

In: KSC-BC-2020-06

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: Dr Fidelma Donlon

Filing Participant: Counsel for Kadri Veseli

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Veseli Defence Response to Prosecution Submission Pertaining to Periodic Detention Review of Kadri Veseli (F02087)

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I. INTRODUCTION

1. The Defence for Mr Kadri Veseli (“Defence”) hereby responds to the Special Prosecutor’s Office (“Prosecution”) submissions on Mr Veseli’s continued detention,¹ pursuant to and Rules 56(3) and 76 of the Rules² in order to address new allegations in the SPO’s submissions which are both ambiguous and unsupported.

II. PROCEDURAL BACKGROUND

2. The relevant procedural history regarding Mr Veseli’s detention is referenced in the Trial Panel’s most recent detention decision as having been set out extensively in its previous decisions on the matter.³

III. APPLICABLE LAW

3. Rule 56(3) of the Rules provides that “[...] the Panel may, upon request or *proprio motu*, rule on conditions of detention and related matters for the purposes of protecting witnesses or victims, confidential information or the integrity of the proceedings, including on the imposition of necessary and proportionate restrictions on the communications of a detained person”.⁴

IV. SUBMISSIONS

4. Considering the unvarying nature of the allegations put forward by the Prosecution in its latest submissions pertaining to Mr Veseli’s detention review,⁵ the Defence limits its response to the Prosecution’s claim regarding the

¹ F02087, *Prosecution submission pertaining to periodic detention review of Kadri Veseli*, 29 January 2024 (“SPO Submissions”), public.

² Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 (‘Rules’). All references to ‘Rule’ or ‘Rules’ herein refer to the Rules, unless otherwise specified.

³ F02011, *Decision on Periodic Review of Detention of Kadri Veseli*, 15 December 2023 (“13th Detention Decision”), public, paras. 1-4.

⁴ *Supra* note 2.

⁵ F02087, SPO Submissions, para. 26.

alleged necessity of the imposition of stricter detention conditions for Mr Veseli.

5. In its most recent submission, the Prosecution claims that: “[n]othing has occurred since the previous determination warranting a different assessment on conditions, either generally or for a discrete period of time. To the contrary, Veseli’s conduct now represents such as extraordinarily heightened risk that even the standard communications restrictions and monitoring of the Detention Centre are insufficient to mitigate it, necessitating the imposition of an even more strict regime by this Panel.”⁶
6. This submission carries no citation, and it is not clear whether the reference to an “even more strict regime” refers to the current regime, as modified on 1 December 2023,⁷ or whether the Prosecution is advocating for even more draconian measures than those already in place. In any event, the Defence recalls that the Panel has already determined the communication monitoring framework applicable at the SC detention facilities, to be able to restrict Mr Veseli’s communications in a way that “would sufficiently mitigate the risk of obstruction and commission of further crimes”.⁸ This finding self-evidently encompasses the modified detention conditions imposed from 1 December 2023.⁹
7. The Prosecution also submits that “since the most recent detention decision, there have been no developments that diminish the factors supporting the need and reasonableness of detention”.¹⁰ However, it fails to mention that there have

⁶ Ibid.

⁷ F01977, *Further Decision on the Prosecution’s Urgent Request for Modification of Detention Conditions for Hashim Thaçi, Kadri Veseli, and Rexhep Selimi*, 1 December 2023 (“Decision on Modified Detention Conditions”), public.

⁸ F02011, 13th Detention Decision, para. 37. See also F02087, SPO Submissions, paras. 24-25.

⁹ F01977, Decision on Modified Detention Conditions, paras. 51-53, 55-60, and 62-78.

¹⁰ F02087, SPO Submissions, para. 6.

been no new circumstances that warrant “a stricter regime” either. To the contrary, the evidentiary material that has been disclosed by the Prosecution since 15 December 2023, in relation to the covert audio-recordings is unequivocally exculpatory.¹¹

8. The Defence recalls that this is now the third occasion on which it has found itself obliged to respond to Prosecution submissions regarding detention review purely to correct allegations that are misleading, unsubstantiated, or wholly ambiguous.¹² The Defence respectfully requests that the Trial Panel instruct the Prosecution to refrain from such allegations in future.

V. CONCLUSION

9. The Defence requests that the Trial Panel disregard this attempt of the Prosecution to relitigate a matter that has already been ruled upon by the Panel, when conducting its periodic review of Mr Veseli’s continued detention. Whilst the Defence does not challenge his continued detention at this stage, it submits that the Prosecution should not be permitted to present groundless and unreasonable allegations and requests the Trial Panel instruct the Prosecution accordingly.

Word Count: 947

¹¹ See for instance, Disclosure Packages 1086 and 1102, disclosed on 26 January 2024 and 02 February 2024 pursuant to Rule 103.

¹² See F01985, *Veseli Defence Response to ‘Prosecution submission pertaining to periodic detention review of Kadri Veseli’* (F01955), 06 December 2023, confidential. A public redacted version was released on 27 December 2023 (F01985/RED); F01840, *Veseli Defence Response to ‘Prosecution submission pertaining to periodic detention review of Hashim Thaçi’* (F01814), 05 October 2023, confidential, para. 3. A public redacted version was released on 23 October 2023 (F01840/RED).



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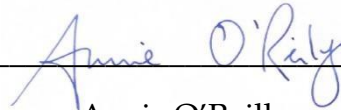
Wednesday, 7 February 2024,
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