



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 Guénaél Mettraux

Judge Fergal Gaynor, Reserve Judge

**Registrar:** Fidelma Donlon

**Date:** 7 February 2024

**Language:** English

**Classification:** Public

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**Public Redacted Version of Decision on Victims' Counsel's Request to Provide  
[REDACTED]'s Statements to Victims 268/06, 269/06, and 270/06**

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**Specialist Prosecutor**

Kimberly P. West

**Counsel for Victims**

Simon Laws

**Counsel for Hashim Thaçi**

Gregory Kehoe

**Counsel for Kadri Veseli**

Ben Emmerson

**Counsel for Rexhep Selimi**

Geoffrey Roberts

**Counsel for Jakup Krasniqi**

Venkateswari Alagenda

**TRIAL PANEL II** (“Panel”), pursuant to Article 22(3) and (6) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office (“Law”) and Rules 84, 114(4) and 116(1) of the Rules of Procedure and Evidence before the Kosovo Specialist Chambers (“Rules”), hereby renders this decision.

## I. PROCEDURAL BACKGROUND

1. On 29 November 2023, Victims’ Counsel filed a request seeking permission to provide Victims 268/06, 269/06, and 270/06 (“the VPPs”) a copy of statements made by [REDACTED] (“Request”).<sup>1</sup>
2. On 18 January 2024, Victims’ Counsel filed a confidential redacted version of the Request.<sup>2</sup>
3. Neither the Specialist Prosecutor’s Office (“SPO”) nor the Defence responded to the Request.

## II. SUBMISSIONS

4. Victims’ Counsel requests permission to provide the VPPs with statements made by [REDACTED] – namely, [REDACTED] (“Statements”).<sup>3</sup> Victims’ Counsel submits that the VPPs wish to have an account of what happened to [REDACTED]’s family in the [REDACTED] own words.

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<sup>1</sup> F01970, Victims’ Counsel, *Victims’ Counsel’s Request for permission to provide statements made by [REDACTED] to V268/06, V269/06, and V270/06*, 29 November 2023, strictly confidential and *ex parte*. A strictly confidential redacted version, *ex parte* the Defence, was filed on the same day, F01970/SCONF/RED.

<sup>2</sup> F01970/CONF/RED, Victims’ Counsel, *Victims’ Counsel’s Request for permission to provide statements made by [REDACTED] to V268/06, V269/06, and V270/06*, 18 January 2024, confidential.

<sup>3</sup> See Request, paras 6, 10.

### III. APPLICABLE LAW

5. Rule 84 requires the Panel to “review the classification of records of proceedings and evidence and, where applicable, order their reclassification.”

6. Rule 114(4) provides that, whenever the personal interests of victims participating in the proceedings are affected, Victims’ Counsel may, under the control of the Panel, make written submissions.

7. Rule 116(1) provides that the Panel must “take all measures and adopt such procedures as are necessary to facilitate the fair and expeditious conduct of the trial proceedings”.

### IV. DISCUSSION

8. At the outset, the Panel observes that neither the Framework Decision for the Handling of Confidential Information,<sup>4</sup> nor the Rules, expressly address the specific situation at hand. The Panel has, pursuant to Rule 84, the power to review the classification of any evidence and order its reclassification. Furthermore, the Panel is required by Rule 116 to take all measures and adopt such procedures as necessary to facilitate the fair and expeditious conduct of the trial. The Panel is satisfied that these provisions include the power to order the transmission of confidential exhibits to third parties, where it is in the interest of justice to do so and would not cause prejudice to those concerned.

9. The Panel notes that: (i) the VPPs were admitted as victims participating in the proceedings, [REDACTED];<sup>5</sup> (ii) [REDACTED] is deceased and not subject to

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<sup>4</sup> F00854, Pre-Trial Judge, *Decision on Framework for the Handling of Confidential Information during Investigations and Contact between a Party or Participant and Witnesses of the Opposing Party or of a Participant*, 24 June 2022, para. 212 (I).

<sup>5</sup> F01293, Panel, *Fifth Decision on Victims’ Participation* (“Fifth Decision on Victims’ Participation”), 15 February 2023, strictly confidential and *ex parte*, para. 16(b) and fn. 36. A public redacted version was filed on 20 February 2023, F01293/RED.

protective measures;<sup>6</sup> (iii) the VPPs expressed their desire to receive the Statements;<sup>7</sup> (iv) the Statements were admitted as exhibits in these proceedings and classified as confidential;<sup>8</sup> (v) the SPO indicated its support for sharing the Statements with the VPPs;<sup>9</sup> and (vi) Victims' Counsel indicated that, should the Request be granted, it would instruct the VPPs that the Statements are confidential and must not be shared with others.<sup>10</sup>

10. In light of these circumstances, the Panel is satisfied that providing the Statements to the VPPs is justified as it: (i) causes no prejudice to the Accused and would not cause undue prejudice to their rights; (ii) carries no risk to the security of [REDACTED], other witnesses, or the VPPs; and (iii) is in the VPPs' interests and in line with their rights to notification and acknowledgment provided for in Article 22(3) of the Law.

11. For these reasons, the Panel authorises Victims' Counsel to share the Statements with the VPPs. When doing so, Victims' Counsel shall inform the VPPs of the confidential nature of the Statements and instruct the VPPs that the Statements cannot be shared with any other person or entity without the prior authorisation of the Panel.

## V. CLASSIFICATION

12. The Panel notes that Victims' Counsel simultaneously filed a strictly confidential redacted version of the Request, *ex parte* the Defence,<sup>11</sup> and upon request, a confidential redacted version of the Request.<sup>12</sup> It further notes Victims'

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<sup>6</sup> [REDACTED]; Fifth Decision on Victims' Participation, para. 16(b) and fn. 36.

<sup>7</sup> See Request, para. 5.

<sup>8</sup> [REDACTED]. See also [REDACTED].

<sup>9</sup> See Request, paras 6, 9 and fns 6-7.

<sup>10</sup> Request, para. 9.

<sup>11</sup> Request, para. 3.

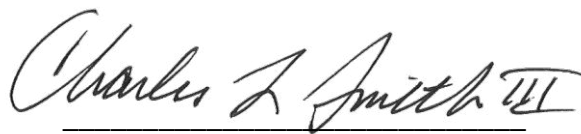
<sup>12</sup> See *supra* para. 2.

Counsel's submission that, despite the use of pseudonyms, the information contained in the Request would clearly identify the VPPs when connected with the Statements.<sup>13</sup> The Panel directs Victims' Counsel to file a public redacted version of the Request, or request its reclassification as public, by **Monday, 19 February 2024**.

## VI. DISPOSITION

13. In light of the above, the Panel:

- a) **GRANTS** the Request;
- b) **AUTHORISES** Victims' Counsel to provide the VPPs with the Statements ([REDACTED]); and
- c) **DIRECTS** Victims' Counsel to instruct the VPPs that the Statements, in light of their confidential nature, may not be shared with any other person or entity; and
- d) **DIRECTS** Victims' Counsel to file a public redacted version of the Request (F01970), or request its reclassification as public, by **Monday, 19 February 2024**.



**Judge Charles L. Smith, III**

**Presiding Judge**

Dated this Wednesday, 7 February 2024

At The Hague, the Netherlands.

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<sup>13</sup> Request, para. 3.