



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA KOSOVA

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

Before: Pre-Trial Judge
Judge Nicolas Guillou

Registrar: Dr Fidelma Donlon

Filing Participant: Dr Fidelma Donlon

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**Public Redacted Version of Registrar's Submissions on Veseli Defence Request
for Temporary Release on Compassionate Grounds (F00267)**

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I. INTRODUCTION

1. Pursuant to Rule 23(2) of the Rules,¹ the Registrar hereby provides submissions on the urgent Veseli Defence Request for Temporary Release on Compassionate Grounds ('Request').²

II. APPLICABLE LAW

a. Detention Function

2. Pursuant to Article 3(5) of the Law,³ the Registry of the Specialist Chambers administers all necessary and auxiliary functions, including detention facilities.

3. Pursuant to Article 34(12) of the Law, the Registrar is responsible for managing and administering the detention function and facilities of the Specialist Chambers in line with international standards and the Law, and the Specialist Chambers' "correction/detention officers shall have the authority and responsibility to exercise powers given to Kosovo Correction Officers under Kosovo law", in accordance with the modalities established by the Law.

4. Pursuant to Article 41(7) and (8) of the Law, persons subject to a detention order of the Specialist Chambers may be detained in facilities overseen by the Specialist Chambers and managed by the Registry, which shall meet relevant international standards.

5. Pursuant to Rule 56(1) of the Rules, in exceptional circumstances, a person may be held in facilities outside of the Host State or Kosovo pending transfer. The detained person shall at all times remain under the authority of the Specialist Chambers.

¹ Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ('Rules'), KSC-BD-03/Rev3/2020, 2 June 2020.

² KSC-BC-2020-06, F00265, Urgent Veseli Defence Request for Temporary Release on Compassionate Grounds, 28 April 2021, confidential and *ex parte*.

³ Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office ('Law'), 3 August 2015.

i. Interim Release

6. Pursuant to Rule 56(3) of the Rules, “[u]pon request by a detained person or *proprio motu*, the Panel may order the temporary release of a detained person, where compelling humanitarian grounds justify such release”.

7. Pursuant to Rule 56(5) of the Rules, the Panel may impose such conditions upon the release as deemed appropriate to ensure the presence of the detained person.

III. SUBMISSIONS

A. Feasibility and Operational Requirements

8. The Registrar notes that the Accused’s Request is motivated by the extremely poor health of his father, whose death is believed to be imminent. In human terms, this is an extremely painful situation, potentially justifying humanitarian measures to facilitate the Accused visiting his father in Kosovo.

i. Security Situation

9. The Registrar notes the decision of the Pre-Trial Judge of 22 January 2021 on the Accused’s application for interim release.⁴ In the decision, the Pre-Trial Judge considered that the release of the Accused at this time, even with conditions, would insufficiently mitigate the risks of obstructing Specialist Chambers’ proceedings or committing further crimes.⁵ In the decision, the Pre-Trial Judge also considered that the temporary release of the Accused in Kosovo presents considerable risks that cannot be mitigated by surveillance or other security measures,⁶ given the stature of the Accused and the authority he can exercise, directly or indirectly, over former subordinates and supporters.⁷

⁴ F00178, Decision on Kadri Veseli’s Application for Interim Release, 22 January 2021.

⁵ See F00178, paras 59-61;

⁶ Ibid.; see also F00161, Prosecution Response to Application for Interim Release on behalf of Mr Kadri Veseli, 4 January 2021, para. 46.

⁷ See F00178, para. 59.

10. Furthermore, as noted by the Specialist Prosecutor's Office ('SPO') in its response to the Accused's application for interim release, neither the SPO, EULEX Kosovo, or the Kosovo Police have the means and resources to adequately monitor an Accused of the stature, authority, and resources of the Accused.⁸

11. Therefore, in order to appropriately analyse the feasibility and operational requirements of the Accused's request for temporary release pursuant to Rule 56(3) of the Rules, the Registry will require more time to consult relevant partners.

12. Nevertheless, taking account of the critical condition of the Accused's father, and in light of the unique nature of the Specialist Chambers as a relocated judicial institution and the mandate of the Registrar pursuant to Article 34(12) of the Law, the Registry now proposes a viable means of achieving the requested humanitarian visit, which can be organised securely and swiftly whilst also mitigating the risks identified above.

ii. Facilitating Temporary Transfer to and from Kosovo

13. The Registry proposes facilitating the temporary transfer of the Accused to the Specialist Chambers' secure transfer facility in Kosovo, where the Accused will remain in pre-trial detention in the custody of the Specialist Chambers.

14. As with visits to [REDACTED], the chief custody officer will arrange for the Accused to be securely transported to and from the hospital in Kosovo for an in-person visit with his father. The Accused will be escorted by Specialist Chambers' security staff at all times and, for operational security reasons, the Accused should only be permitted to see his father and any immediate family members at the hospital, with prior approval of the chief custody officer and upon proof of identity.⁹

⁸ See F00161, para. 45.

⁹ Subject to the order of Pre-Trial Judge on the Registry's proposal, the Registry requests that the Defence be ordered to submit the request to the Detention Management Unit and to include copies of the identity documents of immediate family members.

15. In addition, the chief custody officer can facilitate an in-person visit with immediate family members at the Specialist Chambers' secure transfer facility in Kosovo. This visit will be conducted in a similar way to in-person family visits in the Detention Facilities in the Host State (i.e., it will be conducted within the sight and hearing of the chief custody officer).

iii. Length of Temporary Transfer

16. Given the circumstances presented, the Registrar is prepared to rapidly deploy a transfer team, led by a chief custody officer, to Kosovo for the purpose of facilitating a humanitarian visit between the Accused and his father.

17. The resources needed to stand up the transfer team and arrange for air transport to rapidly respond to this family crisis is, in the opinion of the Registrar, only justifiable in these urgent, compelling, and exceptional circumstances, namely the imminent death of the Accused's father.

18. In order to ensure the Accused's safe and secure temporary transfer to Kosovo and continued pre-trial detention there, the Registry can facilitate this temporary transfer for a maximum period of 4 days, which includes [REDACTED] for travel, [REDACTED] for facilitating an in-person visit to [REDACTED], and [REDACTED] for facilitating an in-person family visit with immediately family members.

iv. Time to Organise Transfer

19. The proposal described above is the swiftest possible way for the Registry to facilitate the Accused's visit with his father whilst meeting security demands.

20. Registry staff can be rapidly deployed to the secure transfer facility. The logistics required for arranging security support from external partners can be arranged within [REDACTED], allowing for notification to Host State authorities and any COVID-19 testing requirements.

21. In short, subject to the Pre-Trial Judge's order and the availability of an aircraft, this would mean that the departure of the Accused to Kosovo via air transport could

be arranged by the Registry as early as [REDACTED], with the return of the Accused via air transport on [REDACTED].¹⁰

v. Accommodation

22. As described above, the Accused would be temporarily accommodated in a secure transfer facility [REDACTED]. [REDACTED]. This facility will be managed by Specialist Chambers' security staff at all times, led by the chief custody officer. Due to the short custodial time in Kosovo, the Registry is satisfied that the secure transfer facility is in line with applicable international standards.

vi. Assistance of External Partners

23. [REDACTED].

24. Subject to the order of Pre-Trial Judge on the Registry's proposal, the Registrar seeks leave and authorisation to make final operational security planning arrangements [REDACTED].

25. The Registrar also requests, pursuant to Article 53 of the Law, that all entities and persons in Kosovo be ordered to comply without undue delay with any request for assistance that may be required.

vii. COVID-19 Considerations

26. COVID-19 testing requirements are factored into the logistical planning for the transfer team and the Accused.

27. The Accused would be required to observe the applicable quarantine period in the Host State upon his return to the Detention Facilities in the Host State.

¹⁰ Unforeseen circumstances may impact upon these timescales.

viii. Other Considerations

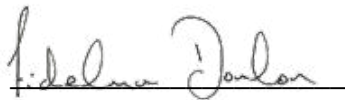
28. Should the Pre-Trial Judge order the temporary transfer of the Accused to the Specialist Chambers' secure transfer facility in Kosovo, as proposed above, the Registrar requests authorisation to notify any authorities deemed necessary for the implementation of the Pre-Trial Judge's order.

29. Additionally, the Registrar requests the Pre-Trial Judge to order the Defence and the Accused to keep the temporary transfer of the Accused confidential and not to make public any information relating to the Accused's presence on the territory of Kosovo, together with any other conditions deemed appropriate.

IV. CLASSIFICATION

30. This submission is filed as confidential and *ex parte* to protect the confidentiality of information related to the safe and secure transfer of the Accused.

Word count: 1491



Dr Fidelma Donlon
Registrar

Wednesday, 29 April 2021
At The Hague, the Netherlands.