



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEĆA KOSOVA

In: KSC-BC-2020-06

**The Specialist 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: Fidelma Donlon

Date: 18 December 2023

Language: English

Classification: Public

**Public Redacted Version of Decision on the Eighth Prosecution Request for
Protective Measures for One Item Containing Rule 103 Information**

Specialist Prosecutor

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Counsel for Kadri Veseli

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Counsel for Rexhep Selimi

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TRIAL PANEL II (“Panel”), pursuant to Articles 21(6), 23(1), and 40(6)(b) and (f) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office (“Law”) and Rules 80(1), 103, and 108 of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers (“Rules”), hereby renders this decision.

I. PROCEDURAL BACKGROUND AND SUBMISSIONS

1. On 4 December 2023, the Specialist Prosecutor’s Office (“SPO”) requested protective measures for one item containing Rule 103 information (“Request”).¹ The SPO requests authorisation to apply non-standard redactions to 116952-116955, a message received by the SPO which appears to relate to [REDACTED].² The SPO avers that such non-standard redactions are: (i) necessary to not reveal [REDACTED]’s location of residence, which is publicly available through open source searches; and (ii) proportionate as they strike a balance between the rights of the Accused and the need to ensure the protection of [REDACTED].³
2. The Defence did not respond to the Request.

II. APPLICABLE LAW

3. The law applicable to the present matter is set out, in particular, in Articles 21(6), 23(1), and 40(6)(b) and (f) as well as in Rules 80(1), 103, and 108, and has been laid out extensively in earlier decisions.⁴ The Panel will apply these standards to the present decision.

¹ F01979, Specialist Prosecutor, *Prosecution Request for Protective Measures for One Item Containing Rule 103 Information*, 4 December 2023, with one Annex, strictly confidential and *ex parte*. A public redacted version was filed the same day.

² Request, paras 1-2.

³ Request, paras 1, 3.

⁴ See e.g. F01157, Pre-Trial Judge, *Decision on the Sixth Prosecution Request for Protective Measures for Items Containing Rule 103 Information*, 14 December 2022, paras 10-17, strictly confidential and *ex parte*. A confidential redacted version was issued on the same day, F01157/CONF/RED.

III. DISCUSSION

4. The Panel recalls that [REDACTED] has been granted the protective measures of, *inter alia*, assignment of pseudonym, non-disclosure to the public of any records identifying the witness, testimony with face and voice distortion, and closed or private session for any in-court discussion or testimony identifying the witness.⁵

5. As regards the necessity of the requested non-standard redactions, the Panel considers that the proposed non-standard redactions of the name of the person who wrote the message are necessary to protect [REDACTED] as they can be used to locate [REDACTED]'s location of residence through open source searches. The Panel notes that the remaining proposed redactions are standard redactions and do not require the authorisation of the Panel.⁶

6. As regards the proportionality of the requested non-standard redactions, the Panel considers that: (i) the SPO has already disclosed [REDACTED]'s identity and material to the Defence;⁷ and (ii) the redactions are limited and only concern the name of the person who wrote the message.⁸ Accordingly, the Panel considers that the non-standard redactions are proportionate and that no counter-balancing measures are necessary, in the present circumstances, to uphold the Accused's rights.

7. In light of the foregoing, the Panel authorises the non-standard redactions sought, as specified in the Annex to the Request.

⁵ F00438, Pre-Trial Judge, *Eighth Decision on Specialist Prosecutor's Request for Protective Measures*, 24 August 2021, strictly confidential and *ex parte*, para. 93(m). A confidential redacted version was issued on the same day, F00438/CONF.

⁶ F00099, Pre-Trial Judge, *Framework Decision on Disclosure of Evidence and Related Matters*, 23 November 2020, para. 95.

⁷ [REDACTED]'s identity was disclosed to the Defence on 21 February 2023; See F01291, Specialist Prosecutor, *Prosecution Submission in Advance of Specialist Prosecutor's Preparation Conference*, 14 February 2023, para. 14, with Annexes 1-3, confidential, and with Annexes 4-6, strictly confidential and *ex parte*; F01232, Panel, *Decision on Protective Measures for Select Delayed Disclosure Witnesses*, 27 January 2023, strictly confidential and *ex parte*, para. 27(d). A confidential further redacted version was issued on 30 January 2023, F01232/CONF/RED2; Disclosure Package 683.

⁸ Annex to the Request.

IV. DISPOSITION

8. For these reasons, the Panel hereby:

- a) **GRANTS** the Request; and
- b) **AUTHORISES** the SPO to apply the non-standard redactions, as specified in the Annex to the Request.



Judge Charles L. Smith, III

Presiding Judge

Dated this Monday, 18 December 2023

At The Hague, the Netherlands.