



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

**Filing Participant:** Dr Fidelma Donlon

**Date:** 14 January 2022

**Language:** English

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**Public Redacted Version of**

**“Registrar’s Submissions on Urgent Third Veseli Defence Request for a Custodial  
Visit on Compassionate Grounds”, F00638, dated 7 January 2022**

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## I. INTRODUCTION

1. Pursuant to Rule 23(2) of the Rules,<sup>1</sup> the Registrar hereby provides submissions on the Urgent Third Veseli Defence Request for a Custodial Visit on Compassionate Grounds ('Request').<sup>2</sup>

## II. APPLICABLE LAW

### A. Detention Function

2. Pursuant to Article 3(5) of the Law,<sup>3</sup> 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.

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

<sup>2</sup> KSC-BC-2020-06, F00636, Urgent Third Veseli Defence Request for a Custodial Visit on Compassionate Grounds, 7 January 2022, confidential and *ex parte* ('Request').

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

## B. 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. Request

8. The Accused requests an immediate 3-day custodial visit to Kosovo on compassionate grounds to mourn the death of his mother.<sup>4</sup> The Accused notes in his Request that his mother was buried today, 7 January 2022, and that a 3-day mourning period for her will commence tomorrow, 8 January 2022.<sup>5</sup> The Accused proposes that the start date of this 3-day custodial visit begin on Tuesday, 11 January 2022.<sup>6</sup>

9. The Accused further requests that this custodial visit be conducted under the same terms and conditions as specified in paragraph 22 of the Panel’s previous decision, including the conditions specified in paragraph 15 of that decision.<sup>7</sup>

### B. Feasibility and Operational Requirements

10. At the outset, the Registrar notes that this is an extremely painful situation, potentially justifying humanitarian measures to facilitate the temporary transfer of the Accused for a custodial visit to Kosovo.

11. The Registrar also notes the Accused’s previous requests for temporary release on compassionate grounds due to the death of his father,<sup>8</sup> her previous submissions

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<sup>4</sup> Request, para. 1.

<sup>5</sup> Request, para. 13.

<sup>6</sup> Request, para. 13.

<sup>7</sup> See Request, para. 17 (citing F00386, Second Decision on Veseli Defence Request for Temporary Release on Compassionate Grounds, 8 July 2021, confidential and *ex parte*, para. 22).

<sup>8</sup> F00383, Urgent Request for a Custodial Visit on Compassionate Grounds, 7 July 2021, confidential and *ex parte*; F00388, Urgent Veseli Defence Request for Modification of Decision KSC-BC-2020-06/F00386, 9 July 2021, confidential and *ex parte*.

on the matter including the security situation,<sup>9</sup> and the decisions of the Pre-Trial Judge Panel ('Panel') on the Accused's request to mourn the death of his father.<sup>10</sup>

i. Duration and Time to Organise Transfer

12. If the Panel grants the Accused's request, the Registry considers that a temporary transfer of the Accused to the Specialist Chambers' secure transfer facility in Kosovo **for a period of 2 days**, including travel, would be feasible, understanding that the Accused will remain in pre-trial detention in the custody of the Specialist Chambers at all times, as ordered by the Panel for his previous custodial visit.<sup>11</sup>

13. The Security and Safety Unit (SSU) of the Registry is currently supporting ongoing trial proceedings, including hearings occurring Tuesday through Friday next week. In addition, [REDACTED]. [REDACTED].

14. Nevertheless, given the circumstances presented, and subject to the Panel's decision, the Registrar is prepared to rapidly deploy a transfer team, led by a chief custody officer, to Kosovo for the purpose of facilitating a 2-day humanitarian visit. The resources needed to stand up and deploy a transfer team and rapidly arrange for air transport is, in the opinion of the Registrar, only justifiable in urgent, compelling, and exceptional circumstances, such as the death of the Accused's father.

15. Considering [REDACTED], as well as the trial calendar and COVID-19 requirements, the Registry assesses that it is only feasible for the 2-day visit to take place [REDACTED]. Anything beyond those dates would result in disruption of hearings in The Hague.

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<sup>9</sup> F00385, Registrar's Submissions on Urgent Request for a Custodial Visit on Compassionate Grounds, 7 July 2021, confidential and *ex parte* (citing F00267, Registrar's Submission on Veseli Defence Request for Temporary Release on Compassionate Grounds, 28 April 2021, confidential and *ex parte*, paras 9-12); F00390, 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*.

<sup>10</sup> F00386, Second Decision on Veseli Defence Request for Temporary Release on Compassionate Grounds, 8 July 2021, confidential and *ex parte*; F00392, Decision on Veseli Defence Request for Modification of Decision KSC-BC-2020-06/F00386, 9 July 2021, confidential and *ex parte*.

<sup>11</sup> F00386, para. 15(a)-(b).

16. This 2-day visit would accommodate the necessary travel time, the facilitation of a single time-limited visit [REDACTED], and the facilitation of family visits with immediately family members at the Specialist Chambers' secure transfer facility in Kosovo [REDACTED], under the same general terms of the previous custodial visit.

17. The logistics required for arranging security support from external partners can be arranged [REDACTED], allowing for notification to Host State authorities and any logistical requirements.

18. In sum, subject to the Panel's order and the availability of an aircraft, it is feasible for the Registry to arrange for the Accused's departure to Kosovo via air transport [REDACTED], with the return of the Accused via air transport [REDACTED].<sup>12</sup>

19. Subject to any order of the Panel, the Registrar will make final operational security planning arrangements [REDACTED] for the movements of the Accused and for any custodial visit in Kosovo.

ii. Visit [REDACTED]

20. [REDACTED].<sup>13</sup>

21. [REDACTED]. The proposed visit will also have a high probability of being public knowledge upon the arrival of the Accused in Kosovo.

22. Nevertheless, the chief custody officer can arrange for the Accused to be securely transported for a single time-limited visit [REDACTED] so that he may participate in the mourning ritual and visit with **pre-identified immediate family members (and two additional second-degree relatives)**, as previously authorised by the Panel.<sup>14</sup> This is on the understanding that the Accused would at all times remain in the custody of the Specialist Chambers, and under escort, and that the chief custody officer may take

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<sup>12</sup> Unforeseen circumstances may impact upon these timescales.

<sup>13</sup> Request, para. 15.

<sup>14</sup> See Annex 1, sects A-B. See also F00386, para. 15(c) (authorising the Accused to meet with immediate family members [REDACTED], under certain conditions); F00392, para. 13 (authorising the Accused to also meet with two second degree relatives [REDACTED], under the same conditions set forth in para. 15(c) of F00386).

any decision necessary regarding the custodial visit on the basis of operational and security concerns, including terminating the visit.<sup>15</sup>

23. In addition, [REDACTED] would be required, and the Registry will make the necessary arrangements should the Pre-Trial Judge decide to approve this single, time-limited visit.

iii. Family Visits at Secure Transfer Facility

24. In addition to the above visit [REDACTED], the Registry assesses that the chief custody officer can facilitate in-person visiting sessions [REDACTED] with **pre-identified immediate family members and second-degree relatives**, as previously authorised by the Panel,<sup>16</sup> at the Specialist Chambers' secure transfer facility in Kosovo. This is on the understanding that such visits would be conducted in a similar way to in-person family visits in the Detention Facilities in the Host State (*i.e.*, within the sight and hearing of the chief custody officer) and under any other conditions deemed necessary by the chief custody officer, having particular regard to the security situation and operational constraints of the mission.<sup>17</sup>

25. As noted by the Accused in his Request, immediate family members have already been identified and proof of identity provided to the Registry during the previous custodial visit.<sup>18</sup> Likewise, as with the previous custodial visit, pre-approved visitors would also need to present photographic identification to the chief custody officer to enter the secure transfer facility.

26. In sum, the above feasibility assessment set out in Sections (i)-(iii) of this Submission is based on the understanding that the **conditions** set forth in the Panel's decision granting the previous visit would apply *mutatis mutandis*, namely the

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<sup>15</sup> F00386, para. 15(c).

<sup>16</sup> See Annex 1, sects A-C. See also F00386, para. 15(f) (authorising the Accused to meet with immediate family members at the secure transfer facility, under certain conditions); F00392, para. 13 (authorising the Accused to meet with second-degree relatives at the secure transfer facility under the same conditions set forth in para. 15(f) of F00386).

<sup>17</sup> F00386, para. 15(f).

<sup>18</sup> Request, para. 14.

conditions set out in paragraph 15(a)-(n) of the decision.<sup>19</sup> The Registry also welcomes any other conditions deemed appropriate by the Panel in relation to the proposed custodial visit.

iv. Accommodation

27. 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.

v. Assistance of External Partners

28. In Kosovo, the Registry would require the logistical and security support [REDACTED]. The Registrar will make final operational security planning arrangements [REDACTED] for any custodial visit in Kosovo ordered by the Panel.

29. 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.<sup>20</sup>

vi. COVID-19 Considerations

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

31. Depending on the current travel restrictions in place, the Accused may be required to observe the applicable quarantine period in the Host State upon his return to the Detention Facilities in the Host State.

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<sup>19</sup> F00386, para. 15(a)-(n)

<sup>20</sup> F00386, paras 20, 22(g).

vii. Other Considerations

32. Should the Panel 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 Panel's order.<sup>21</sup>

33. Additionally, as with the previous custodial visit, the Registrar requests the Panel to order similar conditions of secrecy regarding the Accused's presence on the territory of Kosovo, together with any other conditions deemed appropriate.<sup>22</sup>

IV. CLASSIFICATION

34. This submission is filed as confidential and *ex parte* for distribution to the Specialist Prosecutor and the Defence for Mr Kadri Veseli only to protect the confidentiality of information related to the safe and secure transfer of the Accused.

**Word count: 1903**



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**Dr Fidelma Donlon**  
**Registrar**

Friday, 14 January 2022  
At The Hague, the Netherlands.

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<sup>21</sup> F00386, paras 19, 22(f).

<sup>22</sup> F00386, para. 15(k)-(l).