



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: 10 May 2024

Language: English

Classification: Public

Decision on Joint Defence Request for Extension of Time to Respond to Prosecution Request to Amend the Exhibit List (F02279)

Specialist Prosecutor
Kimberly P. West

Counsel for Victims
Simon Laws

Counsel for Hashim Thaçi
Luka Mišetić

Counsel for Kadri Veseli
Ben Emmerson

Counsel for Rexhep Selimi
Geoffrey Roberts

Counsel for Jakup Krasniqi
Venkateswari Alagendra

TRIAL PANEL II (“Panel”), pursuant to Articles 21(4)(c) and 40(2) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office (“Law”) and Rule 9(5)(a) of the Rules of Procedure and Evidence before the Kosovo Specialist Chambers (“Rules”), hereby renders this decision.

I. PROCEDURAL BACKGROUND

1. On 1 May 2024, the Specialist Prosecutor’s Office (“SPO”) filed a request to amend the exhibit list (“SPO Request”), requesting authorisation to include materials relating, *inter alia*, to witnesses the SPO intends to call to testify between June and July 2024 (“Requested Amendments”).¹
2. On 6 May 2024, the Defence teams for Hashim Thaçi, Kadri Veseli, Rexhep Selimi, and Jakup Krasniqi (collectively, “Defence” and “Accused”) filed a joint request for extension of time to respond to the SPO Request (“Defence Request”).²
3. On 8 May 2024, the SPO filed a response to the Defence Request (“Response”).³
4. On 9 May 2024, the Defence filed its reply (“Reply”).⁴

¹ F02279, Specialist Prosecutor, *Prosecution Request to Amend the Exhibit List*, 1 May 2024, confidential, with Annex 1, confidential.

² F02289, Specialist Counsel, *Joint Defence Request for Extension of Time to Respond to Prosecution Request to Amend the Exhibit List (F02279)*, 6 May 2024, confidential.

³ F02296, Specialist Prosecutor, *Prosecution Response to Defence Request for Extension of Time (F02289)*, 8 May 2024, confidential.

⁴ F02301, Specialist Counsel, *Joint Defence Reply to ‘Prosecution Response to Defence Request for Extension of Time (F02289)’*, 9 May 2024, confidential.

II. SUBMISSIONS

5. The Defence requests an extension of time to respond to the SPO Request of seventeen (17) days until Thursday, 30 May 2024.⁵ The Defence submits that the request is timely and that good cause exists to grant the requested extension as, without it, the Defence would lack sufficient time and resources to meaningfully respond to the SPO Request.⁶ In particular, the Defence argues that good cause exists as: (i) the SPO Request raises novel and complex issues of law and fact;⁷ (ii) the Requested Amendments concern evidence to be used with witnesses whose testimony is imminent and central to the SPO case;⁸ and (iii) the Requested Amendments comprises over 1,000 pages requiring time and resources at the same time as other significant witnesses will be called to testify.⁹

6. The SPO responds that the Defence fails to demonstrate good cause for an extension of time and that, in any case, the required extension of seventeen (17) days is excessive, unreasonable and risks undue delay and disruption to the court schedule and to witness security.¹⁰ In particular, the SPO argues that: (i) the Defence had sufficient notice regarding the material in the Requested Amendments and related witnesses;¹¹ (ii) the claimed need to review SPO transcripts and translations is unfounded;¹² (iii) the issues raised by the SPO Request are not novel;¹³ and (iv) the Defence has had and will have ample opportunity to respond and to prepare for the witnesses' testimony.¹⁴

⁵ Defence Request, paras 1, 14.

⁶ Defence Request, paras 2, 5-6, 12.

⁷ Defence Request, para. 7.

⁸ Defence Request, para. 8.

⁹ Defence Request, paras 10-12.

¹⁰ Response, paras 1-2, 4, 5, 8.

¹¹ Response, para. 3(a)-(c).

¹² Response, para. 3(d).

¹³ Response, para. 3(e).

¹⁴ Response, para. 4.

7. The Defence replies that the extension of time should be granted for the Defence to have adequate time to prepare, as the SPO Request is substantially different to any the Panel has considered in the past and raises issues of fairness and prejudice.¹⁵ The Defence argues that, in these circumstances, it should be entitled to a presumption of good faith and due deference when it requests an extension of time.¹⁶ In addition, the Defence replies that the SPO fails to articulate how granting the extension requested would impact witness security and the integrity of proceedings.¹⁷ Finally, the Defence raises arguments as to the timeliness of the SPO Request and the scheduling of related disclosures and the witnesses' order.¹⁸

III. APPLICABLE LAW

8. Pursuant to Rule 9(5)(a) the Panel may *proprio motu* or upon showing of good cause extend any time limit prescribed by the Rules or set by the Panel.

IV. DISCUSSION

9. The Panel finds that the Defence Request is timely as it was filed sufficiently in advance of the relevant deadline.

10. The Panel finds that the Defence has demonstrated good cause for a limited extension of time, considering, in particular: (i) the significance and volume of material of relevance to the Requested Amendments; (ii) the significance of related witnesses; and (iii) the substantial workload that preparations for the current evidentiary block already entail.

¹⁵ Reply, paras 2, 10.

¹⁶ Reply, para. 9.

¹⁷ Reply, para. 7.

¹⁸ Reply, paras 3-6, 10.

11. The Panel considers, however, that the extension of time of seventeen (17) days requested by the Defence is unreasonable and disproportionate in the circumstances. In particular, the Panel notes that: (i) a request to amend the exhibit list is not a request to admit the materials comprised in the Requested Amendments and merely entails *prima facie* findings of relevance, which do not necessitate immediate extensive review of the content of such materials; (ii) if the SPO Request is granted, the Defence still has sufficient time to prepare for the testimony of related witnesses and will be able to meaningfully review the material in question; and (iii) the Requested Amendments concern witnesses scheduled to testify imminently. Therefore, the Panel considers that, to ensure the efficiency and expeditiousness of proceedings and so that the Accused have adequate time and facilities to prepare, a shorter extension of time of two (2) days, until Wednesday, 15 May 2024, is sufficient and appropriate in the circumstances.

12. The Panel finds that the remaining Defence arguments are not relevant to deciding the present application and will, therefore, not be addressed.

13. Lastly, as regards the SPO's request that, if an extension of time is granted, a staggered approach be imposed, the Panel considers that a limited extension of two (2) days would not unduly disrupt the court schedule and, therefore, dismisses the SPO's request for a staggered approach.

14. In light of the above, the Panel extends the time for the Defence to respond to the SPO Request until **Wednesday, 15 May 2024**.

V. CLASSIFICATION

15. The Panel takes note of the Parties' submissions regarding the confidential classification of their respective filings.¹⁹ The Panel considers that public redacted versions of the Defence Request, Response and Reply are feasible. To ensure the publicity of the proceedings to the greatest extent possible, the Panel therefore orders the Parties to submit public redacted versions of their respective filings, by **Friday, 17 May 2024**.

VI. DISPOSITION

16. For the abovementioned reasons, the Panel hereby:

- a) **GRANTS** the Defence Request, in part;
- b) **EXTENDS** the time limit for the Defence to respond to the SPO Request to **Wednesday, 15 May 2024**; and
- c) **ORDERS** the Defence and the SPO to submit public redacted versions of their respective filings, by **Friday, 17 May 2024**.



Judge Charles L. Smith, III
Presiding Judge

Dated this Friday, 10 May 2024

At The Hague, the Netherlands.

¹⁹ Defence Request, para. 13; SPO Response, para. 7, referring to SPO Request, para. 11.