



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

Before: **Trial Panel II**
Judge Charles L. Smith III, Presiding Judge
Judge Christoph Barthe
Judge Guénaél Mettraux
Judge Fergal Gaynor, Reserve Judge

Registrar: Fidelma Donlon

Date: 25 January 2023

Language: English

Classification: **Public**

Order on the Conduct of Proceedings

Acting Specialist Prosecutor
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Counsel for Victims
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Counsel for Hashim Thaçi
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Counsel for Kadri Veseli
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Counsel for Rexhep Selimi
David Young

Counsel for Jakup Krasniqi
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TRIAL PANEL II, pursuant to Articles 2-3, 19-23, 40 of the Law on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rules 43, 80, 95(4)(a), 102 (1)(b)(iii), 104(5)(c), 116(3) and (5), 120, 127(3), 132, 134(b), 138(1), 143(3)-(4), 149, 153-155 and 156 of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), hereby renders this order.

I. PROCEDURAL BACKGROUND

1. On 30 November 2022, the President assigned Trial Panel II ("Trial Panel", "Panel") to the present case upon transmission of the case file,¹ and, on 15 December 2022, the Pre-Trial Judge transmitted the case file to the Trial Panel pursuant to Rule 98 of the Rules.²
2. On 16 December 2022, the Trial Panel held a Status Conference, during which it informed the Parties and participants that a draft order on the conduct of proceedings ("Draft Order on the Conduct of Proceedings") would be circulated for them to make submissions, if they so wished, by 13 January 2023, at 16:00 hours.³
3. On 22 December 2022, the Trial Panel circulated a Draft Order on the Conduct of Proceedings to the Parties and participants.⁴
4. On 13 January 2023, the Panel received submissions from Counsel for Victims, joint written observations from the Defence, submissions from the Specialist Prosecutor's Office, and further submissions from the Defence for Mr Krasniqi.⁵

¹ F01132, President, *Decision Assigning Trial Panel II*, 30 November 2022.

² F01166, Pre-Trial Judge, *Decision Transmitting the Case File to Trial Panel II*, 15 December 2022, with Annexes 1, 3, confidential, and Annexes 2, 4, strictly confidential and *ex parte*.

³ Transcript of Hearing, 16 December 2022, pp. 1772-1773.

⁴ F01178, Panel, *Order for Submissions on the Draft Order on the Conduct of Proceedings*, 22 December 2022, with Annex 1.

⁵ F01202, Counsel for Victims, *Victim's Counsel's Submissions on the Draft Order on the Conduct of Proceedings*, 13 January 2023; F01203, Specialist Counsel, *Joint Defence Written Observations on the Draft Order on the Conduct of Proceedings (F01178/A01)*, 13 January 2023; F01205, Specialist Prosecutor, *Prosecution Submissions on the Conduct of Proceedings*, 13 January 2023; F01207, Specialist Counsel,

5. On 18 January 2023, the Panel held the Trial Preparation Conference, during which the Defence for Mr Thaçi and Counsel for Victims made further oral submissions on the Draft Order on the Conduct of Proceedings, seeking clarifications on the Draft Order as well as on certain amendment proposals, which resulted in the Defence withdrawing its amendment proposal concerning victims' participation.⁶

II. APPLICABLE LAW

6. Pursuant to Article 40(2) of the Law, the Trial Panel, having heard the Parties, may adopt such procedures and modalities as are necessary to facilitate the fair and expeditious conduct of proceedings. It may give directions for the conduct of fair and impartial proceedings and in accordance with the Rules.

7. Pursuant to Rule 116(1) of the Rules, the Trial Panel shall, on an ongoing basis, take all the measures and adopt such procedures as are necessary to facilitate the fair and expeditious conduct of the trial proceedings. Pursuant to Rule 116(3) of the Rules, prior to the opening of the case and after hearing the Parties, the Trial Panel may give directions on the conduct of proceedings as necessary to ensure a fair and expeditious trial.

III. DISCUSSION

8. Before finalising the present order, the Trial Panel has carefully considered the Parties and participants' submissions and, where relevant, amended its order accordingly. While not all these submissions have been adopted by the Panel, it has been greatly assisted by them.

Further Krasniqi Defence Submissions in Addition to Joint Defence Written Observations on the Draft Order on the Conduct of Proceedings, 13 January 2023.

⁶ Draft Transcript of Hearing, 18 January 2023, pp. 1893-1895, 1897-1901.

9. In accordance with the aforementioned provisions and further to its responsibility to ensure that the trial is conducted in a fair and expeditious manner, and informed by the practice of other relevant jurisdictions, the Trial Panel, having heard from the Parties and participants, issues the annexed Order on the Conduct of Proceedings (“Order”).⁷

10. The Order remains subject to future variation by the Trial Panel, where necessary, as trial progresses.

IV. DISPOSITION

11. In light of the foregoing, the Trial Panel hereby:

- a. **ADOPTS** the guidelines set out in the Order to govern the presentation of evidence and the conduct of proceedings; and
- b. **ORDERS** the Parties and participants to comply with these guidelines throughout the duration of the trial, subject to any further orders of the Trial Panel.



Judge Charles L. Smith, III
Presiding Judge

Done this Wednesday, 25 January 2023
At The Hague, the Netherlands.

⁷ Annex 1.