

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 Christoph Barthe
Judge Guénaél Mettraux
Judge Fergal Gaynor, Reserve Judge

Registrar: Dr Fidelma Donlon

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

Date: 13 June 2025

Language: English

Classification: Public

Joint Defence Request for a Variation of the Schedule

Specialist Prosecutor's Office
Kimberly P. West

Counsel for Hashim Thaçi
Luka Misetic

Counsel for Kadri Veseli
Rodney Dixon

Counsel for Victims
Simon Laws

Counsel for Rexhep Selimi
Geoffrey Roberts

Counsel for Jakup Krasniqi
Venkateswari Alagendra

I. INTRODUCTION

1. On 5 June 2025, Trial Panel II (“the Panel”) issued the ‘Revised Scheduling Order’ setting various deadlines for each of the parties and participants.¹ Most relevantly, and “should the Panel deny in whole or in part the Rule 130 Motion”, the Defence for Messrs. Hashim Thaçi, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi (“the Defence”) were ordered to: (i) notify the Panel pursuant to Rule 119(1)² whether they intend to present a Defence case, no later than **Wednesday, 16 July 2025**; and (ii) submit the list of witnesses they intend to call (“Witness List”) and the list of proposed exhibits they intend to present (“Exhibit List”) pursuant to Rule 119(2), and comply with the other requirements of Rule 119(2), no later than **Monday, 21 July 2025**.³ The Panel also advised that they intended to hold a Defence Preparation Conference during the week commencing **Monday, 21 July 2025**.⁴

2. Rule 9(5)(a) of the Rules allows for the variation of any time limit prescribed by the Rules or set by the Panel, upon a showing of good cause or *proprio motu*. In accordance with Rule 9(5)(a), the Defence therefore requests variation of the time limits set in the Order to:

- (i) submit the Witness Lists and Exhibit Lists, by **Monday, 18 August 2025**; and
- (ii) hold the Defence Preparation Conference during the week commencing **Monday, 18 August 2025**.

3. The Defence submits that good cause exists for variation of the identified time limits, in light of: (i) the limited size and scope of the potential Defence case; (ii) the

¹ KSC-BC-2020-06/F03232, Trial Panel II, *Revised Scheduling Order*, 5 June 2025, public (“Order”).

² KSC-BD-03/Rev3/2020, Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, 2 June 2020 (“Rules”).

³ Order, para. 12(e).

⁴ Order, para. 12(f).

time required by the Defence to take the requisite procedural steps, including obtaining clearance from Rule 107 providers; (iii) the Defence's inability to meet the obligations prescribed by Rule 119 within the proposed timeframes; (iv) the lack of adequate time and facilities to prepare a defence due to competing demands; and (v) the fact that the parties and participants were not heard before the Panel issued the Order.

II. SUBMISSIONS

4. This request is timely. It is filed shortly after the Order was notified, and well in advance of all deadlines set in the Order.

5. In addition, good cause exists to grant the requested variations to the proposed schedule. First, the potential Defence case is likely to be limited in size and scope. Following consultations amongst the Defence teams during the week of 9 June 2025, it is currently anticipated that the total number of Defence witnesses will be no more than 20 to 25. Of these witnesses, approximately 15 may be called to testify live (either *viva voce* or pursuant to Rule 154), while the evidence of the remaining witnesses will be tendered pursuant to Rules 153 or 155. Specifically: the Thaçi Defence may call up to 12 live witnesses, although it is likely to be fewer; the Krasniqi Defence may call up to 10 witnesses, of whom approximately five may be called to testify live; and neither the Veseli Defence nor the Selimi Defence currently intend to call any witnesses, but are continuing investigations and reserve the right to add witnesses to their Witness Lists. In light of these estimates, the entire Defence case is likely to last approximately three months, which will be significantly shorter than the estimated nine months that were originally anticipated.⁵ Consequently, even if the start of the Defence case is delayed by a matter of weeks, the conclusion of any Defence case will still be well

⁵ KSC-BC-2020-06, Transcript of Specialist Prosecutor's Preparation Conference, 15 February 2023, pp. 2010-2012.

within the timeframes posited in previous estimates.

6. Second, there are a number of logistical and procedural steps that the Defence must take and which cannot be completed within the current deadlines. Some of the Defence teams need to obtain clearance from Rule 107 providers in order to: (i) disclose documents that may be used or tendered as part the Defence case; (ii) disclose identities of potential witnesses; (iii) prepare and disclose finalised statements of these witnesses; and (iv) allow the witnesses to testify in these proceedings. While discussions and negotiations with Rule 107 providers are underway, this process was not able to be meaningfully progressed until the bounds of the SPO case, including the scope of admitted materials, was finalised. Consequently, additional time is required to facilitate this process and finalise all of the necessary steps. Delays in this process have a flow-on effect, as other procedural steps necessary for the Defence case cannot be completed until the required clearances are received, including preparing Witness and Exhibit Lists, fulfilling disclosure obligations under the Rules, and liaising with the Witness Protection and Support Office regarding the arrangements for testimony. Relatedly, some Defence teams continue to encounter issues of cooperation with providers, which are hindering investigations and preparations for the Defence case.

7. Third, if the existing deadlines are not extended, the Defence would be unable to meet its obligations under Rule 119(4) of the Rules. Rule 119(4) requires that, “[a]t the Defence Preparation Conference, the Panel shall determine the date for the opening of the Defence case, which shall be within thirty (30) days of the Defence Preparation Conference”. As the Defence Preparation Conference is currently intended to be held in the week commencing 21 July 2025, Rule 119(4) would therefore require the Defence case to have opened by the week commencing 25 August 2025. As noted above, it is not possible for the Defence to obtain the necessary Rule 107

clearances within this timeframe. In addition, as previously also recognised by the SPO⁶ and Victims' Counsel,⁷ witnesses routinely have issues of availability across holiday periods, such as during summer holidays. The Defence therefore confirms its prior statement anticipating significant difficulties in meeting with, interviewing, taking statements from, and otherwise arranging for potential witnesses to testify prior to September 2025.⁸ Assuming no unreasonable delays are imposed by the Rule 107 providers, or other unforeseen circumstances occur, the Defence anticipates being able to call its first witness in the week starting **Monday, 15 September 2025**; that is, within 30 days of a Defence Preparation Conference held in the week of 18 August 2025, as envisaged in Rule 119(4).

8. Fourth, and contrary to the rights enshrined in Article 21(4)(c) of the KSC Law,⁹ the Defence has not had adequate time and facilities to prepare for the Defence case, particularly due to competing demands. For the past two years, the Defence have been subject to a rigorous and intensive trial schedule, involving the testimony of 125 witnesses. This scheduling left limited time and resources for investigative activities, particularly where travel was required. Since the formal close of the SPO case on 15 April 2025,¹⁰ the Defence has been required to devote the majority of its resources to preparation of a swathe of written filings on issues of key importance to these proceedings, including: (i) responding to the significant volume of requests for admission of evidentiary materials that were filed immediately before the close of the

⁶ KSC-BC-2020-06/F02808/A01, *ANNEX 1 to Prosecution notice of further changes to witness list and related scheduling matters*, 19 December 2024, confidential, fn. 3.

⁷ KSC-BC-2020-06, Transcript of Status Conference, 23 April 2025, pp. 26158-26159.

⁸ KSC-BC-2020-06, Transcript of Status Conference, 22 January 2025, p. 24343, noting: "And the reasons for that are multiple, but it would include the fact that it's going to be extremely difficult to interview and take statements from witnesses during a summer recess, both because of the availability of the teams, but, more importantly, availability of witnesses during that period."

⁹ Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office ("KSC Law").

¹⁰ KSC-BC-2020-06/F03121, Specialist Prosecutor, *Prosecution Notice Pursuant to Rule 129*, 15 April 2025, public.

SPO case, and which related to key witnesses and important documents;¹¹ (ii) preparation of substantial submissions pursuant to Rule 130; (iii) responding to multiple requests for admission of evidence by Victims' Counsel which address novel legal and factual issues; and (iv) addressing novel issues related to detention. As a simple illustration of the volume of work completed, in the short period since the SPO announced the closure of its case, the Defence (either individually or collectively) has filed 44 filings addressing these issues. The Defence has therefore had to redirect significant resources to the pursuit of these activities in order to represent the best interests of the clients. The recent institution of parallel proceedings in Case 12, as well as the admission of related materials in these proceedings,¹² also necessarily impacts the time available for Defence investigations, particularly for team members in the Thaçi Defence and for Mr Thaçi. In light of these competing priorities, the Defence has not had adequate time to complete investigations and other preparations for the Defence case.

9. In addition, across numerous decisions admitting thousands of pieces of evidence, the Panel has repeatedly found that the probative value of Proposed Exhibits was not outweighed by any prejudicial effect, and linked this finding to the fact that the Defence "will be able to make submissions in respect of the weight and probative value of these items and may, if it so chooses, challenge the content of any of these items through the presentation of evidence, although it bears no onus to do so".¹³ Considering, in particular, the volume and relevance of evidence admitted

¹¹ In the six weeks prior to the formal closure of the SPO case, the SPO filed five motions requesting admission of the evidence of 12 witnesses pursuant to Rules 153 or 155, and five motions requesting admission of more than 1,000 items of evidence through the bar table.

¹² KSC-BC-2020-06/F03216, Trial Panel II, *Decision on Prosecution Motion for Admission of Obstruction Related Materials*, 29 May 2025, confidential.

¹³ KSC-BC-2020-06/F03178, Trial Panel II, *Decision on Prosecution Motion for Admission of Dukagjin Zone Documents*, 13 May 2025, public, paras. 45, 65, 84, 102, 114; KSC-BC-2020-06/F03211, Trial Panel II, *Decision on Prosecution Motion for Admission of Documents concerning Murder Victims and Related Request*, 29 May 2025, confidential, paras. 30, 38, 46, 56, 66, 75, 84, 91, 99, 108, 116, 124, 133, 141; KSC-BC-2020-06/F03191/COR, Trial Panel II, *Corrected Version of Decision on Prosecution Motion for Admission of General*

through these decisions, more time is needed for challenging items through the presentation of evidence to be a choice concretely available to the Defence.

10. The purpose of the Order is stated to be to “promote the fair and expeditious conduct of the proceedings”.¹⁴ However, the right to be tried without undue delay exists in order to protect the defendant; the principle of expeditiousness cannot be invoked to the detriment of the Defence or the fairness of the proceedings.¹⁵ This is particularly true where, as in these circumstances, undue expedition would have a substantial and measurable impact on other fundamental fair trial rights of the Accused, including the right to adequate time and facilities to prepare its case guaranteed by Article 21(4)(c) of the Law and Article 6(3)(b) of the European Convention on Human Rights. For this reason, international courts have found that the “duty to ensure fairness and expeditiousness of proceedings will often entail a delicate balancing of interests”, particularly in complex cases.¹⁶ Striking the correct balance requires this Panel to “weigh carefully the interests in safeguarding expeditious proceedings [...] and allowing sufficient time for the parties to prepare

Staff and Provisional Government of Kosovo Documents, 21 May 2025, confidential, paras. 29, 37, 49, 68, 76, 84, 94, 109, 123, 133; KSC-BC-2020-06/F03082, Trial Panel II, *Decision on Prosecution Motion for Admission of Nerodime Zone Documents*, 4 April 2025, public, para. 31; KSC-BC-2020-06/F03214, Trial Panel II, *Decision on Prosecution Motion for Admission of Documents (F03114)*, 29 May 2025, confidential, paras. 18, 32, 50, 62, 85; KSC-BC-2020-06/F03213, Trial Panel II, *Decision on Prosecution Motion for Admission of International Reports*, 29 May 2025, public, para. 29.

¹⁴ Order, paras. 10, 12(g).

¹⁵ ICC, *Prosecutor v. Bemba*, [ICC-01/05-01/08-654](#), *Prosecution’s Request for Leave to Appeal the Trial Chamber’s Oral Ruling Denying Authorisation to Add and Disclose Additional Evidence after 30 November 2009*, 14 December 2009, para. 19; ICC, *Prosecutor v. Bemba*, [ICC-01/05-01/08-1386](#), *Judgment on the appeals of Mr Jean-Pierre Bemba Gombo and the Prosecutor against the decision of Trial Chamber III entitled “Decision on the admission into evidence of materials contained in the prosecution’s list of evidence”*, 3 May 2011, para. 55; ICTY, *Prosecutor v. Milosević*, [IT-02-54-AR73.4](#), Appeals Chamber, *Dissenting Opinion of Judge David Hunt on Admissibility of Evidence in Chief in the Form of Written Statement*, 21 October 2003, paras. 20-22; IBA/ICC Programme, *Fairness at the International Criminal Court: an International Bar Association’s Human Rights Institute Report*, August 2011, p. 26.

¹⁶ ICTY, *Prosecutor v. Prlić et al.*, [IT-0474-AR73.17](#), Appeals Chamber, *Decision on Slobodan Praljak’s Appeal of the Trial Chamber’s Refusal to Decide upon Evidence Tendered pursuant to Rule 92bis*, 1 July 2010, para. 31.

their respective cases”.¹⁷ The Defence proposal for variation of the scheduling attempts to strike this balance, ensuring greater fairness to the Accused while not unduly impacting expeditiousness. Notably, the variation sought may ultimately contribute to the more efficient progression of the proceedings, as it affords the Defence more time to prepare a more streamlined and clear presentation of the Defence case, with fewer gaps.¹⁸

11. Finally, the variation being sought by the Defence is reasonable and limited, and no prejudice would be caused to the other parties and participants as a result of the proposed variation. The Defence notes that its original proposal was for a gap of “ten working weeks”, which “doesn’t include the weeks of the summer recess”, from the conclusion of Victims’ Counsel’s case to allow for preparation of the Defence case.¹⁹ While the SPO reserved their position on this proposal, it was deemed “broadly acceptable” by the Panel.²⁰ Even if the current request were to be granted, this would amount to affording the Defence less than half of the time for preparation than was originally requested.

III. CONCLUSION AND RELIEF SOUGHT

12. In light of the foregoing, the Defence respectfully requests the Panel to:

FIND that good cause exists pursuant to Rule 9(5)(a) of the Rules for variation of the time limits; and

¹⁷ MICT, *Prosecutor v. Karadžić*, [MICT-13-55-A](#), Appeals Chamber, *Decision on Motion for Extension of Time to File Notice of Appeal*, 21 April 2016, p. 2. See also, ICC, *Prosecutor v. Abd-Al-Rahman*, [ICC-02/05-01/20-916-Red](#), Trial Chamber I, *Public redacted version of Decision on the Defence’s Request for postponement of the presentation of its case*, 17 April 2023, para. 43, recognising the need to allow further time for preparation of a defence case where the defence would otherwise be prejudiced.

¹⁸ ICC, *Prosecutor v. Bemba*, [ICC-01/05-01/08-2145](#), *Order Postponing a Status Conference and on Issues related to the Presentation of Evidence by the Defence*, 24 February 2012, paras. 2, 4.

¹⁹ KSC-BC-2020-06, Transcript of Status Conference, 22 January 2025, p. 24343.

²⁰ KSC-BC-2020-06, Transcript of Status Conference, 19 February 2025, p. 25462.

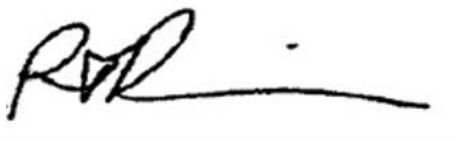
GRANT the variation of the time limits requested in paragraph 2 above.

[Word count: 2,509 words]

Respectfully submitted on 13 June 2025



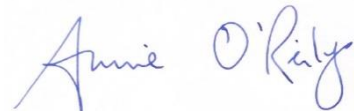
Luka Misetic
Counsel for Hashim Thaçi



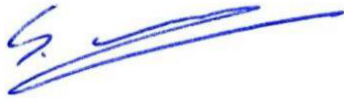
Rodney Dixon KC
Counsel for Kadri Veseli



Kerrie Ann Rowan
Co-Counsel for Kadri Veseli



Annie O'Reilly
Co-Counsel for Kadri Veseli



GEOFFREY ROBERTS
Lead Counsel for Rexhep Selimi



ERIC TULLY
Co-counsel for Rexhep Selimi



CHAD MAIR
Co-counsel for Rexhep Selimi



RUDINA JASINI
Co-counsel for Rexhep Selimi



Venkateswari Alagenda
Lead Counsel for Jakup Krasniqi



Shyamala Alagenda Khan
Co-Counsel for Jakup Krasniqi



Aidan Ellis
Co-Counsel for Jakup Krasniqi



Victor Băieșu
Co-Counsel for Jakup Krasniqi