



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEĆA 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

Date: 9 July 2021

Language: English

Classification: Public

**Public Redacted Version of Decision on Veseli Defence Request
for Modification of Decision KSC-BC-2020-06/F00386**

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THE PRE-TRIAL JUDGE,¹ pursuant to Article 53 of the Law on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rule 56(5) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), hereby renders this decision.

I. PROCEDURAL BACKGROUND AND SUBMISSIONS

1. On 5 November 2020, further to the confirmation of an indictment,² Kadri Veseli ("Mr Veseli") was arrested pursuant to a decision and an arrest warrant issued by the Pre-Trial Judge.³
2. On 2 July 2021, the Pre-Trial Judge ordered Mr Veseli's continued detention.⁴
3. On 8 July 2021, the Pre-Trial Judge issued a decision granting Mr Veseli a custodial visit on compassionate grounds under a number of conditions ("Decision Granting Custodial Visit").⁵
4. On 9 July 2021, Mr Veseli filed an urgent request to modify the conditions set forth in the Decision Granting Custodial Visit ("Request")⁶, in order to: (i) allow him to pay a visit to his late father's grave, at the discretion of the supervising

¹ KSC-BC-2020-06, F00001, President, *Decision Assigning a Pre-Trial Judge*, 23 April 2020, public.

² KSC-BC-2020-06, F00026/RED, Pre-Trial Judge, *Public Redacted Version of Decision on the Confirmation of the Indictment Against Hashim Thaçi, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi*, 26 October 2020, public; F00045/A03, Specialist Prosecutor, *Further Redacted Indictment*, 4 November 2020, public.

³ KSC-BC-2020-06, F00050, Registrar, *Notification of Arrest of Kadri Veseli Pursuant to Rule 55(4)*, 5 November 2020, public; F00027/RED, Pre-Trial Judge, *Public Redacted Version of Decision on Request for Arrest Warrants and Transfer Orders*, 26 October 2020, public; F00027/A03/RED, Pre-Trial Judge, *Public Redacted Version of Arrest Warrant for Kadri Veseli*, 26 October 2020, public.

⁴ KSC-BC-2020-06, F00380, Pre-Trial Judge, *Decision on Review of Detention of Kadri Veseli*, 2 July 2021, confidential. A public redacted version was issued on the same day, F00380/RED.

⁵ KSC-BC-2020-06, Pre-Trial Judge, F00386, *Second Decision on Veseli Defence Request for Temporary Release on Compassionate Grounds*, 8 July 2021, confidential and *ex parte*.

⁶ KSC-BC-2020-06, Defence for Mr Veseli, *Urgent Veseli Defence Request for Modification of Decision KSC-BC-2020-06/F00386*, 9 July 2021, confidential and *ex parte*, with confidential and *ex parte* Annex 1.

custody officers;⁷ (ii) be granted to associate [REDACTED] with persons other than immediate family members, namely second degree relatives.⁸

5. On the same day, the Specialist Prosecutor's Office ("SPO") responded to the Request ("Response").⁹ The SPO did not oppose Mr Veseli's request to visit his late father's grave, subject to the continued application of the conditions set forth in the Decision Granting Custodial Visit.¹⁰ On the contrary, the SPO opposed Mr Veseli's request to expand the list of authorised persons with whom he may associate [REDACTED], due to the fact that, in its opinion, such a large gathering of persons would significantly increase Article 41(6)(b) risks by hindering the ability to effectively monitor interactions.¹¹

6. The Registrar filed submissions on the Request on the same day as well ("Registry Submissions").¹² While noting that the grave site [REDACTED] and Mr Veseli's visit could attract media presence, the Registrar considered that a single time-limited visit to the graveside could be implemented.¹³ The Registrar further proposed specific conditions for the conduct of this visit and requested that the condition of secrecy set forth in the Decision Granting Custodial Visit apply also to the gravesite visit.¹⁴ With regard to the requested broadening of the group of persons that Mr Veseli is allowed to associate with [REDACTED], the Registrar opposed it, pointing out to a series of logistical and security concerns.¹⁵ The Registrar also submitted that facilitating visits for 13 persons at the secure transfer

⁷ Request, paras 5-8.

⁸ Request, paras 9-10.

⁹ KSC-BC-2020-06, F00389, Specialist Prosecutor, *Urgent Prosecution Response to Urgent Veseli Request for Modification*, 9 July 2021, confidential and *ex parte*.

¹⁰ Response, para. 2.

¹¹ Response, para. 3.

¹² KSC-BC-2020-06, F00390, Registrar, *Registrar's Submissions on Urgent Request for Veseli Defence Request for Modification of Decision KSC-BC-2020-06/F00386*, 9 July 2021, confidential and *ex parte*.

¹³ Registry Submissions, para. 4.

¹⁴ Registry Submissions, paras 5-7.

¹⁵ Registry Submissions, paras 10-11.

facility would not be feasible either from a logistical or a security perspective.¹⁶ Lastly, the Registrar recalled that the Registry has not yet received all of the names of immediate family members for the purpose of prior approval by the chief custody officer.¹⁷

7. The Defence replied on the same day (“Reply”)¹⁸. While thanking the Registry for facilitating the custodial visit and agreeing to the gravesite visit,¹⁹ it requested the Pre-Trial Judge to leave the matter of the visits of second degree relatives to the discretion of the chief custody officer.²⁰

II. APPLICABLE LAW

8. 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.

9. Pursuant to Article 53(1) of the Law, all entities and persons in Kosovo shall co-operate with the SC and shall comply without undue delay with any request for assistance or an order or decision issued by the SC.

III. DISCUSSION

A. VISIT TO THE GRAVE

10. Regarding Mr Veseli’s request to visit his late father’s grave, the Pre-Trial Judge recalls that in the Decision Granting Custodial Visit he found that the fact

¹⁶ Registry Submissions, para. 12.

¹⁷ Registry Submissions, para. 14.

¹⁸ KSC-BC-2020-06, F00391, Defence for Mr Veseli, *Urgent Veseli Defence Reply to the Registrar’s Observations on the Modification of the Terms for the Second Custodial Visit*, 9 July 2021, confidential and *ex parte*.

¹⁹ Reply, para. 1.

²⁰ Reply, paras 2-4.

that Mr Veseli's father had passed away amounted to exceptional circumstances and compelling humanitarian grounds justifying his temporary release for a custodial visit.²¹ He also found that that the mourning ritual is essential to Mr Veseli's faith and tradition.²² Against this background, the Pre-Trial Judge recalls that, due to logistical and time constraints, Mr Veseli was unable to attend his father's burial. In light of the above circumstances, and considering that a visit to a deceased's grave is an essential part of the grieving process, the Pre-Trial Judge grants this part of Mr Veseli's Request.

11. The Pre-Trial Judge recalls that the conditions set forth in the Decision Granting Custodial Visit, and in particular those set forth in paragraph 15(k) and (l) regarding the maintenance of secrecy as to Mr Veseli's presence on the territory of Kosovo, shall continue to apply. The Pre-Trial Judge is aware of the fact that the grave is situated [REDACTED] and this could attract media [REDACTED] attention. Therefore, in addition to the conditions set forth in the Decision Granting Custodial Visit, the Pre-Trial Judge orders that the gravesite visit be carried out under the following further conditions:

- a) the timing of the custodial visit within the 3-day period shall be determined by the chief custody officer based on a security assessment of prevailing conditions and operational needs;
- b) the custodial visit shall be limited to a set duration of 15 minutes, subject to the assessment of the chief custody officer;
- c) the custodial visit shall be cancelled or terminated if the dynamic security assessment by the chief custody officer at the time of the proposed visit indicates that the associated risk of incident is too high to accept or mitigate.

²¹ Decision Granting Custodial Visit, para. 12.

²² Decision Granting Custodial Visit, para. 12.

B. EXTENSION OF THE IMMEDIATE CIRCLE OF FAMILY MEMBERS

12. The Pre-Trial Judge recalls that, in the Decision Granting Custodial Visit, he authorised Mr Veseli to leave the secure detention facilities only [REDACTED] and his immediate family members [REDACTED], with prior approval of the chief custody officer and upon proof of identity.²³ The Pre-Trial Judge further permitted Mr Veseli to be visited by immediate, pre-identified family members at the secure detention facility, within the sight and hearing of the chief custody officer and under any other conditions deemed necessary.²⁴

13. Mr Veseli currently requests the Pre-Trial Judge to order the Registrar to extend the immediate circle of family members he is allowed to visit [REDACTED] to include second degree relatives such as [REDACTED],²⁵ and [REDACTED].²⁶ The Pre-Trial Judge is mindful of the importance of the family support through grief. However, he also recalls that he found that conditions falling short of implementing a custodial visit in Kosovo would not sufficiently address the risks associated with the temporary release of Mr Veseli.²⁷ In this regard, the Pre-Trial Judge considers that there are inherent operational security concerns in allowing a large group of people meeting with Mr Veseli in the same place, namely [REDACTED]. Moreover, the Pre-Trial Judge finds that a large gathering might jeopardise the ability to monitor interactions among the attendees and heighten the risks set forth in Article 41(6)(b) of the Law. Against this backdrop, the Pre-Trial Judge considers that, due to their close relationship with Mr Veseli and with his late father, Mr Veseli shall be authorised to meet with [REDACTED],²⁸ [REDACTED], [REDACTED] and pursuant to the same conditions set forth in paragraph 15(c) of the Decision Granting Custodial Visit. The Pre-Trial Judge

²³ Decision Granting Custodial Visit, para. 15(c).

²⁴ Decision Granting Custodial Visit, para. 15(f).

²⁵ Request, para. 9(a)

²⁶ Request, para. 9(b).

²⁷ Decision Granting Custodial Visit, para. 14.

²⁸ As identified in paragraph 9(a) of the Request and in Annex 1 to the Request.

accordingly grants this part of the Request. As far as the other second degree relatives²⁹ are concerned, the Pre-Trial Judge finds it appropriate to authorise Mr Veseli to be visited by them at the secure detention facility, pursuant to the same conditions set forth in paragraph 15(f) of the Decision Granting Custodial Visit and subject to the transmission of their identity documents to the chief custody officer before such visits be organised. The Pre-Trial Judge orders that such visits shall be organised by small groups of visitors and shall be carried out under the close monitoring of the chief custody officer, who might impose any conditions deemed necessary, having particular regard to the security situation and operational constraints of the mission.

IV. DISPOSITION

14. For the above-mentioned reasons, the Pre-Trial Judge hereby:

- a) **GRANTS** Mr Veseli's request to visit his father's grave, pursuant to the conditions set forth in the Decision Granting Custodial Visit and to the further conditions set forth in paragraph 11 above;
- b) **GRANTS** in part Mr Veseli's request to extend the list of immediate family members that he could meet [REDACTED] to include [REDACTED], as identified at paragraph 9(a) of the Request, pursuant to the same conditions set forth in paragraph 15(c) of the Decision Granting Custodial Visit;
- c) **AUTHORISES** Mr Veseli to be visited by the remaining second degree relatives, identified at paragraph 9(b) of the Request, at the secure detention facility, pursuant to the same conditions set forth in paragraph 15(f) of the Decision Granting Custodial Visit and subject to the transmission of their identity documents to the chief custody officer

²⁹ As identified in paragraph 9(b) of the Request and in Annex 1 to the Request.

- before such visits be organised and to the further conditions set forth in paragraph 13 above;
- d) **REMINDS** Mr Veseli of the continued application of the conditions set forth in the Decision Granting Custodial Visit;
 - e) **AUTHORISES** the Registry to make arrangements with external partners for the implementation of this decision;
 - f) **AUTHORISES** the Registry to notify any other authorities deemed necessary for the implementation of this decision;
 - g) **REMINDS** authorities in Kosovo that they shall comply without undue delay with any decision issued by the SC or any request for assistance; and
 - h) **ORDERS** the Defence, the SPO and the Registry to file public redacted versions of the Request, Response and Registry Submissions, respectively, upon the return of Mr Veseli to the Host State.



Judge Nicolas Guillou
Pre-Trial Judge

Dated this Friday, 9 July 2021

At the Hague, the Netherlands.