases was of markedly higher gravity than that attributed to Mr. Selimi.<sup>14</sup>

5. The significant decrease in any contemplated risks of witness interference is further confirmed by the [REDACTED].<sup>15</sup> [REDACTED].<sup>16</sup> The SPO has also conceded that Mr. Selimi has abided by the terms of the contact restrictions and that no unauthorized disclosure of confidential information has occurred since their imposition.<sup>17</sup> The jurisprudence of other international tribunals confirms that the lack of any conduct incompatible with the integrity of the proceedings following the institution of modified detention conditions is a relevant factor in assessing the necessity of maintaining such restrictions.<sup>18</sup>

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23; *The Prosecutor v. Ongwen*, Case No. ICC-02/04-01/15, Corrected version of Decision on the Defence Request for Immediate Release and the Communication Restrictions Applying to the Accused, 17 April 2020, paras. 25, 34-35; ICTY, *The Prosecutor v. Prlić et al*, Case No. IT-04-74-T, Decision on Motion for Provisional Release of the Accused Milijov Petković, 30 November 2011, para. 32; *The Prosecutor v. Prlić et al*, Case No. IT-04-74-T, Decision on Jadranko Prlić's Motion for Provisional Release, 24 November 2011, para. 32.

<sup>13</sup> ICC, *The Prosecutor v. Ongwen*, Case No. ICC-02/04-01/15, Corrected version of Decision on the Defence Request for Immediate Release and the Communication Restrictions Applying to the Accused, 17 April 2020, para. 41; *The Prosecutor v. Said*, Case No. ICC-01/14-01/21, Second Decision on Contact Restrictions, 11 December 2024, para. 42; *The Prosecutor v. Ntaganda*, Case No. ICC-01/04-02/06, Public redacted version of 'Decision on the present restrictions on Mr Ntaganda's contacts, 19 February 2018, paras. 27, 34; *The Prosecutor v. Al Hassan*, Case No. ICC-01/12-01/18, Public redacted version of Decision reviewing the measures restricting Mr Al Hassan's contacts whilst in detention following the closure of the submission of evidence, 3 July 2023, para. 35.

<sup>14</sup> ICC, *The Prosecutor v. Yekatom and Ngaïssona*, Case No. ICC-01/14-01/18, Decision on Mr Ngaïssona's Restrictions on Contacts and Communications in Detention, 17 April 2020, paras. 3-4; *The Prosecutor v. Ntaganda*, Case No. ICC-01/04-02/06, Public redacted version of 'Decision on the present restrictions on Mr Ntaganda's contacts', 19 January 2018, para. 25; *The Prosecutor v. Ongwen*, Case No. ICC-02/04-01/15, Decision on a request by the Prosecutor under article 57 of the Rome Statute and regulation 101(2) of the Regulations of the Court, 24 June 2015, para. 6.

<sup>15</sup> [REDACTED].

<sup>16</sup> [REDACTED].

<sup>17</sup> KSC-BC-2020-06/F03112, Consolidated Prosecution response to Veseli, Selimi and Krasniqi provisional release requests (F03076, F03078, and F03086) with public Annex 1, 14 April 2025, para. 42.

<sup>18</sup> ICC, *The Prosecutor v. Yekatom and Ngaïssona*, Case No. ICC-01/14-01/18 A, Decision on restrictions to Mr Yekatom's contacts and communications in detention, 16 September 2025, para. 28; *The Prosecutor v. Al Hassan*, Case No. ICC-01/12-01/18, Public redacted version of Decision reviewing the measures

6. However, [REDACTED].<sup>19</sup> [REDACTED] referred to its earlier findings to the same effect concerning applications for provisional release,<sup>20</sup> yet those risk determinations were made against the markedly different standard of “less than certainty, but more than a mere possibility of a risk materializing.”<sup>21</sup> This is in contrast to the higher standard of “substantial risk that, without adequate measures being put in place, the Three Accused will impermissibly disclose privileged information to unauthorised third parties”, evinced by the Trial Panel as the basis for ordering the modified detention conditions.<sup>22</sup> Hence, the determination as to the likelihood of those risks materializing for the purposes of an assessment of a request for provisional release cannot be transposed into the risk assessment in the present context.
7. Further, concerning the risk of incentivizing witnesses to recant, as foreshadowed above, the Rules do not envisage a possibility for the evidentiary proceedings to be re-opened at this stage, such that the Accused could rely on such recantations. Additionally, concerning the risk of retaliatory attacks against witnesses, this factor was considered by other international tribunals, yet the Trial Chamber concerned did not consider that this risk made out in the abstract, as it is made here, militates against relaxing contact restrictions after the

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restricting Mr Al Hassan’s contacts whilst in detention following the closure of the submission of evidence, 3 July 2023, paras. 29-30; *The Prosecutor v. Said*, Case No. ICC-01/14-01/21, Second Decision on Contact Restrictions, 11 December 2024, para. 38.

<sup>19</sup> [REDACTED].

<sup>20</sup> KSC-BC-2020-06/F03175/COR, Corrected Version of Consolidated Decision on Selimi Defence Request for Provisional Release and on Periodic Review of Detention of Rexhep Selimi, 13 May 2025, para. 36; KSC-BC-2020-06/F03177, Decision on Veseli Defence Request for Provisional Release, 13 May 2025, para. 32; KSC-BC-2020-06/F03253, Decision on Periodic Review of Detention of Hashim Thaçi, 11 June 2025, para. 25.

<sup>21</sup> KSC-BC-2020-06/F03175/COR, Corrected Version of Consolidated Decision on Selimi Defence Request for Provisional Release and on Periodic Review of Detention of Rexhep Selimi, 13 May 2025, para. 20; KSC-BC-2020-06/IA033/F00006, Decision on Rexhep Selimi’s Appeal Against Consolidated Decision on Request for Provisional Release and on Review of Detention, 13 August 2025, para. 48.

<sup>22</sup> Decision F01977, para. 37.

conclusion of the Prosecution evidence.<sup>23</sup> Concerning the risk of interference with witnesses in parallel proceedings, the SPO is only expected to call three witnesses in Case 12, anticipated to testify over a single week,<sup>24</sup> none of whom are Kosovans,<sup>25</sup> and two of the three are forensic experts.<sup>26</sup> The Appeals Panel already determined that any finding of risk posed by Mr. Selimi to witnesses such as these would be unsupported and/or speculative,<sup>27</sup> and no basis exists for reaching a different conclusion in respect of Case 12 witnesses.

8. Moreover, the uncharged conduct attributed to Mr. Selimi, namely an instance of inadvertent disclosure of confidential information, cannot be seen in any way as indicative of a risk that Mr. Selimi will engage in any of the enumerated acts. Other courts have excluded from their necessity assessments incidents that have not been alleged to have been committed in furtherance of a purpose to interfere with the proceedings,<sup>28</sup> and emphasized that “the extended prohibition of direct contact can be justified only where a genuine and continuing danger of that kind exists.”<sup>29</sup> If Mr. Selimi’s restrictions will be maintained solely on the basis of hypothetical risks with no indication that he will engage in any of the

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<sup>23</sup> ICC, *Prosecution v. Al Hassan*, Case No. ICC-01/12-01/18, Decision reviewing the measures restricting Mr Al Hassan’s contacts in detention, 31 January 2022, para. 15.

<sup>24</sup> KSC-BC-2023-12/F00602/, Order Scheduling Commencement of Trial, 4 December 2025, para. 8.

<sup>25</sup> KSC-BC-2023-12/F00622, Joint Defence Response to “Prosecution motion for judicial notice of an adjudicated fact” (F00600), 15 December 2025, para. 11.

<sup>26</sup> KSC-BC-2023-12/F00602, Order Scheduling Commencement of Trial, 4 December 2025, para. 24; KSC-BC-2023-12/F00635/RED, Public redacted version of ‘Prosecution motion for admission of evidence of witnesses Witness 7 and Witness 9 pursuant to Rule 154 with confidential Annexes 1 and 2’, 18 December 2025, para. 16; KSC-BC-2023-12/F00620/RED, Public redacted version of ‘Prosecution response to Filing F00586 and motion for admission of evidence of Witness 8 with confidential Annex 1’, 15 December 2025, para. 3.

<sup>27</sup> KSC-BC-2020-06/IA033/F00006, Decision on Rexhep Selimi’s Appeal Against Consolidated Decision on Request for Provisional Release and on Review of Detention, 13 August 2025, para. 25.

<sup>28</sup> ECtHR, *Kučera v. Slovakia*, Application no. 48666/99, Judgment of 17 July 2007, para. 132; ICC, *The Prosecutor v. Yekatom and Ngaiissona*, Case No. ICC-01/14-01/18 A, Public redacted version of Decision on request for variation of restrictions to Mr Ngaiissona’s contacts and communications in detention, 9 October 2025, para. 22.

<sup>29</sup> ECtHR, *Khoroshenko v. Russia*, Application no. 41418/04, Judgment of 30 June 2015, para. 125.

contemplated activities, both the necessity and the legitimate aim of the measures would be compromised.

9. In light of the foregoing, since the risks upon which the imposition of the contact restrictions was premised have drastically diminished, such restrictions are no longer necessary to achieve the stated aim of preventing interference with witnesses.

**B. The contact restrictions are no longer proportionate**

10. Other international tribunals have recognized that the proportionality assessment must account for “the potentially deleterious impact of restrictions on communications on detainees’ family lives as well as on their wellbeing over time”.<sup>30</sup> In that regard, the ICC determined in *Ntaganda* that a continued application of restrictions of an Accused’s communications absent any further evidence of misconduct after their imposition would unduly impinge upon his fundamental rights and would be disproportionate to the residual need to maintain such restrictions after the conclusion of the prosecution and victims evidence.<sup>31</sup>
11. In the present case, where the proceedings are even more advanced, the continuation of such measures would be even more disproportionate. Additionally, as in *Ntaganda*, there have been no further allegations of unauthorized conduct levied against Mr. Selimi, and both *Ntaganda* and Mr. Selimi have been subjected to contact restrictions for a similar amount of time.<sup>32</sup>

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<sup>30</sup> ICC, *Prosecutor v. Ntaganda*, Case No. ICC-01/04-02/06, Public redacted version of ‘Further decision reviewing the restrictions placed on Mr Ntaganda’s contacts’, 19 May 2017, para. 27; *Prosecutor v. Ntaganda*, Case No. ICC-01/04-02/06, Public redacted version of ‘Decision on the present restrictions on Mr Ntaganda’s contacts’, 19 February 2018, para. 27.

<sup>31</sup> ICC, *Prosecutor v. Ntaganda*, Case No. ICC-01/04-02/06, Public redacted version of ‘Decision on the present restrictions on Mr Ntaganda’s contacts’, 19 February 2018, para. 27.

<sup>32</sup> ICC, *Prosecutor v. Ntaganda*, Case No. ICC-01/04-02/06, Public redacted version of ‘Decision on the present restrictions on Mr Ntaganda’s contacts’, 19 February 2018, para. 1.

12. As previously argued, prior to the imposition of contact restrictions, Mr. Selimi was authorised to freely communicate with his close family members, namely his wife and two children, by telephone from the Detention Unit, which allowed him to maintain an exceptionally close bond with them.<sup>33</sup> In contrast, the contact restrictions have necessarily interfered with his ability to further develop this bond.<sup>34</sup> Further, the limitations on Mr. Selimi's in-person visit have also significantly impacted his ability to maintain and nourish the personal relationships he developed before his incarceration.<sup>35</sup> In the intervening year since those arguments were raised, the strain occasioned by the contact restrictions on Mr. Selimi's relationship with the outside world has only worsened. While the limited relaxation of the measures by the Trial Panel has in part alleviated some of the concerns,<sup>36</sup> the contact restrictions continue to hamper Mr. Selimi's ability to maintain contact with his family and friends, despite the subsidence of the risks that required their imposition.
13. Additionally, the proceedings are approaching the deliberations stage, which necessarily entails that Mr. Selimi will not be attending court hearings for a significant amount of time. While the Defence will continue to consult Mr. Selimi at the DMU on a regular basis, during this period, regular communication and contact with the outside world takes on an even greater importance and further militates in favour of rescinding the contact restrictions.
14. Finally, the Registrar has also submitted that a significant number of restrictions imposed upon Mr. Selimi contacts that are not expressly provided for in Decision F01977 derive from the logistical limitations of the system devised in order to implement Decision F01977, and that it is not possible to amend the system

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<sup>33</sup> KSC-BC-2020-06/F02785, Selimi Defence Request to the Trial Panel to Amend Decision F01977 with Confidential Annexes 1 and 2, 13 December 2024, paras. 24, 27.

<sup>34</sup> *Ibid*, paras. 25-27.

<sup>35</sup> *Ibid*, paras. 28-29.

<sup>36</sup> [REDACTED].

should the restrictions imposed in that Decision be maintained.<sup>37</sup> Therefore, the rescission of the restrictions in Decision F01977 is the only avenue for removing these additional limitations, which further compound the lack of proportionality of the restrictions regime at this stage of the proceedings. This course of action will have the added benefit of removing the resource strain on the Registry that results from the need to maintain this system.

#### IV. CONFIDENTIALITY

15. These submissions are filed confidentially pursuant to Rule 82(4). A public redacted version will be filed following instructions from the Trial Panel.

#### V. CONCLUSION AND RELIEF REQUESTED

16. In light of the foregoing, the Defence respectfully requests the Trial Panel to GRANT the request and RESCIND the contact restrictions imposed in Decision F01977.

Word count: 2942

Respectfully submitted on 30 January 2026,

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<sup>37</sup> KSC-BC-2020-06/F02897, Registrar's Submissions Pursuant to Order F02805, 3 February 2025, para. 12.



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