



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: 16 February 2022

Language: English

Classification: Public

Public Redacted Version of
'Registrar's Submissions on Proposed Protocol for Interviews with Witnesses'
(F00679)

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I. INTRODUCTION

1. Pursuant to Rule 23(2) of the Rules¹ and the Pre-Trial Judge's Order,² the Registrar hereby provides observations on matters arising from the submissions of the Specialist Prosecutor's Office ('SPO') on the handling of confidential information during investigations and on contacts with witnesses,³ as well as the responses of the Defence and Victims' Counsel (collectively, 'Submissions'), in relation to the Registry's role.

II. PROCEDURAL HISTORY

2. On 3 December 2021, the SPO proposed a framework for (i) handling of confidential information during investigations and for (ii) contacts with witnesses ('SPO Submissions').⁴

3. Victims' Counsel responded on 10 December 2021 ('Victims' Counsel Response').⁵

4. The Defence for Messr Thaçi, Selimi, Krasniqi and Veseli responded on 15 December 2021 ('Defence Responses').⁶

5. On 21 January 2022, the Pre-Trial Judge ordered the Registrar "to provide submissions on any matter arising from the SPO Submissions, Victims' Counsel Response and/or Defence Responses, including, if applicable, proposals as to the

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

² KSC-BC-2020-06, F00650, Order to the Registrar for Submissions, 21 January 2022 ('Order').

³ F00594, Prosecution Submissions on Confidential Information and Contacts with Witnesses, 3 December 2021 ('SPO Submissions').

⁴ SPO Submissions, para.1.

⁵ F00605, Victims' Counsel Response to Prosecution Submissions on Confidential Information and Contacts with Witnesses, 10 December 2021.

⁶ F00625, Thaçi Defence Response to Prosecution submissions on confidential information and contacts with witnesses, 15 December 2021; F00626, Selimi Defence response to "Prosecution submissions on confidential information and contacts with witnesses", 15 December 2021; F00627, Krasniqi Defence Response to Prosecution Submissions on Confidential Information and Contacts with Witnesses, 15 December 2021, confidential; a public redacted version as filed on 17 December 2021 – F00627/RED (; F00628, Veseli Defence Response to Prosecution Submissions on Confidential Information and Contacts with Witnesses, 15 December 2021.

practical implementation and/or modalities of the Registry's role, by no later than Friday, 4 February 2022."⁷

III. APPLICABLE LAW

6. Pursuant to Article 34(1) of the Law,⁸ the Registrar is responsible for the administration and servicing of the Specialist Chambers and all necessary and affiliated functions.⁹ This includes the Registrar's responsibility for witness protection and support.

7. Article 34(8) of the Law provides that the Witness Protection and Support Office ('WPSO') shall implement, on behalf of the Registrar, and in consultation as appropriate with the SPO, Defence Counsel or Victims' Counsel (the 'Calling Entities'), any "court ordered or otherwise necessary protective measures and security arrangements, counselling and other appropriate assistance for witnesses and others who are at risk on account of testimony given by witnesses."¹⁰

IV. SUBMISSIONS

8. The various submissions reference Trial Panel II's Order on the conduct of proceedings in the *Gucati and Haradinaj* case.¹¹ It is noted that any submissions by the Registry in the *Gucati and Haradinaj* case were tailored to the specificities of that case and are, therefore, not immediately applicable to another case before the Specialist Chambers.

A. HANDLING OF CONFIDENTIAL INFORMATION DURING INVESTIGATIONS

9. From the standpoint of the Registry, with the existing resources, it is feasible for WPSO to consult and advise the Parties/Participants in the manner foreseen by the

⁷ Order, para. 7(a).

⁸ Law on Specialist Chambers and Specialist Prosecutor's Office, Law No. 05/L-053, 3 August 2015 ('Law').

⁹ See also Rule 23(1) of the Rules.

¹⁰ See also Article 23 of the Law; Rule 27 of the Rules.

¹¹ KSC-BC-2020-07, F00314/A01, Annex to Order on the Conduct of Proceedings, 17 September 2021.

SPO in paragraph 5 of their submissions, should the Pre-Trial Judge order those or equivalent measures with regard to protected witnesses.

B. CONTACTS WITH WITNESSES OF OTHER PARTIES AND PARTICIPANTS

10. The SPO's list of witnesses includes [REDACTED] witnesses.¹² This case also involves four different Defence teams. The measures proposed by the SPO foresee the extensive involvement of the Registry in, *inter alia*, facilitating the preparation and conduct of interviews with a witness of another Party/Participant, including the presence of certain Registry staff during the interviews.

11. With the aim of providing effective and timely services, should they be ordered, and to be able to accurately inform the Pre-Trial Judge on the feasibility, impact, and ramifications of the proposals, further information is kindly requested to accurately assess and determine the financial and human resources implications of delivering certain or all of the services proposed, while at the same time ensuring the expeditious provision of those services. This information includes:

- i. the approximate number of witnesses to be interviewed;
- ii. whether the individual witnesses would be interviewed once or whether multiple interviews with individual witnesses is a possibility;
- iii. the country location of the interviews, to estimate the cost of travel and mission support;
- iv. the estimated duration of the individual interviews, for an assessment of human resources and costs; and
- v. should the proposals be ordered, the approximate period of time during which Registry resources will be required to implement the proposals.

¹² KSC-BC-2020-06, F00631RED/A02/CONF/RED, Annex 2 to the Public Redacted Version of 'Submission of Pre-Trial Brief, with witness and exhibit lists', KSC-BC-2020-06/F00631, dated 17 December 2021, Confidential redacted List of Witnesses, 21 December 2021, confidential.

V. CONFIDENTIALITY

12. This filing is submitted as confidential pursuant to Rule 82(4) of the Rules as it references information contained in a similarly classified filing.

Word count: 868

A handwritten signature in cursive script that reads "Fidelma Donlon".

Dr Fidelma Donlon
Registrar

Wednesday, 16 February 2022
At The Hague, the Netherlands.