



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 Guénaël Mettraux

Judge Fergal Gaynor, Reserve Judge

Registrar: Fidelma Donlon

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**Public Redacted Version of Decision Reviewing the Conditions of Detention
Modified in F01977**

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TRIAL PANEL II (“Panel”), pursuant to Articles 3(2), 21, 23(1) and 40(2) and (6) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office (“Law”) and Rules 56(6), 57(2), 80(1) and 116(4)(d) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers (“Rules”), hereby renders this decision.

I. PROCEDURAL BACKGROUND

1. On 1 December 2023, following a request by the Specialist Prosecutor’s Office (“SPO”),¹ the Panel modified the conditions of detention for Hashim Thaçi (“Mr Thaçi”), Kadri Veseli (“Mr Veseli”) and Rexhep Selimi (“Mr Selimi”) (collectively “Three Accused”) (“Modified Detention Conditions”) (“Decision Modifying the Detention Conditions”).²
2. On 9 February 2024, the Panel issued a decision providing guidance pursuant to the Decision Modifying the Detention Conditions (“Decision on Registrar’s Request for Guidance Pursuant to the Decision Modifying Detention Conditions”).³
3. On 22 March 2024, following a request by the Defence for Mr Selimi (“Selimi Defence”),⁴ the Panel issued a decision rejecting a request for judicial review of a

¹ F01933, Specialist Prosecutor, *Prosecution Urgent Request for Modification of Detention Conditions*, 17 November 2023, confidential, with Annexes 1-5, confidential (a public redacted version was filed on 22 November 2023, F01933/RED).

² F01977, 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, paras 51-53, 55-60, 62-78, 84(c).

³ F02115, Panel, *Decision on Registry Notification in Relation to Court-Ordered Protective Measures and Request for Guidance Pursuant to Decision F01977*, 9 February 2024, confidential (a public redacted version was issued on the same day, F02115/RED).

⁴ F02160/A01, Registrar, *Annex 1 of Transmission of Rexhep Selimi’s Request for Judicial Review of Registrar’s Decision on Request for Reconsideration*, 1 March 2024, confidential and *ex parte*. The Registrar transmitted Mr Selimi’s Request for Judicial Review to the Panel on 1 March 2024 (*see* F02160, Registrar, *Transmission of Rexhep Selimi’s Request for Judicial Review of Registrar’s Decision on Request for Reconsideration*, 1 March 2024, with Annexes 1-5, confidential and *ex parte*).

decision by the Registrar implementing the Decision Modifying the Detention Conditions.⁵

4. On 13 December 2024, the Selimi Defence requested that the Panel amend the Decision Modifying the Detention Conditions (“Selimi Request”).⁶

5. On 19 December 2024, the Panel set a briefing schedule for the Defence for Mr Veseli (“Veseli Defence”) and Mr Thaçi (“Thaçi Defence”), the SPO and the Registrar to file submissions on whether the Modified Detention Conditions remain necessary and proportionate (“Order”).⁷

6. On 22 January 2025, the Veseli Defence filed submissions in accordance with the Order (“Veseli Request”).⁸ The Thaçi Defence did not file any submissions.

7. On 3 February 2025, the SPO responded to, and the Registrar filed submissions in respect of, the Selimi Request and Veseli Request (“SPO Response” and “Registrar Submissions”, respectively).⁹

8. On 10 February 2025, the Selimi Defence and Veseli Defence replied to the SPO Response and Registrar Submissions (“Selimi Reply” and “Veseli Reply”, respectively).¹⁰

⁵ F02194, Panel, *Decision on Rexhep Selimi’s Request for Judicial Review of Registrar’s Decision on Reconsideration* (“Decision on Mr Selimi’s Request for Judicial Review”), 22 March 2024.

⁶ F02785, Specialist Counsel, *Selimi Defence Request to the Trial Panel to Amend Decision F01977*, 13 December 2024, paras 1, 3-4, 38, with Annexes 1-2, confidential.

⁷ F02805, Panel, *Order on the Selimi Defence’s Request for an Expediated Briefing Schedule for F02785*, 19 December 2024.

⁸ F02846, Specialist Counsel, *Veseli Defence Submissions Pursuant to the Panel’s Order on Review of Detention Conditions*, 22 January 2025.

⁹ F02896, Specialist Prosecutor, *Prosecution Consolidated Response to F02785 and F02846*, 3 February 2025; F02897, Registrar, *Registrar’s Submissions Pursuant to Order F02805*, 3 February 2025.

¹⁰ F02914, Specialist Counsel, *Veseli Defence Reply to F02896 and Related Request*, 10 February 2025; F02917, Specialist Counsel, *Selimi Defence Reply to Prosecution Consolidated Response to F02785 and F02846*, 10 February 2025.

9. On 18 March 2025, following an order by the Panel,¹¹ Victims' Counsel filed submissions concerning certain arguments in the SPO Response ("Victims' Counsel's Submissions").¹²

10. On 20 March 2025, the Selimi Defence responded to the Victims' Counsel's Submissions ("Selimi Response to Victims' Counsel's Submissions").¹³

11. On 21 March 2025, the Veseli Defence responded to the Victims' Counsel's Submissions ("Veseli Response to Victims' Counsel's Submissions").¹⁴

12. On 24 March 2025, Victims' Counsel replied to the Veseli Response ("Victims' Counsel's Reply").¹⁵

II. SUBMISSIONS

A. SELIMI REQUEST

13. The Selimi Defence submits that the Modified Detention Conditions should be amended as they are no longer necessary and proportionate, significantly impact Mr Selimi's ability to maintain necessary contact with his family, and place a significant burden on the staff of the Specialist Chambers' ("SC") detention facilities ("Detention Facilities").¹⁶ The Selimi Defence requests that the Panel, at a minimum, remove the conditions requiring: (i) approval by the Registrar for all non-privileged in-person visits and video and telephone visits and communications; (ii) active monitoring of all non-privileged in-person meetings;

¹¹ CRSPD755, *Email from Trial Panel II to the Parties and Participants Inviting Submissions from Victims' Counsel Regarding F02896*, 10 March 2025, confidential.

¹² F03033, *Victims' Counsel, Victims' Counsel's Submissions Concerning the Specialist Prosecutor's Observations in F02896*, 18 March 2025.

¹³ F03044, *Specialist Counsel, Selimi Defence Response to Victims' Counsel's Submissions Regarding Detention Facilities Conditions*, 20 March 2025.

¹⁴ F03048, *Specialist Counsel, Veseli Defence Response to Victims' Counsel's Submissions Concerning the Specialist Prosecutor's Observations in F02896*, 21 March 2025.

¹⁵ F03051, *Victims' Counsel, Victims' Counsel's Reply to the Veseli Defence Response to Victims' Counsel's Submissions Concerning the Specialist Prosecutor's Observations in F02896*, 24 March 2025.

¹⁶ Selimi Request, paras 1, 3, 24-28, 34-35, 38.

(iii) active monitoring, to the extent it is in place, of video and audio visits and communications; and (iv) limitations on the duration of private visits.¹⁷ The Selimi Defence also requests that the Panel explicitly remove the restrictions in place on Mr Selimi's ability to call his wife and children.¹⁸

14. The Selimi Defence also submits that, since the imposition of the Modified Detention Conditions: (i) it has not been made aware of any issues arising from the Modified Detention Conditions; (ii) the SPO has not requested any further measures be imposed on Mr Selimi, or brought any charges against him, as a result of any conduct of Mr Selimi in the Detention Facilities, and (iii) the Modified Detention Conditions no longer serve a legitimate aim and are no longer necessary, or proportionate.¹⁹ In particular, the Selimi Defence notes: (i) the limitations placed upon phone calls with Mr Selimi's family;²⁰ and (ii) the fact that non-privileged in-person visits and video and telephone visits and communications require prior approval by the Registrar, which limits the number and duration of such visits, has significantly impacted his ability to communicate with his family.²¹

B. VESELI REQUEST

15. The Veseli Defence submits that the Modified Detention Conditions are no longer necessary or proportionate to the risks which the Panel sought to mitigate in the Decision Modifying the Detention Conditions and should therefore be rescinded.²² In particular, the Veseli Defence requests that, at a minimum, the Panel remove: (i) the conditions requiring approval by the Registrar of all

¹⁷ Selimi Request, para. 38.

¹⁸ Selimi Request, para. 38.

¹⁹ Selimi Request, paras 20-23.

²⁰ Selimi Request, paras 24-26.

²¹ Selimi Request, para. 29.

²² Veseli Request, para. 2.

non-privileged in-person visits and video and telephone visits and communications; (ii) active monitoring of all non-privileged in-person meetings; and (iii) active monitoring, to the extent it is in place, of video and audio visits and communications.²³ The Veseli Defence also 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.²⁴

16. The Veseli Defence also submits that the only justification for the imposition of the Modified Detention Conditions on 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.²⁵ The Veseli Defence argues that, since the imposition of the Modified Detention Conditions: (i) the SPO has not brought any charges against Mr Veseli; and (ii) Mr Veseli has not been informed of any additional evidence, or ongoing suspicion, that he has sought to engage in any behaviour which compromises the integrity of the proceedings.²⁶

C. SPO RESPONSE

17. The SPO responds that the Selimi Request and Veseli Request should be rejected and the Modified Detention Conditions should, at a minimum, remain in place until the closure of the SPO's and Victims' Counsel's cases.²⁷ The SPO argues that the conditions of detention were modified to prevent the impermissible disclosure of confidential information, including the identity of protected witnesses, and guarantee the integrity of the proceedings as the Three Accused appeared to have disclosed confidential information to visitors at the Detention

²³ Veseli Request, para. 10.

²⁴ Veseli Request, para. 11.

²⁵ Veseli Request, para. 8.

²⁶ Veseli Request, para. 8.

²⁷ SPO Response, paras 1, 8-15, 17.

Facilities.²⁸ The SPO contends that, in these circumstances, maintaining the Modified Detention Conditions is the least restrictive way to strike a balance between the rights of the Accused and the necessity to ensure the safety of witnesses, the preservation of evidence and the integrity of the proceedings.²⁹

18. The SPO adds that, since the Decision Modifying the Detention Conditions: (i) three persons who interfered with a witness whose testimony implicated Mr Selimi in criminality have pleaded guilty to obstruction offences before Trial Panel I;³⁰ and (ii) a former member of the Veseli Defence has had charges confirmed against him under Article 15(2).³¹ The SPO contends that, in these circumstances, to remove certain conditions placed on Mr Selimi and Mr Veseli would increase the risk of further obstructive conduct and impermissible disclosure to unauthorised third parties.³²

D. REGISTRAR SUBMISSIONS

19. The Registrar notes that, should the Panel find that the Modified Detention Conditions continue to be necessary and proportionate, the Registry has the capacity to continue to implement the Modified Detention Conditions.³³ The Registrar outlines, however, that, should the Panel find that the Modified Detention Conditions continue to be necessary and proportionate, it is not possible to amend the Modified Detention Conditions while at the same time maintaining the necessary security controls in the Detention Facilities and safeguarding the

²⁸ SPO Response, paras 2-5.

²⁹ SPO Response, para. 16.

³⁰ SPO Response, para. 7 *referring to* KSC-BC-2023-10/F00377/RED, Pre-Trial Judge, [Public Redacted Version of the Decision on Confirmation of Amendments to the Indictment and Related Matters](#) (“Confirmation Decision of Case 10 Indictment”), 8 July 2024, paras 43-56.

³¹ SPO Response, para. 12 *referring to* KSC-BC-2023-12/F00055/A01, Specialist Prosecutor, [Annex 1 to Submission of Public Redacted Confirmed Indictment](#), 6 December 2024.

³² SPO Response, para. 7.

³³ Registrar Submissions, para. 6.

rights of all detainees.³⁴ Nonetheless, the Registrar states that the Modified Detention Conditions could be eased in two areas, without affecting the Registry's effective implementation of the Decision Modifying the Detention Conditions,³⁵ namely: (i) lifting the one-visitor restriction on approved video visits;³⁶ and (ii) allowing the Accused's spouse and children on approved telephone calls.³⁷

E. SELIMI REPLY

20. The Selimi Defence replies that the SPO mischaracterises the standard through which the Selimi Request should be analysed and that, contrary to the SPO's submissions, it is not seeking reconsideration of the necessity of the Modified Detention Conditions (which would be subject to a reconsideration requirement), but that the Panel review the necessity of the imposed conditions.³⁸ The Selimi Defence argues that the SPO's reference to KSC-BC-20203-10 ("Case 10") is misplaced as the confirmation decision does not hold that Mr Selimi participated in the alleged interference or engaged in any criminality.³⁹

F. VESELI REPLY

21. The Veseli Defence replies that it is necessary to correct the SPO's allegations against Mr Veseli and notes that Mr Hajredin Kuci, who was a member of the Veseli Defence, met with Mr Thaçi on 3 September 2023 on his own and not as part of a legal meeting.⁴⁰ The Veseli Defence maintains that the Modified Detention Conditions should be removed but, if the Panel maintains the reporting regime

³⁴ Registrar Submissions, para. 12.

³⁵ Registrar Submissions, para. 13.

³⁶ Registrar Submissions, paras 14-15.

³⁷ Registrar Submissions, paras 16-18.

³⁸ Selimi Reply, paras 1-2.

³⁹ Selimi Reply, para. 3.

⁴⁰ Veseli Reply, paras 2-5.

from the decision, it requests that the Defence be granted access to any past and future reports.⁴¹

G. VICTIMS' COUNSEL'S SUBMISSIONS

22. Victims' Counsel argues that the Panel should take all reasonable measures to safeguard the victims in this case and, to this effect, and irrespective of whether he will call witnesses with protective measures, agrees with the SPO that the Modified Detention Conditions should remain in place.⁴² Victims' Counsel adds that the Three Accused have substantial confidential information, including the identities of seventy-seven dual status victim-witnesses, which were disclosed to them to secure their fair trial rights but, as evidenced by recordings from the Detention Facilities, the Three Accused were not to be trusted with this information.⁴³ Victims' Counsel contends that the Three Accused have demonstrated a propensity to disregard protective measures, which provide vital security and reassurance to victims, and the Modified Detention Conditions are the only safeguard against misuse of this information.⁴⁴ Victims' Counsel adds that the Selimi Request and the Veseli Request provide no basis for believing that the conduct will not be repeated.⁴⁵

H. SELIMI RESPONSE TO VICTIMS' COUNSEL'S SUBMISSIONS

23. The Selimi Defence responds that Victims' Counsel makes broad, sweeping generalisations without engaging with the arguments in the Selimi Request.⁴⁶ The Selimi Defence contends that there is no evidence that Mr Selimi has a

⁴¹ Veseli Reply, paras 2, 8-11.

⁴² Victims' Counsel's Submissions, paras 3, 5, 9-10.

⁴³ Victims' Counsel's Submissions, paras 5, 7.

⁴⁴ Victims' Counsel's Submissions, paras 4-5.

⁴⁵ Victims' Counsel's Submissions, para. 8.

⁴⁶ Selimi Response to Victims' Counsel's Submissions, para. 2.

propensity to disregard protective measures, and that Victims' Counsel ignores that, after a year, no charges have been brought against Mr Selimi as a result of the alleged misconduct.⁴⁷ The Selimi Defence stresses that the question before the Panel is whether the Modified Detention Conditions continue to be legitimate and necessary, and Victims' Counsel fails to address why the removal of some of the Modified Detention Conditions would not protect confidential information.⁴⁸

I. VESELI RESPONSE TO VICTIMS' COUNSEL'S SUBMISSIONS

24. The Veseli Defence responds that, contrary to Victims' Counsel's submissions, there is no evidence that Mr Veseli interfered, or attempted to interfere, with any witnesses in these proceedings, or otherwise divulged any confidential information.⁴⁹ The Veseli Defence maintains that, since the Modified Detention Conditions were imposed, no evidence has been disclosed that Mr Veseli has sought to engage in any behaviour which compromises the integrity of the proceedings.⁵⁰ The Veseli Defence contends that, contrary to Victims' Counsel's Submissions, it is significant that Victims' Counsel does not anticipate calling any victims as witnesses to testify, and argues that this establishes that a relaxation of the Modified Detention Conditions could have no impact on the evidential record.⁵¹ The Veseli Defence argues that, therefore, and due to the impact of the Modified Detention Conditions on Mr Veseli's contact with his wife and children, fairness requires that the conditions be relaxed.⁵²

⁴⁷ Selimi Response to Victims' Counsel's Submissions, para. 3.

⁴⁸ Selimi Response to Victims' Counsel's Submissions, paras 4-5.

⁴⁹ Veseli Response to Victims' Counsel's Submissions, paras 2-3.

⁵⁰ Veseli Response to Victims' Counsel's Submissions, para. 3(c).

⁵¹ Veseli Response to Victims' Counsel's Submissions, para. 4.

⁵² Veseli Response to Victims' Counsel's Submissions, para. 5.

J. VICTIMS' COUNSEL'S REPLY TO VESELI RESPONSE TO VICTIMS' COUNSEL'S SUBMISSIONS

25. Victims' Counsel clarifies that the Veseli Defence's assertion that he will not call any victims as witnesses to testify as part of his case is a misrepresentation of Victims' Counsel's Submissions.⁵³

III. APPLICABLE LAW

26. Pursuant to Article 3(2) of the Law, the SC shall adjudicate and function in accordance with the Constitution of the Republic of Kosovo ("Constitution") and international human rights law. Article 8 of the European Convention on Human Rights ("ECHR") protects the right to respect for private and family life.

27. Pursuant to Article 23(1) of the Law and Rule 80(1) of the Rules, the SC shall provide for the protection of victims and witnesses, including their safety, physical and psychological well-being, dignity and privacy.

28. Pursuant to Article 40(2) and (6) of the Law and Rule 116 of the Rules, the Panel shall take all necessary measures, on an ongoing basis, as are necessary to facilitate the fair and expeditious conduct of the trial proceedings and to protect the Accused, witnesses and victims.

29. Pursuant to Rules 56, 57(2) and 116(4)(d) of the Rules, the Panel may rule on conditions of detention and related matters for the purpose of protecting witnesses or victims, confidential information or the integrity of the proceedings, including on the imposition of necessary and proportionate restrictions on the communications of a detained person. Pursuant to Article 1(3) of the Practice

⁵³ Victims' Counsel's Reply to Veseli Response to Victims' Counsel's Submissions, paras 1-3.

Direction on Visits and Communications, the rules therein do not affect, and are subject to, any order or decision of the Panel under Rule 56 of the Rules.⁵⁴

30. The Parties and participants are under a general obligation not to disclose to third parties any confidential documents or information linked to the proceedings.⁵⁵ In particular, a Party or participant shall not disclose the identity of a protected witness to any third party. It may only do so in the exceptional circumstance where such disclosure is directly and specifically necessary for the preparation and presentation of its case,⁵⁶ and even in such case shall not reveal to third parties that any protected witness is involved with the activities of the SC/SPO or the nature of such involvement.⁵⁷

IV. DISCUSSION

A. REQUEST FOR RECONSIDERATION

31. The SPO argues that the Selimi Request constitutes a request for reconsideration of the Decision Modifying the Detention Conditions since in seeking a review of the conditions, the Selimi Defence is, in effect, asking the Panel to reconsider their necessity.⁵⁸

32. The Selimi Defence replies that the Selimi Request does not constitute a request for reconsideration of the conditions in the Decision Modifying the Detention Conditions since the Panel indicated, in that decision, that it would review the necessity of the conditions.⁵⁹

⁵⁴ KSC-BD-09-Rev1, Registrar, *Registry Practice Direction on Detainees (Visits and Communications)* ("Practice Direction on Visits and Communications"), 23 September 2020.

⁵⁵ See generally F00854, Pre-Trial Judge, *Decision on Framework for Handling Confidential Information During Investigations and Contact Between a Party or Participant and Witnesses of the Opposing Party or of a Participant* ("Framework Decision on Handling Confidential Information"), 24 June 2022, para. 212(I)(a).

⁵⁶ Framework Decision on Handling Confidential Information, para. 212(I)(e).

⁵⁷ Framework Decision on Handling Confidential Information, para. 212(I)(f).

⁵⁸ SPO Response, para. 9.

⁵⁹ Selimi Reply, para. 2.

33. The Panel rejects the SPO's argument that the Selimi Request constitutes a request for reconsideration.⁶⁰ By this argument, the SPO appears to suggest that the Modified Detention Conditions should be maintained indefinitely unless the requirements of Rule 79 are met. Such a reading would be contradictory to the Law, the Rules, the Constitution and international human rights law. The Panel has to ensure that conditions of detention are at all times necessary and proportionate,⁶¹ and clearly foresaw that it would review the Modified Detention Conditions when it issued the decision.⁶²

34. In light of the above, the Panel finds that the Selimi Request does not constitute a request for reconsideration of the Decision Modifying the Detention Conditions.

B. VESELI REQUEST FOR RECLASSIFICATION OF AND ACCESS TO THE REGISTRAR'S REPORTS

35. The Panel recalls that, in the Decision Modifying the Detention Conditions, it ordered the Registrar to submit a report to the Panel every two months setting out certain information ("Registrar Reports").⁶³

36. The Veseli Defence requests that both past and future Registrar Reports be made available to the Defence, as fairness requires that the Defence receive information directly relevant to the Accused and their conditions of detention unless there is a compelling justification to maintain the *ex parte* status.⁶⁴

37. The Panel notes that due to the nature of the information in the Registrar Reports, it was necessary for these reports to be submitted on an *ex parte* basis.

⁶⁰ SPO Response, para. 9.

⁶¹ See *e.g.*, Decision Modifying the Detention Conditions, paras 45-48.

⁶² Decision Modifying the Detention Conditions, para. 77.

⁶³ Decision Modifying the Detention Conditions, para. 78.

⁶⁴ Reply, paras 8-10.

Nonetheless, the Panel agrees with the Veseli Defence that the Registrar Reports may contain information relevant to the Accused and their conditions of detention and, therefore, should, to the extent possible, be made available to the relevant Defence teams. The Panel also considers that the Registrar Reports may contain information relevant to the SPO.

38. The Panel is mindful, however, that the Registrar Reports may contain information pertaining to the operations of the Detention Facilities, which cannot be made available to the Accused, and information pertaining to the visits and communications of each of the Three Accused, which cannot be made available to the other Accused.

39. For these reasons, the Panel orders the Registrar to file confidential redacted versions of past Registrar Reports, to be made available to the SPO and the Three Accused, by no later than **Friday, 15 August 2025** and confidential redacted versions of each future Registrar Report, to be made available to the SPO and the Three Accused, within 7 days of submitting the confidential and *ex parte* version to the Panel.

C. CONTEXT OF THIS DECISION

40. The Panel notes that it has previously determined that a general climate of witness interference persists in Kosovo regarding this case and others before the SC.⁶⁵ The Court of Appeals has confirmed that contextual factors may be relevant when assessing detention.⁶⁶ The Panel also notes that the Three Accused have

⁶⁵ See e.g., F03008, Panel, *Decision on Periodic Review of Detention of Rexhep Selimi*, 13 March 2025, para. 18; KSC-BC-2020-05, F00494/RED, Trial Panel I, [Public Redacted Version of Trial Judgment](#), 16 December 2022, para. 57 (a corrected version was filed on 8 June 2023, F00494/RED3/COR).

⁶⁶ IA017/F00011, Court of Appeals Panel, *Decision on Hashim Thaçi's Appeal Against Decision on Review of Detention*, 5 April 2022, confidential, para. 43 (a public redacted version was issued on the same date, IA017/F00011/RED).

received confidential information concerning all SPO witnesses.⁶⁷ The Panel has previously found that these disclosures amplify the risk of sensitive information pertaining to witnesses becoming known to members of the public.⁶⁸ The Panel notes that, despite all efforts undertaken to protect witnesses, witnesses in this case have complained of attempted or actual interference, and the names of protected witnesses have been disclosed to the public.⁶⁹ As set out in the Decision Modifying the Detention Conditions, the Panel will take all necessary measures compatible with the rights of the Accused to ensure that such cases do not re-occur and that all necessary steps are taken to reduce such a risk.

41. The Panel further notes that the Three Accused have received information concerning dual status victims-witnesses,⁷⁰ and Victims' Counsel's list of

⁶⁷ F01594/A02, Specialist Prosecutor, *Annex 2 to Prosecution Submission of Updated Witness List and Confidential Lesser Redacted Version of Pre-Trial Brief*, 9 June 2023, confidential; F02960, Panel, *Decision on the SPO Request for Variation of Protective Measures*, 24 February 2025, strictly confidential and *ex parte*, para. 13(b) (a confidential redacted version was issued on 5 March 2025, F02960/CONF/RED); F02998, Panel, *Decision on the SPO Request to Vary Protective Measures of W04363*, 11 March 2025, strictly confidential and *ex parte*, para. 20(b) (a confidential redacted version was issued on the same day, F02998/CONF/RED).

⁶⁸ F03175, Panel, *Decision on Selimi Defence Request for Provisional Release and on Periodic Review of Detention of Rexhep Selimi* ("Decision on Selimi Request for Provisional Release and Periodic Review of Detention"), 13 May 2025, confidential, para. 35 (corrected and public redacted versions were issued on 11 June 2025, F03175/COR and F03175/COR/RED); F03177, Panel, *Decision on Veseli Defence Request for Provisional Release* ("Decision on Veseli Defence Request for Provisional Release"), 13 May 2025, confidential, para. 30 (corrected and public redacted versions were issued on 11 June 2025, F03177/COR and F03177/COR/RED); F03253, Panel, *Decision on Periodic Review of Detention of Hashim Thaçi* ("Decision on Periodic Review of Detention of Hashim Thaçi"), 11 June 2025, para. 25.

⁶⁹ See e.g., [REDACTED]; KSC-BC-2020-07/F00611/RED, Trial Panel II, [Public Redacted Version of the Trial Judgment](#) ("Case 07 Trial Judgment"), 18 May 2022, paras 489, 526, 603, 1012, 1015.

⁷⁰ F01348, Panel, *Order on the Disclosure of Application Forms Pertaining to Dual Status Witnesses*, 6 March 2023, para. 30, with Annexes 1-3, strictly confidential and *ex parte*; F01587, Panel, *Notification of Application Forms of Dual Status Witnesses to the Defence Pursuant to F01348*, 8 June 2023, confidential, with Annexes 1-3, confidential; F01676, Panel, *Notification of Application Forms of Dual Status Witnesses to the Defence Pursuant to F01348*, 13 July 2023, confidential, with Annexes 1-59, confidential; F02052, Panel, *Notification of Application Form of Dual Status Witness W04016 to the Defence Pursuant to F01348*, 10 January 2024, confidential, with one Annex, confidential; F02332, Panel, *Notification of Application Forms of Dual Status Witnesses to the Defence Pursuant to F01348*, 22 May 2024, confidential, with Annexes 1-10, confidential (a public redacted version was issued on the same day, F02332/RED); F03089, Panel, *Notification of Application Forms of Dual Status Witnesses to the Defence Pursuant to F01348*, 7 April 2025, confidential, with Annexes 1-2, confidential.

witnesses,⁷¹ and, contrary to the Veseli Defence's submissions,⁷² equally considers that these disclosures amplify the risk of confidential information pertaining to victims becoming known to the members of the public.

42. The Panel has previously determined that the Three Accused have: (i) the interest and ability to interfere with the proceedings; (ii) positions of influence in Kosovo which could allow them to elicit the support of sympathisers; and (iii) given the ongoing trial, increased knowledge of the evidence underpinning the serious charges against them.⁷³

D. ALLEGED VIOLATIONS AND RISKS PRESENTED

1. Mr Veseli's and Mr Selimi's Alleged Conduct

43. The Panel recalls that, in the Decision Modifying the Detention Conditions, it found that it appeared that "the Accused disclosed to their visitor(s) confidential information received in the context of the proceedings or elicited during testimony of protected witnesses."⁷⁴ Further, in the Decision on the Registrar's Request for Guidance Pursuant to the Decision Modifying Detention Conditions, the Panel found that Mr Selimi had mentioned confidential information about protected witnesses to unauthorised third parties and, in doing so, disclosed confidential information.⁷⁵

44. Mr Veseli and Mr Selimi have not been charged with any offences in respect of these matters. While three individuals have been charged with, and pled guilty

⁷¹ F03209/A01, Victims' Counsel, *Annex 1 to Victims' Counsel's Submission of Witness and Exhibit Lists and Related Requests*, 28 May 2025, confidential.

⁷² Veseli Response to Victims' Counsel's Submissions, para. 4.

⁷³ Decision on Selimi Request for Provisional Release and Periodic Review of Detention, paras 35-39; Decision on Veseli Defence Request for Provisional Release, paras 30-35; Decision on Periodic Review of Detention of Hashim Thaçi, paras 23-27.

⁷⁴ Decision Modifying the Detention Conditions, para. 35.

⁷⁵ Decision on the Registrar's Request for Guidance Pursuant to the Decision Modifying Detention Conditions, para. 26.

to, intimidation of witnesses during criminal proceedings and obstruction of official persons in performing official duties,⁷⁶ and the SPO contends that this is linked to Mr Selimi,⁷⁷ the Panel notes that there is no mention of Mr Selimi nor of Mr Veseli in the “Reasons for the Decision on the Plea Agreements” in Case 10.⁷⁸

2. Mr Thaçi’s Alleged Conduct

45. At the outset, the Panel notes that the Thaçi Defence did not request a review of the Modified Detention Conditions, or make any submissions. Nonetheless, as foreseen in the Decision Modifying the Detention Conditions, the Panel is undertaking a *proprio motu* review of the necessity and proportionality of the Modified Detention Conditions in respect of Mr Thaçi.

46. The Panel recalls that, in the Decision Modifying the Detention Conditions, it found that it appeared as: (i) “Mr Thaçi is providing his visitor with instructions to pass on to the witness regarding the form and content of the witness’s upcoming testimony”;⁷⁹ (ii) “Mr Thaçi is showing his visitors a statement previously made by an upcoming witness whose identity is confidential”;⁸⁰ and (iii) “one of Mr Thaçi’s visitors who is receiving instructions has previously visited with witnesses prior to their testimony.”⁸¹

47. Further, in the Decision on the Registrar’s Request for Guidance Pursuant to the Decision Modifying Detention Conditions, the Panel found that Mr Thaçi had

⁷⁶ KSC-BC-2023-10/F00379/A03, Specialist Prosecutor, [Annex 3 to Prosecution Submission of Confirmed Amended Indictment](#), 10 July 2024; KSC-BC-2023-10/F00693/RED, Trial Panel I, [Public Redacted Version of Reasons for the Decision on the Plea Agreements](#) (“Reasons for Decision on Plea Agreements”), 27 February 2025, paras 5, 26-47, 114(a)-(d).

⁷⁷ SPO Response, para. 7.

⁷⁸ See Reasons for Decision on Plea Agreements.

⁷⁹ Decision Modifying the Detention Conditions, para. 38 (with further references).

⁸⁰ Decision Modifying the Detention Conditions, para. 38 (with further references).

⁸¹ Decision Modifying the Detention Conditions, para. 38 (with further references).

mentioned confidential information about protected witnesses to members of his family and in doing so disclosed confidential information.⁸²

48. Since the issuance of the Decision Modifying the Detention Conditions, Mr Thaçi has been charged with criminal offences against the administration of justice and public administration and criminal offences against public order for allegedly having disclosed secret information disclosed to him in this trial and, together with others, coordinated to unlawfully influence the testimony of and/or contact SPO witnesses in the present case.⁸³

3. Compliance with the Modified Detention Conditions

49. The Panel recalls that, following the Decision Modifying the Detention Conditions, and upon notification from the Registrar,⁸⁴ the Panel found that Mr Selimi and Mr Thaçi had mentioned confidential information about protected witnesses and, in doing so, disclosed confidential information.⁸⁵ These mentions of confidential information took place prior to the issuance of the Decision Modifying the Detention Conditions but were notified after the issuance of the decision.⁸⁶

50. The Panel further recalls that, in the Decision Modifying the Detention Conditions, it ordered the Registry to submit a report to the Panel every two months reporting on, *inter alia*, any incidents of non-compliance with the Modified

⁸² Decision on the Registrar's Request for Guidance Pursuant to the Decision Modifying Detention Conditions, para. 26.

⁸³ KSC-BC-2023-12/F00264/A02, Specialist Prosecutor, [Annex 2 to Submission of Amended Confirmed Indictment](#), 16 April 2025.

⁸⁴ F02082, Registrar, *Registry Notification in Relation to Court-Ordered Protective Measures and Request for Guidance Pursuant to Decision F01977*, 26 January 2024, confidential, with Annexes 1-10, confidential.

⁸⁵ Decision on the Registrar's Request for Guidance Pursuant to the Decision Modifying Detention Conditions, para. 26.

⁸⁶ Decision on the Registrar's Request for Guidance Pursuant to the Decision Modifying Detention Conditions, paras 21-24.

Detention Conditions.⁸⁷ The Registrar reported [REDACTED].⁸⁸ As a result [REDACTED],⁸⁹ and is continuing [REDACTED].⁹⁰ [REDACTED].⁹¹ [REDACTED].⁹²

51. The Panel recalls, however, that the Registry Reports have not been shared with the relevant Defence teams. Therefore, and due to the fact that the Defence have not been given an opportunity to make submissions on any incidents reported in the Registry Reports, the Panel has given them limited weight for present purposes.

4. Closure of the SPO's Case

52. The Panel notes that the SPO closed its case on 15 April 2025.⁹³ Victims' Counsel has indicated that he will present a case.⁹⁴

53. The Panel recalls its finding that, while the SPO has closed its case, there is still a risk that the Three Accused may obstruct the progress of the SC proceedings.⁹⁵ Specifically, the Panel notes that witnesses are still to be heard in this trial and that there is a risk of interference with these witnesses and that this risk also extends to: (i) any attempt to retaliate against witnesses who have

⁸⁷ Decision Modifying the Detention Conditions, para. 78.

⁸⁸ [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

⁸⁹ [REDACTED].

⁹⁰ [REDACTED].

⁹¹ [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

⁹² [REDACTED]; [REDACTED]; [REDACTED].

⁹³ F03121, Specialist Prosecutor, *Prosecution Notice Pursuant to Rule 129*, 15 April 2025, para. 1.

⁹⁴ See e.g., Transcript of Hearing, 22 January 2025, p. 24345, line 19 to p. 24346, line 3; Victims' Counsel's Submissions, para. 5.

⁹⁵ Decision on Selimi Request for Provisional Release and Periodic Review of Detention, paras 35-40; Decision on Veseli Defence Request for Provisional Release, paras 30-36; Decision on Periodic Review of Detention of Hashim Thaçi, paras 23-28.

testified in these proceedings; (ii) attempts to incentivise a witness to recant; and (iii) attempts to interfere with witnesses in parallel proceedings.⁹⁶

5. Individual and Collective Nature of Underlying Conduct

54. In assessing the necessity and proportionality of the continued application of the Modified Detention Conditions, the Panel has considered the individual circumstances and actions of each of the Accused concerned. At the same time, the Panel has accounted for the fact that the combined effect of their actions has increased the risks associated with the impermissible disclosure of protected information and thus created a multiplicity of paths that could result in third parties interfering with these proceedings.⁹⁷

6. Conclusion

55. Having considered all the factors set out above, the Panel maintains its prior findings that regular conditions of detention are insufficient to mitigate the risk of the Three Accused engaging in conduct that could interfere with the proceedings and/or present a risk to the safety and security of witnesses and/or victims.⁹⁸ Therefore, the Panel is not minded to amend the Decision Modifying the Detention Conditions to remove the Modified Detention Conditions in their entirety, as requested by the Selimi and Veseli Defences.⁹⁹

56. The Panel will, therefore, review each and every Modified Detention Condition to determine whether their continued application remains necessary and proportionate. In carrying out this assessment, the Panel will assess the

⁹⁶ Decision on Selimi Defence Request for Provisional Release and Periodic Review of Detention, para. 36; Decision on Veseli Defence Request for Provisional Release, para. 32; Decision on Periodic Review of Detention of Hashim Thaçi, para. 25.

⁹⁷ Decision Modifying the Detention Conditions, para. 40.

⁹⁸ Decision Modifying the Detention Conditions, para. 41.

⁹⁹ Selimi Request, paras 1, 38; Veseli Request, paras 1-2, 18.

Modified Detention Conditions, in accordance with the applicable legal framework,¹⁰⁰ the circumstances outlined above, the fundamental rights of the Accused and the need to ensure the protection of witnesses and victims.

57. The Panel is satisfied that the measures set out below are necessary and proportionate in the circumstances to protect the integrity of proceedings and guarantee the security of witnesses and victims.

E. CONDITIONS OF DETENTION

58. The Panel recalls that in the Decision Modifying the Detention Conditions it modified the conditions of detention for the Three Accused, and authorised certain further measures be implemented in the Detention Facilities.¹⁰¹ All other measures requested by the SPO were rejected.¹⁰²

59. The Panel also recalls that it set out certain conditions already required by, *inter alia*, the Practice Direction on the Rules of Detention, Practice Direction on Visits and Communications, and/or Practice Direction on Counsel Visits and Communications, to emphasise the necessity of their compliance.¹⁰³ As these conditions are required by the relevant practice directions, the Panel will not address such conditions in the present decision.

60. Lastly, the Panel recalls that it declined to adopt any restrictive measures on private visits and found that the private visits of the Three Accused remained unaffected.¹⁰⁴ For clarity, the Panel reiterates that the private visits of the Three Accused are not affected by Modified Detention Conditions, as amended below.

¹⁰⁰ Decision Modifying the Detention Conditions, paras 45-48.

¹⁰¹ Decision Modifying the Detention Conditions, paras 50-53, 55-59, 62-64, 66-74, 77-78.

¹⁰² Decision Modifying the Detention Conditions, paras 43-44, 49, 60-61, 65, 79-81.

¹⁰³ See *infra*, fns 114, 132.

¹⁰⁴ Decision Modifying the Detention Conditions, para. 80. "Private Visit" is defined as "[a]n in-person visit between a Detainee and his or her spouse or partner and/or children, in a suitable place within the

61. The Panel further recalls, however, that in the Decision on the Registrar's Request for Guidance Pursuant to the Decision Modifying Detention Conditions, it held that: (i) the Registrar has the authority under Articles 34(12) and 41(9) of the Law, Rule 27 of the Rules, and the administrative instructions issued thereunder, to adopt any measures necessary and proportionate to ensure that confidential information in possession of detainees and members of Defence teams present at the Detention Facilities, including information regarding the identity of protected witnesses, is not communicated to unauthorised third parties during visits at those facilities; and (ii) the Registrar's authority to adopt such measures extends, notwithstanding Article 24(1) of the Practice Direction on Visits and Communications, to private visits.¹⁰⁵

1. Non-Privileged In-Person Visits

62. The Panel recalls that it ordered that: (i) non-privileged in-person visits for the Three Accused should be subject to prior approval by the Registrar;¹⁰⁶ (ii) a system be put in place which focuses on identifying and excluding only those individuals who could pose a threat to the integrity of the proceedings or engage in conduct incompatible with regulation of the Detention Management Unit ("DMU");¹⁰⁷ and (iii) the Registrar should refuse in-person visits if she determines that there are credible indications that the individual concerned has engaged or could engage in conduct incompatible with the integrity of proceedings and/or the regulations of detention.¹⁰⁸

Detention Facilities that permits physical contact and is outside the sight and hearing of Detention Officers"; See Practice Direction on Visits and Communications, Article 2.

¹⁰⁵ Decision on the Registrar's Request for Guidance Pursuant to the Decision Modifying Detention Conditions, para. 32.

¹⁰⁶ Decision Modifying the Detention Conditions, para. 51.

¹⁰⁷ Decision Modifying the Detention Conditions, para. 52.

¹⁰⁸ Decision Modifying the Detention Conditions, para. 52.

63. The Selimi and Veseli Defences specifically request that the Panel remove the condition requiring prior approval by the Registrar for all non-privileged in-person visits.¹⁰⁹ The Selimi Defence contends that this condition results in considerable limitations being placed on Mr Selimi as the Registrar requires significant advance notice of visits.¹¹⁰

64. The Panel considers that the above-mentioned measures remain necessary and proportionate. As regards necessity, the Panel considers that the measures, including the prior approval of the Registrar, are necessary to ensure that: (i) non-privileged in-person visits are not used to undermine the integrity of the proceedings, or to engage in conduct incompatible with regulation of the DMU; and (ii) all relevant considerations can be factored into a decision on whether a visit should be authorised, or not.¹¹¹

65. As regards proportionality, the Panel considers that the measures remain proportionate since the conditions are constructed to only exclude those individuals who could pose a threat to the integrity of the proceedings or engage in conduct incompatible with regulation of the DMU, while ensuring the rights of the Three Accused to have non-privileged in-person visits.

66. The Panel notes the submissions of the Selimi Defence that the condition of prior approval of the Registrar results in delay and limits on the duration and number of visits.¹¹² The Panel recalls, however, that the Registrar has previously set out the primary reasons for limitations on the duration and number of visits,¹¹³ namely the availability of language staff and Detention Officers, and not the

¹⁰⁹ Selimi Request, paras 29, 38; Veseli Request, para. 10(a).

¹¹⁰ Selimi Request, para. 29.

¹¹¹ Decision Modifying the Detention Conditions, para. 51.

¹¹² Selimi Request, para. 29.

¹¹³ See e.g., F02240/A02, Registrar, *Annex 2 to Submission of Public Redacted Versions of F02160/A01 and F02160/A03 and Submission on Reclassification* ("Registrar Decision on Request for Reconsideration"), 15 April 2024, paras 44-49.

requirement of prior approval by the Registrar. The Panel considers that the amount of time required for this process is reasonable in the circumstances.

67. In light of the above, the Panel finds that these measures remain necessary and proportionate and shall continue to apply to the Three Accused.

2. Conditions of Visitation

68. The Panel recalls that it ordered the Registrar to ensure that the Three Accused adhere to certain conditions of visitation, some which were already required by the practice regulations,¹¹⁴ and some additional conditions, namely that: (i) the Three Accused should not meet with more than one visitor at any one time (with the exception of visits by spouses and children who could conduct visits jointly but without any other visitor present); (ii) the only detainee that a visitor comes into contact with is the detainee that the visitor has been authorised to visit; (iii) detainees shall not have a non-privileged in-person visitor at the same time as another detainee or within such temporal proximity that visitors may have an opportunity to interact with each other or with other detainees; and (iv) the Registrar shall immediately report any termination of a visit to the Panel.

69. The Registrar outlines that the Modified Detention Conditions can be amended to lift the one-visitor restriction on approved video visits.¹¹⁵

¹¹⁴ Decision Modifying the Detention Conditions, paras 54-55. Specifically, the conditions that: (i) the visitation area shall be devoid of music or other loud noises that may impair hearing communications; (ii) detainees shall not join visits of other detainees; (iii) detainees shall not enter the visitation area with documents or materials of a privileged or confidential nature pertaining to a case before the SC; (iv) all detainees and visitors shall communicate audibly, and are not permitted to conceal any part of a conversation through whispering or using coded language; and (v) if any of these provisions or other visitation rules are violated, the Registrar and those acting on her behalf are authorised to terminate the visit immediately. *See* Practice Direction on Visits and Communications, Articles 4(2), 7, 8(1)(a), 12, and 15(1); Framework Decision on Handling Confidential Information, para. 212(I)(a), (e) and (f); Rule 82(6) of the Rules; Article 15 of the Law.

¹¹⁵ Registrar Submissions, paras 14-15.

70. At the outset, the Panel recalls that video visits are defined as a “visit”.¹¹⁶ Accordingly, the conditions set out in the present section equally apply to video visits.

71. The Panel considers, in light of the Registrar’s submissions, that the one-visitor restriction on video visits is no longer necessary and proportionate. In particular, the Panel notes that the Registrar outlines that: (i) the one-visitor restriction on video visits could be replaced by the pre-existing detention regulations on video visits, which permit up to four visitors per video visit with close relatives (as defined in the regulation) (“Close Relatives”);¹¹⁷ and (ii) this could be implemented by the Registry in the already-existing prior approval system without significant additional strain on the DMU’s finite resources.¹¹⁸ Accordingly, and since this amendment enables the Panel to increase the Three Accused’s ability to meet with Close Relatives with limited additional risk and resource required, the Panel amends the Modified Detention Condition to remove the one-visitor restriction on video visits with Close Relatives only, and orders that these visits revert back to the pre-existing detention regulations for video visits.¹¹⁹ For the reasons set out below, this amendment does not extend to non-privileged in-person visits or consular visits.

72. Turning to the requirements that: (i) the only detainee that a visitor comes into contact with is the detainee that the visitor has been authorised to visit; and (ii) detainees shall not have a non-privileged in-person visitor at the same time as another detainee or within such temporal proximity that visitors may have an opportunity to interact with each other or with other detainees. Insofar as these conditions prevent: (i) the DMU from scheduling a visit at the same time as when

¹¹⁶ KSC-BD-34-Rev1, Registry, *Registry Instruction on Video on Visits* (“Registry Instruction on Video Visits”), 6 September 2021, Section 2.

¹¹⁷ Registrar Submissions, para. 14 referring to Registry Instruction on Video Visits, Sections 4(1)(a), 6(1) and (5).

¹¹⁸ Registrar Submission, para. 14.

¹¹⁹ Registry Instruction on Video Visits, Sections 4(1)(a), 6(1) and (5).

one of the Three Accused has a visit; and/or (ii) the Three Accused from passing another detainee in the corridor when they have a visit,¹²⁰ the Panel considers that these requirements are no longer necessary. The Panel imposed these requirements to ensure that the Three Accused did not join visits of other detainees and/or interact with individuals who had not been authorised to interact with them. The Panel considers that amending these conditions would allow the DMU greater flexibility in scheduling visits in the Detention Facilities. Therefore, and since: (i) there has been no reports of the Three Accused joining the non-privileged in-person visits of other detainees; and (ii) the Accused may require additional privileged visits with their respective Defence Teams to prepare their cases, if they choose to present any, the Panel finds that it is no longer necessary to apply these conditions.

73. The Panel emphasises that, should it receive any reports from the Registry that these conditions are violated, the Panel would stand ready to reimpose a stricter regime.

74. The Panel considers that the remaining measures remain necessary and proportionate. As regards necessity, the Panel considers that: (i) with the exception on video visits with Close Relatives, it remains necessary that the Accused should not meet with more than one visitor at any one time (with the exception of visits by spouses and children who could conduct visits jointly but without any other visitor present) since this is required to enable active monitoring of non-privileged in-person visits (further discussed below).

75. As regards proportionality, the Panel considers that the remaining measures remain proportionate since they safeguard the Three Accused's right to visits, and the amendment made at paragraph 71 allows the Three Accused increased contact with their spouse/partner, children and Close Relatives.

¹²⁰ See e.g., Registrar Decision on Request for Reconsideration, paras 32-33, 47-48.

76. In light of the above, the Panel amends the Modified Detention Conditions as specified in paragraphs 71-72. The Panel finds that the remaining measures remain necessary and proportionate and shall continue to apply to the Three Accused.

3. Consular Visits

77. The Panel recalls that it amended the requirements of the Practice Direction on Visits and Communications for consular visits,¹²¹ and ordered that all consular visits to any of the Three Accused shall: (i) be subject to the same requirements as other non-privileged visits, i.e., that they shall be within sight and hearing of the Detention Officers;¹²² and (ii) last no longer than 45 minutes.¹²³

78. The Panel considers that the above-mentioned measures remain necessary and proportionate. As regards necessity, the Panel recalls that consular visits are usually conducted within sight but not within hearing of a Detention Officer.¹²⁴ Nonetheless, the Panel is of the view that it is necessary that all consular visits should continue to be conducted also within sight *and hearing* of a Detention Officer to ensure that no confidential information is shared during consular visits. As regards proportionality, the Panel considers that the measures remain proportionate as they secure the Three Accused's rights to consular visits while, at the same time, preventing any improper disclosure of confidential information during such visits.

79. In light of the above, the Panel finds that these measures remain necessary and proportionate and shall continue to apply to the Three Accused.

¹²¹ Practice Direction on Visits and Communications, Article 20(2).

¹²² Decision Modifying the Detention Conditions, para. 56.

¹²³ Decision Modifying the Detention Conditions, para. 56.

¹²⁴ Practice Direction on Visits and Communications, Article 20(2).

4. Active Monitoring

80. The Panel recalls that it amended the requirements of the Practice Direction on Visits and Communications for all non-privileged in-person meetings,¹²⁵ and ordered that: (i) all non-privileged in-person meetings (excluding consular visits with proper authorisation) between the Three Accused and their visitors be actively monitored by an Albanian speaker;¹²⁶ (ii) the number of authorised non-privileged in-person visits be limited to five visits per month, not including consular and private visits;¹²⁷ and (iii) the Registrar shall have the discretion to further limit the number or duration of these visits to guarantee effective monitoring.¹²⁸

81. The Selimi and Veseli Defences request that the Panel remove active monitoring of all non-privileged in-persons visits as this condition is no longer necessary and proportionate.¹²⁹

82. The Panel recalls that, other than private and privileged visits, visits with a detainee are always conducted within the general hearing and sight of Detention Officers.¹³⁰ Nonetheless, the Panel still considers that the condition that non-privileged in-person visits be actively monitored, including by an Albanian speaker, and that the non-privileged in-person visits be limited to five such visits per month, remain necessary and proportionate.

83. As regards necessity, the Panel considers that it is necessary: (i) that all non-privileged in-person visits are actively monitored to ensure that such visits are not used to disseminate confidential information; and (ii) to limit such visits

¹²⁵ Practice Direction on Visits and Communications, Articles 2, 15(1).

¹²⁶ Decision Modifying the Detention Conditions, para. 57.

¹²⁷ Decision Modifying the Detention Conditions, para. 57.

¹²⁸ Decision Modifying the Detention Conditions, para. 57.

¹²⁹ Selimi Request, paras 23 35, 38; Veseli Request, para. 10(b).

¹³⁰ Practice Direction on Visits and Communications, Articles 2, 15(1); *See also* F00536, Registrar, *Registry Submissions Pursuant to the Order to Provide Information on the Detention Regime* ("Registry Submissions on the Detention Regime"), 20 October 2021, confidential, para. 31 (a public redacted version was issued on 29 November 2021, F00536/RED).

to five visits per month, or to further limit the visits to guarantee effective monitoring, in light of the additional resources required to actively monitor such visits, and to ensure that all Three Accused, and other detainees, have equal access to the visitation rooms in the Detention Facilities.

84. As regards proportionality, the Panel considers that the measures are proportionate as: (i) the measures safeguard the Three Accused's right to non-privileged in-person visits; and (ii) the limitation of five non-privileged in-person visits (not including private visits, privileged visits and consular visits) is only a limited additional restriction to what is prescribed by the regulations as a detainee is usually allowed no more than ten visiting days in any 30-day period.¹³¹

85. In light of the above, the Panel finds that these measures remain necessary and proportionate and shall continue to apply to the Three Accused.

5. Video and Telephone Visits and Communications

86. The Panel recalls that it ordered the Three Accused to adhere to certain conditions during video visits, and telephone calls, some of which were already required by the detention regulations,¹³² and some additional conditions, namely: that (i) video visits and telephone calls and communications with the Three Accused shall require prior approval by the Registrar who was directed to ensure that the would-be interlocutor has not engaged in conduct incompatible with the integrity of the proceedings or the protection of confidential information;¹³³ (ii) if the Registrar refuses to authorise a call, she shall immediately inform the Panel of

¹³¹ KSC-BD-33, Registry, *Detention Management Unit Instruction on Visiting Procedures for Family Members and Other Personal Visitors*, 23 September 2020, Section 11(1).

¹³² Decision Modifying the Detention Conditions, para. 63. Specifically, the condition that the DMU must require a valid form of identification at the start of the [video] visit; *See* Registry Instruction on Video Visits, Section 4(6).

¹³³ Decision Modifying the Detention Conditions, paras 62-63.

her decision;¹³⁴ (iii) those authorised to have telephone or video communication with one of the Three Accused shall be provided certain notifications;¹³⁵ and (iv) the Registry is to engage in active monitoring (of which the Accused shall be notified) of both video and audio visits and communications when the Registrar, in the exercise of her discretion, or under the guidance of the Panel when needed, finds it necessary to ensure the integrity of the proceedings, the protection of confidential information and/or to ensure compliance by the Three Accused or those in contact with them with the measures ordered in the Decision Modifying the Detention Conditions.¹³⁶

87. Additionally, regarding video and audio communication, the Panel ordered that: (i) no unannounced individual shall participate in the call;¹³⁷ (ii) no person will be permitted to passively listen to the call or to otherwise receive or obtain the content of the call aurally or textually other than the announced individual;¹³⁸ (iii) the use of speaker-phone or similar functions is prohibited;¹³⁹ (iv) the use of coded language is prohibited;¹⁴⁰ (v) the detainee as well as anyone communicating with the detainee is prohibited from making audio or video recordings of visits and communications;¹⁴¹ and (vi) in the exercise of her discretion and to guarantee the effective monitoring of such communications, the Registrar can in her discretion limit the number of calls/videos and/or their duration. Any such decision shall be immediately brought to the attention of the Panel.¹⁴²

88. Lastly, the Panel ordered that: (i) the Registrar is to provide monitoring personnel with the necessary instructions and authority to terminate

¹³⁴ Decision Modifying the Detention Conditions, para. 62.

¹³⁵ Decision Modifying the Detention Conditions, para. 64.

¹³⁶ Decision Modifying the Detention Conditions, para. 66.

¹³⁷ Decision Modifying the Detention Conditions, para. 67.

¹³⁸ Decision Modifying the Detention Conditions, para. 67.

¹³⁹ Decision Modifying the Detention Conditions, para. 67.

¹⁴⁰ Decision Modifying the Detention Conditions, para. 67.

¹⁴¹ Decision Modifying the Detention Conditions, para. 67.

¹⁴² Decision Modifying the Detention Conditions, para. 67.

communications that fail to comply with relevant regulations or the Decision Modifying the Detention Conditions;¹⁴³ and (ii) if a non-privileged communication is interrupted on that basis, the Registrar is to notify the Panel immediately and prepare a report on the matter which it shall provide to the Panel within five days.¹⁴⁴

89. The Selimi and Veseli Defences request that the Panel remove: (i) the requirement that telephone calls and video visits and communications require prior approval by the Registrar;¹⁴⁵ and (ii) active monitoring, to the extent it is in place, of video and audio visits and communications.¹⁴⁶ The Veseli Defence adds that the limitation that unannounced visitors may not join phone calls has been particularly difficult for his children, who are not even permitted to greet their father when he calls to speak to his wife.¹⁴⁷

90. The Registrar outlines that the Modified Detention Conditions can be amended to: (i) lift the one-visitor restriction on approved video visits;¹⁴⁸ and (ii) allow the Accused's spouse and children on approved telephone calls.¹⁴⁹

(a) Lifting the One-Visitor Restriction on Video Visits with Close Relatives

91. At the outset, the Panel recalls that video visits are defined as a "visit".¹⁵⁰ The Panel also recalls its finding above removing the one-visitor restriction on video visits with Close Relatives and reverting back to the pre-existing detention

¹⁴³ Decision Modifying the Detention Conditions, para. 68.

¹⁴⁴ Decision Modifying the Detention Conditions, para. 68.

¹⁴⁵ Selimi Request, paras 29, 35, 38; Veseli Request, para. 10(a).

¹⁴⁶ Selimi Request, paras 35, 38; Veseli Request, para. 10(c).

¹⁴⁷ Veseli Request, para. 14(b).

¹⁴⁸ Registrar Submissions, paras 14-15.

¹⁴⁹ Registrar Submissions, paras 16-18.

¹⁵⁰ Registry Instruction on Video Visits, Section 2.

regulations.¹⁵¹ The Panel considers that this finding also supersedes any conditions in the present section.

(b) Allowing the Accused's Spouses and Children on Approved Telephone Calls

92. The Panel considers, in light of the Registrar's submissions, that the restrictions, namely a combined reading of the conditions in paragraph 86 (iii), and paragraph 87(i), (ii), and (iii),¹⁵² preventing the Three Accused's spouses and children on approved telephone calls, is no longer necessary and proportionate. In particular, the Panel notes that the Registrar outlines that allowing the Three Accused to have telephone calls where both their spouses and children are present on the calls at the same time can be implemented by the Registry without significant additional strain on the DMU's finite resources.¹⁵³ Accordingly, and since this amendment increases the Three Accused's ability to talk to their spouses and children, preserving their rights under Article 6 of the ECHR, with limited additional risk and resources required, the Panel amends the Modified Detention Conditions to allow the Three Accused's spouses and children to be present on approved telephone calls. For the reasons set out below, the Panel considers that it is necessary and proportionate that the restriction on participation continues to apply to all other telephone calls.

(c) Active Monitoring of Video Visits and Telephone Calls

93. The Panel notes the Defence requests to remove active monitoring of video and audio visits and communications, to the extent it is in place. In this respect,

¹⁵¹ See *supra*, para. 71.

¹⁵² Registrar Submissions, para. 16.

¹⁵³ Registrar Submissions, para. 17.

the Panel recalls, as also outlined in the Registrar Submissions, that “active monitoring of video visits and telephone calls is not automatic but requires a written decision of the Registrar that is notified to the Accused.”¹⁵⁴ Accordingly, and for clarity, the Panel emphasises that the Three Accused are notified when video visits and telephone calls are actively monitored and, therefore, should be aware to what extent active monitoring takes place.

94. The Panel recalls that the regulations already permit the Registrar to actively monitor video visits and telephone calls¹⁵⁵ but that the Decision Modifying the Detention Conditions permits the Registrar, in the exercise of her discretion, to actively monitor a larger number of video visits and telephone calls. For the reasons set out below, the Panel considers that it is necessary and proportionate that this condition continues to apply.

95. The Panel considers that, with the exception of the amendments specified in paragraphs 91-92, the remaining measures, including prior approval by the Registrar, remain necessary and proportionate. As regards necessity, the Panel finds that these measures are still necessary to ensure that video visits and telephone calls are: (i) not used to undermine the integrity of the proceedings, or to engage in conduct incompatible with regulation of the DMU; and (ii) all relevant considerations can be factored into a decision on whether a video visit or telephone call should be authorised, or not.

96. As regards proportionality, the Panel considers that the measures remain proportionate as they are constructed to only exclude those individuals who could pose a threat to the integrity of the proceedings or engage in conduct incompatible with regulation of the DMU, while safeguarding the Three Accused’s rights to

¹⁵⁴ Registrar Submissions, fn. 17; Decision Modifying the Detention Conditions, paras 66, 70.

¹⁵⁵ Practice Direction on Visits and Communications, Articles 4(2), 7, 15(2), 17(4); Registry Instruction on Video Visits, Sections 2, 3(1).

video visits and telephone calls, and making specific accommodation to ensure that the Three Accused's ability to speak to their spouses and children is increased.

97. In light of the above, the Panel amends the Modified Detention Conditions as specified in paragraphs 91-92. The Panel finds that the remaining measures remain necessary and proportionate and shall continue to apply to the Three Accused.

6. Logs of Non-Privileged in-Person Visits and Video and Audio Visits and Communications

98. The Panel recalls that it ordered the Registrar to review weekly the logs of non-privileged in-person visits and logs of video and audio visits and communications of the Three Accused and Jakup Krasniqi ("Mr Krasniqi") in order to determine, where necessary after consultation with the SPO, whether any circumstances exist which might indicate suspicious activity.¹⁵⁶

99. The Panel considers that the above-mentioned measures remain necessary and proportionate. As regards necessity, the Panel recalls that the Chief Detention Officer is obliged to keep logs of telephone calls¹⁵⁷ and detailed information of non-privileged in-person visits¹⁵⁸ and video visits.¹⁵⁹ The Panel maintains its view that the additional requirement that the Registrar, as a person appraised of all relevant considerations, review such information is necessary to ensure that any circumstances indicating suspicious activity are identified.

100. As regards proportionality, the Panel maintains its view that the above-mentioned measures are proportionate. Details of the Three Accused's telephone calls, non-privileged in-person visits and video visits are already

¹⁵⁶ Decision Modifying the Detention Conditions, paras 58-59, 70-71.

¹⁵⁷ Practice Direction on Visits and Communications, Article 16(4).

¹⁵⁸ Practice Direction on Visits and Communications, Articles 11(2)-(4).

¹⁵⁹ Registry Instruction on Video Visits, Section 3(1); Practice Direction on Visits and Communications, Articles 11(2)-(4).

recorded, and review of that information by the Registrar does not impact the rights of the Three Accused and Mr Krasniqi.

101. In light of the above, the Panel finds that these measures remain necessary and proportionate and shall continue to apply to the Three Accused and Mr Krasniqi.

F. NON-PRIVILEGED WRITTEN CORRESPONDENCE

102. The Panel recalls that it held that: (i) when considered necessary to ensure the effective implementation of the Decision Modifying the Detention Conditions, the Registrar or the Chief Detention Officer acting on the Registrar's behalf may also impose reasonable limits on the number of written correspondence which the Accused shall be permitted to send;¹⁶⁰ (ii) where the Registrar has credible indications that such correspondence might be used for purposes contrary to the detention regulations and/or the Decision Modifying the Detention Conditions, the Registrar is authorised to review the content of relevant correspondence;¹⁶¹ and (iii) the Registrar shall immediately inform the Panel of such action.¹⁶²

103. The Panel considers that the above-mentioned measures remain necessary and proportionate. As regards necessity, the Panel maintains its view that the measures are necessary to ensure that non-privileged written correspondence is not used to share confidential information.

104. As regards proportionality, the Panel maintains its view that the above-mentioned measures are proportionate. The Panel considers that the requirements safeguard the Three Accused's right to written correspondence and are in line with existing regulations pursuant to which: (i) restrictions can be

¹⁶⁰ Decision Modifying the Detention Conditions, para. 74.

¹⁶¹ Decision Modifying the Detention Conditions, para. 74.

¹⁶² Decision Modifying the Detention Conditions, para. 74.

imposed on the Three Accused's communications;¹⁶³ and (ii) the Chief Detention Officer may inspect and read the non-privileged correspondence of the Three Accused.¹⁶⁴

105. In light of the above, the Panel finds that these measures remain necessary and proportionate and shall continue to apply to the Three Accused.

G. LIMITATIONS NOT IMPOSED BY THE PANEL

106. The Selimi Defence requests that the Panel: (i) remove limitations on the duration of non-privileged in-person visits and private visits;¹⁶⁵ (ii) remove the restrictions on the number and duration of video visits;¹⁶⁶ and (iii) explicitly remove the restrictions in place on Mr Selimi's ability to call his wife and children.¹⁶⁷ The Selimi Defence also outlines that, over the past few months, there have been numerous occasions where Mr Selimi has either been unable to make a scheduled call entirely or has lost significant minutes from this call due to factors beyond his control.¹⁶⁸

107. The Veseli Defence 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.¹⁶⁹ The Veseli Defence submits that these limitations impact rights and well-being of Mr Veseli's family and close relatives.¹⁷⁰

¹⁶³ Practice Direction on Visits and Communications, Article 4(2), 6(2), 7(1).

¹⁶⁴ Practice Direction on Visits and Communications, Article 19(1); *See also* Registry Submissions on the Detention Regime, paras 35-36.

¹⁶⁵ Selimi Request, para. 38.

¹⁶⁶ Selimi Request, para. 38.

¹⁶⁷ Selimi Request, para. 38.

¹⁶⁸ Selimi Request, para. 33.

¹⁶⁹ Veseli Request, para. 11.

¹⁷⁰ Veseli Request, para. 14.

108. The Registrar outlines that: (i) the Selimi Defence's argument concerning the limitations on telephone calls and video visits have already been addressed at length in the Registrar Decision on Request for Reconsideration;¹⁷¹ (ii) the Decision Modifying the Detention Conditions provide for three private visits per month of three hours each, which is in excess of those prescribed in the detention regulations and it is not possible to increase the duration of the private visits;¹⁷² and (iii) the Selimi Defence has not sought judicial review of the Chief Detention Officer's decision related to the inconsistent telephone connection and there are adequate procedures in place to deal with any such issues.¹⁷³

109. The Panel recalls that, while it imposed a limitation on the number of non-privileged in-person visits (excluding private visits and consular visits) and the duration of consular visits,¹⁷⁴ it did not impose any specific limitations on the number or duration of video visits, and/or the duration of non-privileged in-person visits or private visits.¹⁷⁵ In addition, the Panel recalls that, while it imposed certain restrictions on telephone calls, including that telephone contacts should be limited to those approved by the Registrar,¹⁷⁶ it did not impose any specific limitations on who the Three Accused may, or may not, call.¹⁷⁷ Rather, the Registrar, in the exercise of her discretion, has found such limitations to be necessary to give effect to the Modified Detention Conditions and/or the relevant regulations regulating detention matters.¹⁷⁸

110. The Panel has previously emphasised that the Registrar has discretion in implementing the Modified Detention Conditions.¹⁷⁹ The Panel also recalls that

¹⁷¹ Registrar Submissions, para. 20.

¹⁷² Registrar Submissions, para. 23.

¹⁷³ Registrar Submissions, paras 25-27.

¹⁷⁴ Decision Modifying the Detention Conditions, paras 56-57.

¹⁷⁵ See Decision Modifying the Detention Conditions.

¹⁷⁶ Decision Modifying the Detention Conditions, para. 62.

¹⁷⁷ See Decision Modifying the Detention Conditions.

¹⁷⁸ Registrar Submissions, paras 20-23.

¹⁷⁹ See *e.g.*, Decision on Mr Selimi's Request for Judicial Review, para. 20.

there is a procedure in place through which a detainee may challenge a decision made by the Registrar.¹⁸⁰ This process is the appropriate means for the Defence to challenge any limitations imposed by the Registrar in the exercise of her discretion. Accordingly, these limitations are not subject to review in the present decision.

111. Mindful of the importance of contact with close family members, in particular children, the Panel has amended the Modified Detention Conditions as set out above,¹⁸¹ with an aim of facilitating the Three Accused's contact with their spouses, children, Close Relatives and Specialist Counsel.

112. The Registrar should also, as far as possible, ensure that telephone calls are not subject to interruptions and/or termination and that, where technical difficulties affect the possibility or duration of a call, reasonable efforts are made, within the limits of available resources and upon request, to reschedule telephone calls at the earliest opportunity.¹⁸²

V. DISPOSITION

113. In light of the foregoing, the Panel hereby:

- a) **GRANTS** the Selimi and Veseli Requests, in part;
- b) **AMENDS** the Modified Detention Conditions as specified in paragraphs 71-72, and 91-92;
- c) **ORDERS** the Registrar to take measures and to implement the Modified

¹⁸⁰ KSC-BD-11/Rev1, Registrar, *Registry Practice Direction on Detainees: Complaints*, 23 September 2020, Article 9(1); *See also* Decision on Mr Selimi's Request for Judicial Review, paras 22-23.

¹⁸¹ *See supra*, paras 71-72, 91-92.

¹⁸² *See e.g.*, Decision on Mr Selimi's Request for Judicial Review, para. 53(c).

- Detention Conditions, as amended in paragraphs 71-72, and 91-92;
- d) **REJECTS** the remainder of the Selimi and Veseli Requests;
 - e) **ORDERS** the Registrar to file confidential redacted versions of past Registrar Reports by no later than **Friday, 15 August 2025**; and
 - f) **ORDERS** the Registrar to file confidential redacted versions of each future Registrar Report within 7 days of submitting the confidential and *ex parte* version to the Panel.



Judge Charles L. Smith, III
Presiding Judge

Dated this Friday, 4 July 2025

At The Hague, the Netherlands.