

**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 Guénaél Mettraux  
Judge Fergal Gaynor, Reserve Judge

**Registrar:** Dr Fidelma Donlon

**Filing Participant:** Counsel for Hashim Thaçi  
Counsel for Kadri Veseli  
Counsel for Rexhep Selimi  
Counsel for Jakup Krasniqi

**Date:** 6 May 2024

**Language:** English

**Classification:** Public

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**Public Redacted Version of Joint Defence Request for Extension of Time to Respond to Prosecution Request to Amend the Exhibit List (F02279)**

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**Specialist Prosecutor's Office**

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## I. INTRODUCTION

1. In accordance with Article 21(4) of the Law<sup>1</sup> and Rule 9(5) of the Rules,<sup>2</sup> the Defence for Messrs Thaçi, Veseli, Selimi and Krasniqi (“Defence”) hereby submit this Request for an extension of time to respond to the SPO’s most recent request to amend the exhibit list.<sup>3</sup> The Defence seeks an extension of **17 days**, such that the deadline for the Response would be **Thursday, 30 May 2024**.
2. The Defence submits that there is good cause for the requested extension. The SPO Request raises complex issues that are important to the proceedings. Moreover, the Requested Amendments are voluminous in nature such that additional time will be needed to mount a meaningful and comprehensive response, particularly when considered in conjunction with the current demands of trial.

## II. APPLICABLE LAW

3. Rule 9(5) of the Rules allows for the Trial Panel to vary the prescribed time limits under Rule 76, upon a showing of good cause or *proprio motu*.
4. Moreover, pursuant to Article 21(4)(c) of the Law, the Accused is entitled “to have adequate time and facilities for the preparation of his or her defence and to communicate with Specialist Counsel of his or her own choosing.”

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<sup>1</sup> Law No.05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office, 3 August 2015 (‘Law’). All references to ‘Article’ or ‘Articles’ herein refer to the Law, unless otherwise specified.

<sup>2</sup> 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.

<sup>3</sup> F02279, *Prosecution request to amend the Exhibit List with confidential Annex 1*, 1 May 2024, confidential (“SPO Request”); F02279/A01, *ANNEX 1 to Prosecution request to amend the Exhibit List with confidential Annex 1*, 1 May 2024, confidential (“Annex 1 to SPO Request”).

### III. SUBMISSIONS

5. Preliminarily, the Defence submits that this Request is timely. It is filed three working days after the SPO Request was notified and well ahead of the deadline set out in Rule 76 of the Rules for the Defence response.<sup>4</sup> There is ample time for the SPO to respond to the current Request and for the Trial Panel to render a Decision.
6. Additionally, the Defence avers that good cause exists to grant the requested extension.
7. Firstly, the SPO Request raises novel and complex issues of law and fact. It seeks to have material relating to [REDACTED] added to the exhibit list. Its character is unlike any previous request to amend the exhibit list. Consequently, the Defence must devote substantially more time and resources responding to this request than it has to previous such requests.
8. Secondly, the SPO intends to use the Requested Amendments with, *inter alia*, W03170, W03780 and W04752,<sup>5</sup> all of whom are due to testify [REDACTED].<sup>6</sup> The Defence notes that these particular witnesses are central to the SPO case against Accused. Their evidence pertains directly to issues of command and control, the alleged Joint Criminal Enterprise and the alleged targeting of political opponents and collaborators.<sup>7</sup> The SPO Request acknowledges this much by claiming that the Requested Amendments are especially relevant and important to the evidence of these witnesses, in addition to that of others, the charges in this case and the [REDACTED].<sup>8</sup>

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<sup>4</sup> The Defence notes that the current deadline is Monday, 13 May 2024.

<sup>5</sup> SPO Request, para. 3.

<sup>6</sup> The Defence notes that the SPO Request was filed on 1 May 2024 and the SPO has indicated that [REDACTED].

<sup>7</sup> See for instance, F01594/A02, ANNEX 2 to Prosecution submission of updated witness list and confidential lesser redacted version of pre-trial brief, 9 June 2023, confidential, pp. 173, 187-188, 474-476.

<sup>8</sup> SPO Request, para. 3.

9. Moreover, the SPO's description of the Requested Amendments as "relatively recently obtained [...] transcribed, translated, reviewed, analysed, and assessed" is both misleading and highly relevant to the question of prejudice. The Defence notes, in this regard, that the Requested Amendments came into the custody of the SPO between [REDACTED].<sup>9</sup> It subsequently disclosed those materials pursuant to Rules 102(3) or 103 at various points between January and April 2024.<sup>10</sup> Whereas the Defence intends to fully address issues of timeliness in its response, it notes, at this stage, that prior disclosure under Rules 102(3) and 103 does, in fact, prejudice the Defence's ability to meaningfully respond precisely because the analysis of evidence disclosed under those rules is inherently different to that disclosed under Rule 102(1)(b).
10. Thirdly, the Defence observes that the Requested Amendments comprise over 1,000 pages of material at a time when the Defence's resources are focused squarely on preparation for the current and upcoming evidentiary blocks. This does not include the time the Defence will need to devote to ensuring the correctness of the SPO's transcription and translation of conversations in Albanian. The Defence notes, in this regard, that similar materials arising from the same SPO investigations have previously suffered from linguistic inaccuracies.<sup>11</sup> It is therefore incumbent upon the Defence to ensure that the Requested Amendments accurately represent the events to which the SPO allege they pertain.
11. It is also clear, based on the tentative witness order for the May, June and July evidentiary blocks, that a handful of other substantially significant witnesses will be called to testify who will necessarily require significant preparation.<sup>12</sup> It

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<sup>9</sup> See, Annex 1 to SPO Requested, items 1-22.

<sup>10</sup> See, Annex 1 to SPO Requested, items 1-22.

<sup>11</sup> [REDACTED].

<sup>12</sup> [REDACTED].

follows that in order for the Defence to meaningfully respond to the SPO Request, considerable time and resources, beyond those ordinarily needed for the demands of trial, will have to be devoted to thoroughly considering and analysing the substance of the Requested Amendments.

12. Whereas the SPO downplays the time and resources required to adequately respond to the Requested Amendments, with reference to their dates of disclosure, pertinence to witnesses on the witness list and known aspects of the SPO case,<sup>13</sup> the Defence maintains it would be highly prejudicial to force it to consider and analyse a large volume of material that raises complex issues in respect of important witnesses who are due to testify [REDACTED] in these proceedings within the current 10-day period. The requested extension ought to be granted so as to afford the Defence adequate time to meaningfully respond.

#### IV. CLASSIFICATION

13. Pursuant to Rule 82(3) of the Rules, this filing is filed confidentially because it refers to documents bearing the same classification. A public redacted version will be filed in due course.

#### V. CONCLUSION

14. In light of the foregoing, the Defence respectfully requests that any response to the SPO Request be subject to a varied time limit, and be filed by **Thursday, 30 May 2024**.

**Word Count: 1,216**

**Respectfully submitted on 6 May 2024**

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<sup>13</sup> SPO Request, para. 10.



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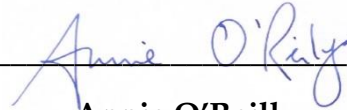
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