



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA KOSOVA

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
Judge Christoph Barthe
Judge Guénaél Mettraux
Judge Fergal Gaynor, Reserve Judge

Registrar: Dr Fidelma Donlon

Date: 13 February 2023

Language: English

Classification: Public

Order for Submissions on the Reclassification of Selected Filings

Acting Specialist Prosecutor
Alex Whiting

Counsel for Victims
Simon Laws

Counsel for Hashim Thaçi
Gregory Kehoe

Counsel for Kadri Veseli
Ben Emmerson

Counsel for Rexhep Selimi
David Young

Counsel for Jakup Krasniqi
Venkateswari Alagendra

TRIAL PANEL II (“Panel”), pursuant to Articles 21(2), 40(2) and (4) of the Law on Specialist Chambers and Specialist Prosecutor’s Office (“Law”) and Rules 82(5), 84(1) and 116(1) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers (“Rules”), hereby issues the following order.

I. APPLICABLE LAW

1. Pursuant to Articles 21(2) and 40(4) of the Law, hearings shall be public, unless the Panel decides otherwise in accordance with the Rules.
2. Pursuant to Rule 82(5) of the Rules, where the basis for reclassification no longer exists, whoever submitted the original filing shall apply to the Panel for reclassification. A Panel may also reclassify a filing upon request by any other participant or *proprio motu*.
3. Pursuant to Rule 84(1), on an ongoing basis and before rendering its Judgment, the Panel shall review the classification of records of proceedings and evidence and, where applicable, order their reclassification.

II. DISCUSSION

4. In accordance with Rule 84(1), the Panel considers it necessary to review the classification of certain filings in the case file, in order to adhere to the principle of publicity of proceedings, which extends beyond hearings in the courtroom to cover filings and any other submissions in the case file.¹

¹ KSC-BC-2020-07, F00501, Trial Panel II, *Order on Reclassifications and Public Redacted Versions* (“Trial Panel Order”), 16 December 2021, para. 4.

5. In doing so, regard must be paid, on the one hand, to the principle of publicity, as enshrined under Articles 21(2) and 40(4), and the duty of the Panel to provide for the protection of witnesses and confidential information.² The Panel accordingly has the responsibility to ensure that filings in this case bear the appropriate classification and may, accordingly, reclassify any filing *proprio motu* or upon request, should the basis for the current classification no longer exist.³

6. In accordance with Article 23, Rule 80 and Article 33 of the Practice Direction on Files and Filings, public redacted versions of filings should remove any information revealing: (i) the name, identity or other personal details of SPO staff members (who are not witnesses in this case); (ii) organisations or entities cooperating with the SPO on a confidential basis; (iii) documents or excerpts thereof disclosed to the Parties and Participants on a confidential basis; and (iv) the content of any other documents subject to confidentiality pursuant to Specialist Chambers orders.⁴

7. In light of the above, the Panel requests that the SPO file a confidential redacted version of the following filing in KSC-BC-2020-06, currently classified as strictly confidential and *ex parte*: F00350, 14/06/2021.

8. The Panel requests that the SPO file public redacted versions of the following filings in KSC-BC-2020-06, currently classified as confidential. If the SPO deems a filing can be reclassified as public without further redactions in a manner consistent with Rule 82(5), the SPO may so indicate:

- F00555CONF/RED, 02/11/2021

² Trial Panel Order, para. 5.

³ Trial Panel Order, para. 6.

⁴ See e.g. KSC-BC-2020-07, F00328, Trial Panel II, *Order on Rule 117 Defence Motions*, 27 September 2021, para. 16.

- F00665, 31/01/2022
- F00670CONF/RED, 31/01/2022
- F00678CONF/RED, 03/02/2022
- F00703, 18/02/2022
- F00704, 18/02/2022
- F00708, 24/02/2022
- F00709/A01/SCONF, 24/02/2022⁵
- F00740CONF/RED, 21/03/2022
- F00767, 13/04/2022
- F00774CONF/RED, 20/04/2022
- F00788, 29/04/2022
- F00875CONF/RED, 18/07/2022
- F00896, 25/07/2022
- F00910, 03/08/2022
- F00917, 08/08/2022
- F01004CONF/RED, 06/10/2022
- F01022, 10/10/2022
- F01090CONF/RED, 07/11/2022
- F01105CONF/RED, 16/11/2022
- F01127, 29/11/2022

9. Should the SPO wish to retain the current classification of some or all of the filings mentioned in paragraphs 7 and 8, they shall specify the reasons for maintaining the

⁵ This current request is distinct, and in addition to the pre-existing order requiring the SPO to file a lesser redacted version of the SPO's Pre-Trial Brief, by Wednesday, 15 February 2023. *See* F01229/CONF/RED, *Confidential Redacted Version of Decision on Indictment Redactions*, 27 January 2023, para. 40(b).

current classification, in accordance with Rule 82(3), and indicate whether and when such classification may be changed.

10. The Panel also requests that the Thaçi Defence file public redacted versions of the following filings in KSC-BC-2020-06, currently classified as confidential. If the Thaçi Defence deems a filing can be reclassified as public without further redactions in a manner consistent with Rule 82(5), the Thaçi Defence may so indicate:

- F00109, 30/11/2020
- F00194, 10/02/2021
- F00284, 07/05/2021
- F00325, 27/05/2021
- F00589, 01/12/2021
- F00688, 11/02/2022
- F00696, 15/02/2022
- F00702, 17/02/2022
- F00725, 07/03/2022
- F00791, 02/05/2022
- F00792, 02/05/2022
- F00812, 23/05/2022
- F00900, 28/07/2022
- F01020, 07/10/2022
- F01060, 27/10/2022
- F01115, 18/11/2022
- F01129, 29/11/2022
- F01136, 02/12/2022
- F01145, 08/12/2022
- F01193, 10/01/2023

- F01198, 12/01/2023

11. Should the Thaçi Defence wish to retain the current classification of some or all of the filings mentioned in paragraph 10, they shall specify the reasons for maintaining the current classification, in accordance with Rule 82(3), and indicate whether and when such classification may be changed.

12. The Panel requests that the Veseli Defence file public redacted versions of the following filings in KSC-BC-2020-06, currently classified as confidential *ex parte* or confidential. If the Veseli Defence deems a filing can be reclassified as public without further redactions in a manner consistent with Rule 82(5), the Veseli Defence may so indicate:

- F00170, 11/01/2021
- F00566, 12/11/2022
- F00662, 28/01/2022
- F00681, 08/02/2022
- F00686, 10/02/2022
- F00689, 11/02/2022
- F00700, 16/02/2022
- F00721, 25/02/2022
- F00726, 07/03/2022
- F00757, 31/03/2022
- F00783, 25/04/2022
- F00901, 29/07/2022
- F01052/COR, 25/10/2022
- F01063, 27/10/2022
- F01194, 10/01/2023
- F01197, 11/01/2023

13. Should the Veseli Defence wish to retain the current classification of some or all of the filings mentioned in paragraph 12, they shall specify the reasons for maintaining the current classification, in accordance with Rule 82(3), and indicate whether and when such classification may be changed.

14. The Panel requests that the Selimi Defence file public redacted versions of the following filings in KSC-BC-2020-06, currently classified as confidential. If the Selimi Defence deems a filing can be reclassified as public without further redactions in a manner consistent with Rule 82(5), the Selimi Defence may so indicate:

- F00105, 27/11/2020
- F00565, 12/11/2021
- F00899, 28/07/2022
- F01049, 21/10/2022
- F01062COR, 28/10/2022 (excluding annex).

15. Should the Selimi Defence wish to retain the current classification of some or all of the filings mentioned in paragraph 14, they shall specify the reasons for maintaining the current classification, in accordance with Rule 82(3), and indicate whether and when such classification may be changed.

16. The Panel requests that the Krasniqi Defence file public redacted versions of the following filings in KSC-BC-2020-06, currently classified as confidential. If the Krasniqi Defence deems a filing can be reclassified as public without further redactions in a manner consistent with Rule 82(5), the Krasniqi Defence may so indicate:

- F00564, 12/11/2021
- F00587, 01/12/2021
- F01051, 21/10/2022

- F01061, 27/10/2022

17. Should the Krasniqi Defence wish to retain the current classification of some or all of the filings mentioned in paragraph 16, they shall specify the reasons for maintaining the current classification, in accordance with Rule 82(3), and indicate whether and when such classification may be changed.

III. DISPOSITION

18. For the above-mentioned reasons, the Panel hereby:

- a. **REQUESTS** that for each filing specified in paragraphs 7 and 8, the SPO submits: (a) their reasons for maintaining the current classification of the filing; (b) a public redacted version thereof; or (c) an affirmation that the filing can be reclassified as public in its current state, by **3 April 2023**.
- b. **REQUESTS** that for each filing specified in paragraph 10, the Thaçi Defence submits: (a) their reasons for maintaining the current classification of the filing; (b) a public redacted version thereof; or (c) an affirmation that the filing can be reclassified as public in its current state, by **8 May 2023**.
- c. **REQUESTS** that for each filing specified in paragraph 12, the Veseli Defence submits: (a) their reasons for maintaining the current classification of the filing; (b) a public redacted version thereof; or (c) an affirmation that the filing can be reclassified as public in its current state, by **8 May 2023**.
- d. **REQUESTS** that for the filing specified in paragraph 12, the Selimi Defence submits: (a) their reasons for maintaining the current classification of the filing; (b) a public redacted version thereof; or (c) an affirmation that the filing can be reclassified as public in its current state, by **8 May 2023**.

- e. **REQUESTS** that for the filing specified in paragraph 16, the Krasniqi Defence submits: (a) their reasons for maintaining the current classification of the filing; (b) a public redacted version thereof; or (c) an affirmation that the filing can be reclassified as public in its current state, by **8 May 2023**.



Judge Charles L. Smith, III
Presiding Judge

Dated this Monday, 13 February 2023

At The Hague, the Netherlands.