



SPECIALIST PROSECUTOR'S OFFICE  
ZYRA E PROKURORIT TË SPECIALIZUAR  
SPECIJALIZOVANO TUŽILAŠTVO

**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:** Specialist Prosecutor's Office

**Date:** 8 May 2024

**Language:** English

**Classification:** Public

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**Public Redacted Version of 'Prosecution response to Defence request for extension of time (F02289)'**

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**Specialist Prosecutor's Office**

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

## I. INTRODUCTION

1. The Request<sup>1</sup> fails to demonstrate good cause for any time extension, let alone 17 days, which would almost triple the regularly applicable limit.

2. The Specialist Prosecutor's Office ('SPO') generally does not oppose time extensions that are reasonable and advance fair and expeditious proceedings. However, that is not the case here. The Defence has had and will have ample time to prepare and respond to the Motion<sup>2</sup> – which is limited to exhibit list amendment, not admission – within the existing deadline. The extension requested is excessive and unjustified, and risks undue delay and disruption to the court schedule. In similar circumstances, the Panel has denied, in full and in part, requests for time extensions.<sup>3</sup>

## II. SUBMISSIONS

3. Beyond general submissions concerning preparations for, *inter alia*, the witnesses concerned by the Motion, and the need to 'consider and analyse' the materials encompassed by the Requested Amendments,<sup>4</sup> the Defence does not explain why any additional time, let alone the extension requested, is required. In this respect:

- a. The majority of the Requested Amendments were disclosed between January and March 2024, with limited additional materials disclosed in April 2024;<sup>5</sup>

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<sup>1</sup> Joint Defence Request for Extension of Time to Respond to Prosecution Request to Amend the Exhibit List (F02279), KSC-BC-2020-06/F02289, 6 May 2024, Confidential ('Request').

<sup>2</sup> Prosecution request to amend the Exhibit List, KSC-BC-2020-06/F02279, 1 May 2024, Confidential ('Motion').

<sup>3</sup> See e.g. Decision on Joint Defence Request for a Variation of the Time Limit to Provide Information About the Examination of SPO Witnesses, KSC-BC-2020-06/F01650, 7 July 2023, para.12; Decision on Joint Defence Request for Extensions of the Time Limit to Respond to Certain Filings, KSC-BC-2020-06/F02029, 20 December 2023, para.11.

<sup>4</sup> Motion, KSC-BC-2020-06/F02279, para.1 (defining the 'Requested Amendments').

<sup>5</sup> Motion, KSC-BC-2020-06/F02279, para.10, fn.67.

- b. [REDACTED] were included in the SPO's list of [REDACTED];<sup>6</sup>
- c. The SPO, before deciding to delay their testimony, including for the reasons given below,<sup>7</sup> initially notified the Defence of its intention to call [REDACTED] and [REDACTED] between [REDACTED],<sup>8</sup> and the Rule 154 application for [REDACTED] was granted on [REDACTED];<sup>9</sup>
- d. The claimed need to review transcriptions and translations for accuracy is speculative,<sup>10</sup> and in any event, would not prevent the Defence from responding to the Motion, even if its reviews are ongoing thereafter; and
- e. Rather than being novel, the relevance of evidence of [REDACTED], including in the context of other cases, has previously been at issue in this trial.<sup>11</sup>

4. Accordingly, the Defence has had and will have ample opportunity to prepare for the testimony of the witnesses concerned, including in light of the Requested Amendments, and respond to the Motion without any extension.<sup>12</sup> The excessiveness of the Request is clear when contrasted against extensions sought and granted in relation to motions concerning significantly more material and where the Defence also provided justifications similar to those in the Request, including novelty, workload,

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<sup>6</sup> [REDACTED].

<sup>7</sup> See para.5 below.

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

<sup>9</sup> [REDACTED].

<sup>10</sup> In footnote 11, the Defence cites filing [REDACTED] in support of its claim that 'similar materials [...] suffered from linguistic inaccuracies'. However, this filing was a response to an urgent SPO request that acknowledged that the transcripts referenced were in draft form and subject to future revision, and does not support any submission concerning the materials encompassed by the Requested Amendments. See e.g. [REDACTED].

<sup>11</sup> Motion, KSC-BC-2020-06/F02279, para.3.

<sup>12</sup> *Contra* Request, KSC-BC-2020-06/F02289, paras 10-12.

and the extent of material concerned.<sup>13</sup>

5. Finally, logistical arrangements have already been made for [REDACTED], which took into account, *inter alia*, the delayed disclosure of certain materials encompassed by the Requested Amendments and [REDACTED].<sup>14</sup> These considerations also informed the scheduling of [REDACTED], and the timing of the Motion.<sup>15</sup> In such circumstances, the requested extension poses undue risks not only of delay and to the court schedule, but to [REDACTED].

6. Nevertheless, if the Panel is minded to grant any extension, the SPO requests that staggered deadlines be imposed, refusing any extension in relation to the part of the Motion pertaining to [REDACTED], and thereby enabling a decision sufficiently in advance of his planned testimony [REDACTED]. A limited extension could then be granted in relation to the parts of the Motion pertaining to [REDACTED], whom the SPO intends to call in the block [REDACTED], with sufficient time for a decision in advance of their testimony.

### III. CLASSIFICATION

7. This filing is confidential pursuant to Rule 82(4). For the reasons given in the Motion, a meaningfully redacted public version is not possible at this time.

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<sup>13</sup> The requested extension, which amounts to approximately two and half weeks, should be compared against the extensions granted in relation to motions encompassing exponentially more material, similarly coinciding with ongoing trial proceedings and witness preparations/testimony, and raising purportedly 'novel' issues. *See e.g.* Decision on Thaçi, Selimi and Krasniqi Defence Request for an Extension of Time for Response to 'Prosecution Motion for Admission of Accused's Statements', KSC-BC-2020-06/F01378, 16 March 2023 (granting approximately one month where the Defence argued that the motion encompassed nearly 200 items totaling approximately 3,700 pages and raised novel issues); Decision on Defence Request for a Revised Bar Table Motion and a Suspension and an Extension of Time, KSC-BC-2020-06/F01309, 21 February 2023 (granting approximately one month where the Defence argued that the motion encompassed nearly 1260 items totaling approximately 13,500 pages).

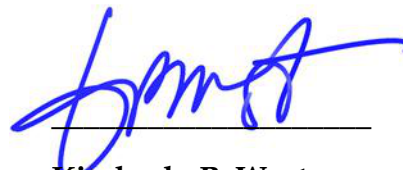
<sup>14</sup> *See also* Confidential Redacted Version of 'Prosecution request for temporary non-disclosure', KSC-BC-2020-06/F02016/CONF/RED, 15 December 2023, Confidential, para.15.

<sup>15</sup> Motion, KSC-BC-2020-06/F02279, paras 8-9. Defence submissions on the timeliness of the Motion ignore SPO submissions, *inter alia*, concerning [REDACTED], and the judicially authorised delayed disclosure of certain materials on 11 April 2024. *See* Request, KSC-BC-2020-06/F02289, para.9.

IV. RELIEF REQUESTED

8. For the foregoing reasons, the Request should be denied. In the event the Panel is minded to grant any extension, it should be tailored to avoid undue disruption to the court schedule and in particular, [REDACTED].

**Word Count: 1106**



**Kimberly P. West**

**Specialist Prosecutor**

Wednesday, 8 May 2024

At The Hague, the Netherlands.