

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 Guénaël Mettraux
Judge Fergal Gaynor, Reserve Judge

Registrar: Dr Fidelma Donlon

Filing Participant: Victims' Counsel

Date: 22 February 2023

Language: English

Classification: Public

**Public Redacted Version of
Victims' Counsel's Further Notification of Wish to Cross-Examine Witnesses (as
Listed in F01243)**

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

I. INTRODUCTION

1. Pursuant to Article 22(6) of the Law on Specialist Chambers and Specialist Prosecutor's Office (Law No. 05/L-053) ("Law"), Rule 114(4)(a) and (b) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), the Trial Panel's Oral Order of 16 December 2022,¹ the Order on the Conduct of Proceedings,² and following his initial notification of 3 February 2023³ and the Trial Panel's decision,⁴ Victims' Counsel further notifies the Panel of his wish to cross-examine one additional witness out of the first twelve witnesses called by the Specialist Prosecutor's Office ("SPO").⁵

II. CLASSIFICATION OF FILING

2. This filing is classified as confidential as it contains confidential information.⁶ A public redacted version will be filed shortly.

III. PROCEDURAL HISTORY

3. On 16 December 2022, Trial Panel II ordered the SPO to provide the list of the first twelve witnesses it intends to call to testify or those witnesses which will be heard during the first three weeks of the case, whichever is the greater.⁷ The Trial Panel also ordered the Defence teams and Victims' Counsel "to notify the Panel and other parties and participants in respect of each of the first 12 SPO witnesses:

¹ *Prosecutor v. Taçi et al.*, KSC-BC-2020-06/public, Transcript, 16 December 2022, p. 1774:2-12.

² KSC-BC-2020-06/F01226/public, Order on the Conduct of Proceedings, Annex 1, 25 January 2023, paras 33-35 and 76(ii)(a).

³ KSC-BC-2020-06/F01253/confidential, Victims' Counsel's Notification of Wish to Cross-Examine Witnesses and Request for Additional Time to Submit Further Notification, 3 February 2023.

⁴ KSC-BC-2020-06/F01277/public, Decision on Victims' Counsel's Request for an Extension of Time, 10 February 2023, paras 8 and 10.

⁵ KSC-BC-2020-06/F01243/A01/confidential, Prosecution submission of list of first 12 witnesses and associated information, Annex 1, 1 February 2023.

⁶ This filing refers to a pseudonym/code of a witness who is protected by delayed disclosure, therefore, it is understood that it should not be disclosed to the public.

⁷ KSC-BC-2020-06/public, Transcript, 16 December 2022, p. 1773:9-13.

One, whether it intends to cross-examine the witness, and if so, the proposed duration of the cross-examination; two, whether it objects to the admission of the witness's statement pursuant to Rule 154, if offered by the SPO under the rule, and the general grounds on which objection is taken to its admission; three, whether it objects to the admission of any or all of the documents which the SPO proposes to use with that witness and the general grounds on which objection is taken."⁸

4. On 25 January 2023, Trial Panel II issued the Order on the Conduct of Proceedings.⁹
5. On 1 February 2023, the Prosecution filed its list of first twelve witnesses.¹⁰
6. On 3 February 2023, Victims' Counsel notified the Trial Panel of his wish to cross-examine two witnesses to be called by the SPO, and requested an extension of time to 13 February 2023 to submit a further notification, if necessary, with regard to one further witness.¹¹
7. On 10 February 2023, the Trial Panel granted Victims' Counsel's request for additional time to submit a further notification.¹²

IV. SUBMISSIONS

a. Updated notification of wish to cross-examine witnesses

8. Further to his notification of 3 February 2023,¹³ Victims' Counsel notifies the Panel of one additional witness he wishes to cross-examine from the SPO list of

⁸ KSC-BC-2020-06/public, Transcript, 16 December 2022, p. 1774:2-12.

⁹ KSC-BC-2020-06/F01226/public, Order on the Conduct of Proceedings, Annex 1, 25 January 2023.

¹⁰ KSC-BC-2020-06/F01243/public, Prosecution submission of list of first 12 witnesses and associated information with confidential Annex 1, 1 February 2023.

¹¹ KSC-BC-2020-06/F01253/confidential, Victims' Counsel's Notification of Wish to Cross-Examine Witnesses and Request for Additional Time to Submit Further Notification, 3 February 2023, para. 12 (i) and (ii).

¹² KSC-BC-2020-06/F01277/public, Decision on Victims' Counsel's Request for an Extension of Time, 10 February 2023.

¹³ KSC-BC-2020-06/F01253/confidential, Victims' Counsel's Notification of Wish to Cross-Examine Witnesses and Request for Additional Time to Submit Further Notification, 3 February 2023.

its first twelve witnesses. For ease of reference, Victims' Counsel provides an updated notification with regard to all three witnesses he wishes to cross-examine, in tabular form below.

9. Consistent with the Order on the Conduct of the Proceedings¹⁴ and the Trial Panel's Oral Order,¹⁵ the table provides a general description of the issues or areas of evidence, a brief explanation as to how the anticipated testimony affects the personal interests of the VPPs, and a time estimate for this questioning.
10. Witness No. 3 (W04746) is the additional witness Victims' Counsel wishes to cross-examine, with justification provided in the table below.

No.	Witness Pseudonym	General Description of Issues/Areas of Questioning ¹⁶	Link to VPPs' Personal Interests ¹⁷	Justification for the Request to Question Witness in Accordance with para. 35 of the Order on Conduct of Proceedings ¹⁸	Time Estimate (minutes) ¹⁹
1.	W04421	The harm caused by the murder of W04421's spouse and the circumstances in which it occurred.	The harm was caused to her personally and to her family.	N/A	Up to 15 mins
2.	[REDACTED]	The circumstances of the arrest of a family member of VPPs, which was itself a source of	The harm was caused to VPPs personally.	N/A	Up to 20 mins

¹⁴ KSC-BC-2020-06/F01226/public, Order on the Conduct of Proceedings, Annex 1, 25 January 2023, para. 33.

¹⁵ KSC-BC-2020-06/public, Transcript, 16 December 2022, p. 1774:2-6.

¹⁶ KSC-BC-2020-06/F01226/public, Order on the Conduct of Proceedings, Annex 1, 25 January 2023, paras 33, 35.

¹⁷ KSC-BC-2020-06/F01226/public, Order on the Conduct of Proceedings, Annex 1, 25 January 2023, para. 33.

¹⁸ KSC-BC-2020-06/F01226/public, Order on the Conduct of Proceedings, Annex 1, 25 January 2023.

¹⁹ KSC-BC-2020-06/F01226/public, Order on the Conduct of Proceedings, Annex 1, 25 January 2023, paras 35, 76; KSC-BC-2020-06/public, Transcript, 16 December 2022, p. 1774:2-6.

No.	Witness Pseudonym	General Description of Issues/Areas of Questioning ¹⁶	Link to VPPs' Personal Interests ¹⁷	Justification for the Request to Question Witness in Accordance with para. 35 of the Order on Conduct of Proceedings ¹⁸	Time Estimate (minutes) ¹⁹
		harm and led to the murder of the family member.			
3.	W04746	W04746 was involved, in his capacity as KLA Commander of the Llap Operational Zone, in the detention and release of a VPP.	The harm was caused to the VPP personally.	[REDACTED]	Up to 1 hour

11. Victims' Counsel will apply to vary the protective measures granted to the VPP referred to in row No. 3 of the table in due course.
12. As submitted previously,²⁰ this notification is subject to one qualification: the admission of further VPPs may alter the list of witnesses that Victims' Counsel wishes to cross-examine.

V. RELIEF REQUESTED

13. For the reasons above, Victims' Counsel respectfully:
 - i) reiterates his notification to the Trial Panel of his wish to cross-examine W04421 and [REDACTED];²¹ and

²⁰ KSC-BC-2020-06/F01253/confidential, Victims' Counsel's Notification of Wish to Cross-Examine Witnesses and Request for Additional Time to Submit Further Notification, 3 February 2023, para. 9(i).

²¹ KSC-BC-2020-06/F01253/confidential, Victims' Counsel's Notification of Wish to Cross-Examine Witnesses and Request for Additional Time to Submit Further Notification, 3 February 2023, para. 12(i).

ii) requests leave from the Trial Panel to cross-examine W04746.

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Simon Laws KC

Counsel for Victims

22 February 2023

The Hague, the Netherlands



Maria Radziejowska

Co-Counsel for Victims

22 February 2023

The Hague, the Netherlands