



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:** 8 January 2022

**Language:** English

**Classification:** Public

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**Public Redacted Version of Third Decision on Veseli Defence Request  
for Temporary Release on Compassionate Grounds**

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THE PRE-TRIAL JUDGE,<sup>1</sup> pursuant to Article 53 of the Law on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rule 56(3) and (5) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), hereby renders this decision.

## I. PROCEDURAL BACKGROUND

1. On 5 November 2020, Kadri Veseli ("Mr Veseli" or "Accused") was arrested pursuant to a decision<sup>2</sup> and an arrest warrant issued by the Pre-Trial Judge,<sup>3</sup> and further to the confirmation of an indictment against him.<sup>4</sup>

2. On 30 April 2021, the Pre-Trial Judge authorised the temporary release of Mr Veseli on compelling humanitarian grounds due to his father's health situation,<sup>5</sup> as modified on 4 May 2021 ("First Temporary Release Decision").<sup>6</sup>

3. On 8 July 2021, the Pre-Trial Judge authorised a second temporary release of Mr Veseli on compassionate grounds ("Second Temporary Release Decision").<sup>7</sup>

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

<sup>2</sup> KSC-BC-2020-06, F00027/RED, Pre-Trial Judge, *Public Redacted Version of Decision on Request for Arrest Warrants and Transfer Orders*, 26 October 2020, public.

<sup>3</sup> KSC-BC-2020-06, F00027/A03/RED, Pre-Trial Judge, *Public Redacted Version of Arrest Warrant for Kadri Veseli*, 26 October 2020, public.

<sup>4</sup> 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* ("Confirmation Decision"), 26 October 2020, public.

<sup>5</sup> KSC-BC-2020-06, F00271, Pre-Trial Judge, *Decision on Veseli Defence Request for Temporary Release on Compassionate Grounds*, 30 April 2021, confidential and *ex parte*. A public redacted version was issued on 11 May 2021, F00271/RED.

<sup>6</sup> KSC-BC-2020-06, F00276, Pre-Trial Judge, *Decision on Veseli Defence Request for Modification of Decision KSC-BC-2020-06/F00271*, 4 May 2021, confidential and *ex parte*. A public redacted version was issued on 11 May 2021, F00276/RED.

<sup>7</sup> KSC-BC-2020-06, F00386, Pre-Trial Judge, *Second Decision on Veseli Defence Request for Temporary Release on Compassionate Grounds*, 8 July 2021, confidential and *ex parte*. A public redacted version was issued on 16 July 2021, F00386/RED.

4. On 23 November 2021, the Pre-Trial Judge issued the “Decision on Remanded Detention Review Decision and Periodic Review of Detention of Kadri Veseli” (“Detention Review Decision”).<sup>8</sup>
5. On 7 January 2022, Mr Veseli requested an immediate three-day custodial visit to Kosovo on compassionate grounds (“Request”).<sup>9</sup>
6. Also on 7 January 2022, the Specialist Prosecutor’s Office (“SPO”) responded to the Request (“Response”).<sup>10</sup>
7. On the same day, the Registrar filed submissions on the Request (“Registry Submissions”).<sup>11</sup>
8. On 8 January 2022, Mr Veseli responded to the Registry Submissions.<sup>12</sup>

## II. SUBMISSIONS

9. Mr Veseli requests a three-day custodial visit to Kosovo on compassionate grounds, due to the passing of his mother.<sup>13</sup> Mr Veseli submits that his mother passed away on 7 January 2022 at 10:50 hours and that she was buried on the same day at 14:30 hours.<sup>14</sup> Mr Veseli also submits that, according to mourning rites, a three-day mourning period will commence on 8 January 2022 and that a large

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<sup>8</sup> KSC-BC-2020-06, F00576, *Decision on Remanded Detention Review Decision and Periodic Review of Detention of Kadri Veseli*, 23 November 2021, confidential, paras 49, 55, 60 (“Decision on Interim Release”). A public redacted version was issued on 8 December 2021, F00576/RED.

<sup>9</sup> KSC-BC-2020-06, F00636, Defence for Mr Veseli, *Third Veseli Defence Request for a Custodial Visit on Compassionate Grounds* (“Request”), 7 January 2022, confidential and *ex parte*, with Annexes 1-2, confidential and *ex parte*.

<sup>10</sup> KSC-BC-2020-06, F00637, Specialist Prosecutor, *Prosecution Response to Urgent Veseli Request for Custodial Visit* (“Response”), 7 January 2022, confidential and *ex parte*.

<sup>11</sup> KSC-BC-2020-06, F00638, Registrar, *Registrar’s Submissions on Urgent Third Veseli Defence Request for a Custodial Visit on Compassionate Grounds* (“Registry Submissions”), 7 January 2022, confidential and *ex parte*.

<sup>12</sup> KSC-BC-2020-06, F00639, Defence for Mr Veseli, *Veseli Defence Response to Registry Submissions on Third Request for Custodial Visit on Compassionate Grounds* (“Defence Response”), 8 January 2022, confidential and *ex parte*.

<sup>13</sup> Request, paras 1-2, 18.

<sup>14</sup> Request, paras 8, 13 ; Annex 1 to the Request.

number of people is expected to participate.<sup>15</sup> Accordingly, in order to avoid unnecessary contact with persons other than family members, Mr Veseli is willing to postpone the starting date of his custodial visit by three days, starting therefore on Tuesday, 11 January 2022.<sup>16</sup> In addition, with a view to avoiding unnecessary litigation on the matter, Mr Veseli requests the Pre-Trial Judge to authorise the custodial visit on the basis of the same terms and conditions previously adopted in paragraph 22 of the Second Temporary Release Decision.

10. In its Response, the SPO does not oppose a strictly supervised and fully custodial visit of no more than three days, to facilitate a mourning period following the death of Mr Veseli's mother, provided that a number of conditions outlined in its Response are implemented.<sup>17</sup>

11. The Registrar submits that a temporary transfer of the Accused to Kosovo for a period of two days, including travel, in line with the conditions specified by the Pre-Trial Judge in the Second Temporary Release Decision would be feasible.<sup>18</sup> The Registrar submits that [REDACTED].<sup>19</sup> At the same time, [REDACTED].<sup>20</sup> The Registrar further submits that SSU staff members shall also provide security during the trial hearings scheduled from Tuesday, 11 January 2022 to Friday, 14 January 2022.<sup>21</sup> In light of this situation, the Registrar's assessment is that the only possible option is for a custodial visit by the Accused to Kosovo to take place [REDACTED], for a maximum duration of two days, including travel time.<sup>22</sup>

12. With regard to the arrangements in Kosovo, the Registrar considers as feasible a single time-limited visit [REDACTED], in order to participate in the

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

<sup>16</sup> Request, para. 13.

<sup>17</sup> Response, paras 1, 3.

<sup>18</sup> Registry Submissions, para. 12.

<sup>19</sup> Registry Submissions, para. 13.

<sup>20</sup> Registry Submissions, para. 13.

<sup>21</sup> Registry Submissions, para. 13.

<sup>22</sup> Registry Submissions, paras 15-18.

mourning rituals and to visit pre-identified immediate family members (and two additional second-degree relatives).<sup>23</sup> The feasibility of such visit is based on the understanding that the Accused will be at all times under the custody of the Specialist Chambers (“SC”), under escort, and that the chief custody officer may take any necessary decision regarding the custodial visit on the basis of operational and security concerns, including terminating the visit.<sup>24</sup> Should the single, time-limited visit be authorised, the Registrar will make security arrangements [REDACTED].<sup>25</sup>

13. The Registrar further submits that the chief custody officer can facilitate in-person visits with pre-identified immediate family members and second-degree relatives at the SC’s secure transfer facility in Kosovo, [REDACTED], in a similar fashion to in-person visiting at the SC Detention Facilities and under any other necessary security condition.<sup>26</sup>

14. The Registrar summarises that the feasibility of the above visits is based on the understanding that the same conditions adopted in the previously authorised custodial visits would apply also this time.<sup>27</sup>

15. The Registrar further indicates that COVID-19 testing requirements are factored into the logistical planning for the transfer team, and the Accused, depending on the current travel restrictions in place, may be required to observe the applicable quarantine period in the Host State upon his return.<sup>28</sup> Lastly, should the temporary transfer of the Accused be ordered, the Registrar requests authorisation to notify any authorities deemed necessary for the implementation

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<sup>23</sup> Registry Submissions, para. 22.

<sup>24</sup> Registry Submissions, para. 22.

<sup>25</sup> Registry Submissions, para. 23.

<sup>26</sup> Registry Submissions, para. 24.

<sup>27</sup> Registry Submissions, para. 26.

<sup>28</sup> Registry Submissions, paras 30-31.

of the order, and further requests the Panel to order the Defence and the Accused to keep the temporary transfer of the Accused confidential.<sup>29</sup>

16. Mr Veseli does not oppose an overnight custodial visit [REDACTED], and further submits that Mr Veseli's transfer to and from his mother's graveyard is also required, in addition to transfer to and from the airport [REDACTED].<sup>30</sup>

### III. APPLICABLE LAW

17. Pursuant to Rule 56(3) of the Rules, upon request by a detained person, the Panel may order the temporary release of a detained person, where compelling humanitarian grounds justify such release.

18. 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.

19. 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.

### IV. DISCUSSION

#### A. TEMPORARY RELEASE ON COMPELLING HUMANITARIAN GROUNDS

20. The Pre-Trial Judge notes that temporary release on compelling humanitarian grounds is exceptional.<sup>31</sup> Several factors may be relevant in relation to such an assessment, such as the stage of the proceedings, the nature of the criminal offence,

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<sup>29</sup> Registry Submissions, paras 32-33.

<sup>30</sup> Defence Response, paras 2-3.

<sup>31</sup> Second Temporary Release Decision, para. 11.

the Accused's character, the gravity of the relative's illness, the degree of kinship, and the possibility of escorted leave.<sup>32</sup>

21. Mr Veseli is charged with grave crimes<sup>33</sup> and his continued detention has been found to be necessary.<sup>34</sup> That said, the Pre-Trial Judge has taken note of the Registry Submissions regarding feasibility, security and logistics. Moreover, the Pre-Trial Judge considers that the passing of Mr Veseli's mother and the importance of the mourning ritual are decisive factors when deciding on the Request. Accordingly, the Pre-Trial Judge finds that, on balance and in the present circumstances, the death of Mr Veseli's mother amounts to exceptional circumstances and compelling humanitarian grounds justifying his temporary release for a custodial visit.

22. The Pre-Trial Judge will now turn to the question whether conditions must be imposed on Mr Veseli's custodial visit.

#### B. CONDITIONS OF CUSTODIAL VISIT

23. The Pre-Trial Judge recalls his previous findings that there is a risk that Mr Veseli may: (i) abscond; (ii) obstruct the progress of proceedings; or (iii) commit further crimes, and that imposing conditions in relation to his release would insufficiently mitigate the latter two risks.<sup>35</sup> In light of these findings, the Pre-Trial Judge considers 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.

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<sup>32</sup> ECtHR, *Lind v. Russia*, no. 25664/05, 6 December 2007, para. 95, with further case law references.

<sup>33</sup> Namely, the crimes against humanity of persecution, imprisonment, other inhumane acts, torture, murder, and enforced disappearance, and the war crimes of arbitrary detention, cruel treatment, torture, and murder in violation of Articles 13(1) and 14(1)(c) of the Law, respectively. Confirmation Decision, paras 474, 478, 482, 491, 498, 505, 512.

<sup>34</sup> Detention Review Decision, para. 61.

<sup>35</sup> Detention Review Decision, paras 61, 99.



24. Therefore, in order to address the compelling humanitarian grounds put forth by Mr Veseli, as well as the risks associated with his temporary release, the Pre-Trial Judge orders Mr Veseli's secure and temporary transfer to a facility in Kosovo, where he will remain in pre-trial detention in the custody of the SC. [REDACTED], the custodial visit, including travel, shall last two days and shall commence on [REDACTED] and end on [REDACTED], subject to any need to extend the visit for operational needs as determined by the Registrar, and shall be carried out under the following conditions:

- a) the Accused shall be transferred to a secure detention facility in Kosovo where he will remain in the custody of the SC at all times;
- b) the Accused shall, at all times and without exception, remain in the custody of the SC, be escorted by escorting officers, and remain in the sight and within earshot of escorting officers; the escorting officers may be uniformed, if necessary, and remain in the vicinity of the Accused at all times, as necessary;
- c) the Accused shall only be transported from the secure detention facility to visit his mother's grave and, subject to prior approval of the chief custody officer and provision of proof of identity, immediate family members and second degree relatives [REDACTED],<sup>36</sup> [REDACTED]; the chief custody officer may take any decision necessary regarding the custodial visit on the basis of operational and security concerns, including terminating the visit;
- d) the Accused is not permitted to be alone with any pre-identified immediate family members and second degree relatives at any time, and he shall not meet or otherwise have contact with persons other than such pre-identified immediate family members and second degree relatives;

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<sup>36</sup> Request, para. 15; Registry Submissions, para. 20.



- e) the Accused shall provide the Registry with copies of the identity documents of immediate family members and second degree relatives to the extent that such copies have not been provided in connection with the First Temporary Release Decision or the Second Temporary Release Decision;
- f) the Accused is permitted to be visited by immediate, pre-identified family members and second degree relatives at the secure detention facility, within the sight and hearing of the chief custody officer and under any other conditions deemed necessary by the chief custody officer to implement the present decision;
- g) the Accused shall not have access to communication devices or any other means of communication, including pen and paper, other than as facilitated by the SC;
- h) the Accused is not permitted to pass or receive items to or from any person without prior inspection of the escorting officer(s);
- i) the Accused shall not have any contact whatsoever or in any way interfere with any victim or potential witness or otherwise interfere in any way with the proceedings or the administration of justice;
- j) the Accused shall not seek direct access to documents nor destroy evidence;
- k) the Accused shall not discuss his case with anyone, including the media, other than with his Counsel and members of his Defence team;
- l) the Accused, his Counsel, members of his Defence team, family members or associates shall refrain from making public statements and shall maintain secrecy regarding the Accused's presence on the territory of Kosovo prior to and during the entirety of Mr Veseli's stay in Kosovo; should Mr Veseli's presence become known, the SPO, Registry or EULEX, as appropriate, are authorised to make any necessary statement in that regard;

m) the Accused shall comply strictly with any further order of the Pre-Trial Judge varying the terms or terminating his custodial visit; and

n) the Accused shall comply with any Covid-19 related measures as specified by the Registry.

25. The Pre-Trial Judge is accordingly satisfied that the compelling humanitarian grounds for temporary release put forward by Mr Veseli, when combined with strict custodial conditions, as detailed above, outweigh any risks that he may flee, obstruct the progress of proceedings, or commit further crimes.

26. The Pre-Trial Judge is further satisfied that, under the present circumstances, a period of two days, including travel, enables adequate time for Mr Veseli to participate in part in the mourning ritual and to grieve with his family members, and is thus proportional to the grounds for which the temporary release is sought.

27. Should there be a need to amend any of the above conditions, the Parties or Registry shall seize the Pre-Trial Judge immediately.

#### C. EXECUTION OF CONDITIONS

28. In the implementation of the above conditions, the Pre-Trial Judge authorises the Registry to make final operational and security arrangements with external partners and to notify any other authorities, including those in the Host State and Kosovo, as necessary for the implementation of this order.

29. The Pre-Trial Judge recalls that all entities and persons in Kosovo shall cooperate with the SC and shall comply without undue delay with any decision issued by the SC or any request for assistance.

#### D. REPORTING OBLIGATIONS

30. Throughout the custodial visit, the Registry shall provide the Pre-Trial Judge with regular updates. Such regular updates shall occur, at the very least, upon: (i) the transfer of Mr Veseli to Kosovo; (ii) completion of any custodial visit to his mother's grave or mourning location; (iii) completion of any in-person visit at the secure detention facility; (iv) any breaches of the aforementioned conditions by Mr Veseli or others; and (v) Mr Veseli's return to the detention unit of the SC in the Host State. Within one week of the completion of the custodial visit, the Registry shall file a report to the Pre-Trial Judge on the implementation of this decision.

#### DISPOSITION

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

- a) **GRANTS** the Request, and **ORDERS** Mr Veseli to comply with all conditions specified in paragraph 24 above;
- b) **INSTRUCTS** the Registry to implement Mr Veseli's custodial visit under the conditions specified in paragraph 24 above;
- c) **ORDERS** the Defence to provide the Registry with the information described in paragraph 24(e) above to the extent that such information has not been provided in connection with the First Temporary Release Decision or the Second Temporary Release Decision;
- d) **INVITES** the Parties and/or the Registry to seize the Pre-Trial Judge immediately should an amendment to the conditions set forth in paragraph 24 be required;
- 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;
- h) **ORDERS** the Registry to provide updates and file a report on the implementation of the present decision as indicated in paragraph 30 above; and
- i) **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.



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**Judge Nicolas Guillou**  
**Pre-Trial Judge**

Dated this Saturday, 8 January 2022

At the Hague, the Netherlands.