



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA 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: 2 July 2025

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Decision on Joint Defence Request for a Variation of the Schedule

Specialist Prosecutor

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TRIAL PANEL II ("Panel"), pursuant to Articles 21(1), (2), and (4)(c) and (d), 22(6) and 40(2) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rules 9(5)(a), 104(5) and 116 of the Rules of Procedure and Evidence before the Kosovo Specialist Chambers ("Rules"), hereby renders this decision.

I. PROCEDURAL BACKGROUND

1. On 5 June 2025, the Panel issued a revised scheduling order ("Revised Scheduling Order"),¹ ordering, *inter alia*, that each of the Defence teams for the four Accused (collectively, "Defence"):

- (i) notify the Panel pursuant to Rule 119(1) whether it intends to present a Defence case, should the Panel deny in whole or in part the joint Rule 130 motion ("Rule 130 Motion"),² no later than Wednesday, 16 July 2025; and
- (ii) submit the list of witnesses ("Witness List") it intends to call and the list of proposed exhibits ("Exhibit List") it intends to present pursuant to Rule 119(2), and comply with the other requirements of Rule 119(2), should the Panel deny in whole or in part the Rule 130 Motion, no later than Monday, 21 July 2025.³

In the Revised Scheduling Order, the Panel also informed the Parties and participants that, should the Panel deny in whole or in part the Rule 130 Motion, the Panel intends to hold the Defence Preparation Conference pursuant to Rule 119(3) during the week commencing Monday, 21 July 2025.⁴

¹ F03232, Panel, *Revised Scheduling Order*, 5 June 2025.

² F03256, Specialist Counsel, *Joint Defence Motion Pursuant to Rule 130*, 12 June 2025, confidential, with Annexes 1-2, confidential.

³ Revised Scheduling Order, paras 10, 12(e).

⁴ Revised Scheduling Order, paras 11, 12(f).

2. On 13 June 2025, the Defence filed a joint request for a variation of the revised schedule ("Defence Request").⁵
3. On 23 June 2025, the Specialist Prosecutor's Office ("SPO") responded to the Request ("SPO Response").⁶
4. On 27 June 2025, the Defence jointly replied ("Defence Reply").⁷

II. SUBMISSIONS

5. The Defence requests a variation of the time limits set in the Revised Scheduling Order to: (i) submit its Witness List and Exhibit List by Monday, 18 August 2025; and (ii) hold the Defence Preparation Conference during the week commencing Monday, 18 August 2025.⁸ The Defence submits that the Request is timely,⁹ and good cause exists pursuant to Rule 9(5)(a) for a variation of the time limits in light of: (i) the limited size and scope of the potential Defence case;¹⁰ (ii) the time required by the Defence to take the requisite procedural steps, including obtaining clearance from Rule 107 providers;¹¹ (iii) the Defence's inability to meet the obligations prescribed by Rule 119 within the proposed timeframes;¹² (iv) the lack of adequate time and facilities to prepare a defence due to competing demands;¹³ and (v) the fact that the Parties and participants were not heard before the Panel issued the Revised Scheduling Order.¹⁴ The Defence further submits that: (i) the principle of expeditiousness cannot be invoked to the

⁵ F03258, Panel, *Joint Defence Request for a Variation of the Schedule*, 13 June 2025.

⁶ F03283, Specialist Prosecutor, *Prosecution Response to 'Joint Defence Request for a Variation of the Schedule' and Related Matters*, 23 June 2025.

⁷ F03293, Specialist Counsel, *Joint Defence Reply to 'Prosecution Response to 'Joint Defence Request for a Variation of the Schedule' and Related Matters' (F03283)*, 27 June 2025.

⁸ Defence Request, paras 2, 12.

⁹ Defence Request, para. 4.

¹⁰ Defence Request, paras 3, 5.

¹¹ Defence Request, paras 3, 6.

¹² Defence Request, paras 3, 7.

¹³ Defence Request, paras 3, 8-9.

¹⁴ Defence Request, para. 3.

detriment of the Defence or the fairness of proceedings;¹⁵ and (ii) the variation sought is reasonable and limited, and no prejudice would be caused to the other Parties and participants as a result thereof.¹⁶

6. The SPO responds that: (i) considering that Rule 107 clearances are the only concrete, outstanding matters specifically identified in the Request, the Defence should be required to file provisional Witness and Exhibit Lists for all non-Rule 107 content by the original 21 July 2025 deadline; and (ii) final and complete Witness and Exhibit Lists could then be filed by 18 August 2025, with the Defence Preparation Conference taking place that week as requested.¹⁷ The SPO submits further requests (“SPO Further Requests”), asking that the Panel order the Defence to: (i) fulfil its disclosure obligations under Rule 104(5) in relation to any witnesses and exhibits not dependent on outstanding Rule 107 clearances by 21 July 2025; (ii) complete any remaining Rule 104(5) disclosure on a rolling basis and no later than 18 August 2025; (iii) provide the information set out in paragraph 74 of the Order on the Conduct of Proceedings¹⁸ by 18 August 2025, along with the final and complete Witness and Exhibit Lists; and (iv) make any necessary requests relating to the witnesses the Defence intends to call to testify before the Panel, including any applications for in-court protective measures, for Rule 107 measures consistent with provider-applied conditions, and pursuant to Rule 154, on a rolling basis and by 22 August 2025 at the latest.¹⁹

7. The Defence replies that: (i) the Response misrepresents or ignores submissions in the Request, and primarily focuses on issues irrelevant or extraneous to it; and (ii) the Request evidenced sufficient good cause for the proposed variation of the time limits set in the Revised Scheduling Order, and

¹⁵ Defence Request, para. 10.

¹⁶ Defence Request, para. 11.

¹⁷ SPO Response, paras 1, 5, 7-8, 11.

¹⁸ F01226/A01, Panel, *Annex 1 to the Order on the Conduct of Proceedings*, 25 January 2023.

¹⁹ SPO Response, paras 1-2, 9-11.

should be granted pursuant to Rule 9(5)(a).²⁰ The Defence further contends that: (i) the SPO Further Requests are wholly inappropriate, and effectively usurp the Panel's functions;²¹ and (ii) the Defence should not be required to provide provisional Witness and Exhibit Lists by 21 July 2025, as proposed by the SPO.²²

III. APPLICABLE LAW

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

9. Pursuant to Rule 104(5), the Defence, should it choose to present a case, shall, within the time limit set by the Panel and no later than fifteen (15) days prior to the opening of the Defence case: (i) permit the SPO to inspect and copy any statements, documents, photographs and other tangible objects in the Defence's custody or control, which are intended for use by the Defence as evidence at trial; (ii) provide to the SPO the statements, if any, of all witnesses the Defence intends to call at trial, and all statements taken, which the Defence intends to present at trial; and (iii) provide to the SPO the exhibits that the Defence intends to present at trial.

10. Pursuant to Rule 116, the Panel shall, on an ongoing basis, take all measures and adopt such procedures as are necessary to facilitate the fair and expeditious conduct of the trial proceedings, and may confer on any case-related matter with the Parties by holding status conferences as necessary.

²⁰ Defence Reply, para. 1. *See also* Defence Reply, paras 3-6.

²¹ Defence Reply, para. 8. *See also* Defence Reply, paras 7, 9-10.

²² Defence Reply, para. 11.

IV. DISCUSSION

A. DEFENCE REQUEST

11. At the outset, the Panel recalls that it is responsible to ensure that proceedings are not only fair but also expeditious, and that no undue delay is caused in these proceedings.²³ Contrary to the Defence's suggestion that the Parties and participants were not heard on the matter,²⁴ the Panel notes that it held a number of status conferences with the Parties and participants to discuss the end of the SPO's case, subsequent procedural steps and timelines related to Victims' Counsel's case as well as any Defence case.²⁵ The Panel also observes that submissions made during those status conferences have been carefully considered by the Panel when setting relevant time limits.

12. The Panel further notes that it issued the Revised Scheduling Order on 5 June 2025, *i.e.* more than six weeks prior to the time limits set therein in respect of the Defence. The Panel further notes that the SPO closed its case on 15 April 2025,²⁶ *i.e.* more than three months prior to those time limits. The Panel is of the view that the Defence was afforded ample and adequate time to comply with the provisions in Rule 119(2).²⁷ The fact that any potential Defence case is limited in size and scope is no justification for the extension sought by the Defence to submit its Witness and Exhibit Lists.²⁸ Instead, it provides further support for the suggestion that the Defence must be in a position to provide the requested information by the time limit already set for it. This is also confirmed by the Defence Request already listing the approximate number of witnesses which at

²³ See Art. 40(2); Rule 116(1).

²⁴ Defence Request, para. 3.

²⁵ See Transcript of Hearing, 1 October 2024, pp. 20534-20576; Transcript of Hearing, 19 February 2025, pp. 25435-25472; Transcript of Hearing, 23 April 2025, pp. 26129-26189.

²⁶ F03121, Specialist Prosecutor, *Prosecution Notice pursuant to Rule 129*, 15 April 2025.

²⁷ *Contra* Defence Request, para. 10.

²⁸ *Contra* Defence Request, paras 3, 5.

least two of the Defence teams plan to call, as well as the foreseen mode of testimony of those witnesses.

13. Finally, while the Defence is correct that the fundamental right to a trial without undue delay, as guaranteed by the Law and human rights instruments, is that of the Accused,²⁹ there is a broader expectation of expeditiousness that is of relevance to criminal proceedings.³⁰ In particular, the Panel is expected to ensure fair proceedings for the Accused but also avoid unnecessary delays, as might affect the rights and interests of all concerned,³¹ and the interests of justice, of which the Panel is the guardian.³² Therefore, “the Accused are not the only ones to have the right to an expeditious trial, and consequently, cannot renounce it”.³³

14. Turning to the Defence’s submissions regarding the time required to obtain clearance from Rule 107 providers,³⁴ the Panel is of the view that, insofar as the Defence knew that such clearance was required, it was expected to and should have started the process to obtain it, in the exercise of due diligence, as soon as it formed the view that it wanted to use that material at trial. In this regard, the Panel observes that the information to be provided by the Defence under Rule 119(2)

²⁹ See Defence Request, para. 10.

³⁰ See e.g. ICTY, *Prosecutor v. Naletilić and Martinović*, IT-98-34-T, Trial Chamber I Section A, [Decision on Motion of Accused Naletilić for a Trial Schedule which Incorporates Reasonable Breaks](#), 3 April 2002, p. 3.

³¹ See e.g. ICTY, *Prosecutor v. Krajišnik*, IT-00-39-PT, Trial Chamber I, [Decision on Prosecution Motions for Judicial Notice of Adjudicated Facts and for Admission of Written Statements of Witnesses Pursuant to Rule 92bis](#), 28 February 2003, para. 11. See also *Prosecutor v. Kordić and Čerkez*, IT-95-14/2-A, Appeals Chamber, [Decision on Second Motions to Extend Time for Filing Appellant’s Briefs](#), 2 July 2001, paras 12-14.

³² See e.g. ICTY, *Prosecutor v. Kordić and Čerkez*, IT-95-14/2-A, Appeals Chamber, [Decision on Motions to Extend Time for Filing Appellant’s Briefs, 11 May 2001](#), para. 17. See also ECCC, *Prosecutor v. Nuon Chea et al.*, 002/19-09-2007-ECCC-OCIJ, [Order Issuing Warnings under Rule 38](#), 25 February 2010, para. 13; ICTR, *Prosecutor v. Bagosora*, ICTR-98-41-T, Trial Chamber I, [Judgement and Sentence](#), 18 December 2008, para. 82.

³³ ICTY, *Prosecutor v. Prlić et al*, IT-04-74-T, Trial Chamber III, [Decision on Adoption of News Measures to Bring the Trial to an End within a Reasonable Time](#), 13 November 2006, para. 14.

³⁴ See Defence Request, paras 3, 6.

must enable the Panel as well as the other Parties and participants to adequately and effectively prepare for the case to be presented by each and any Defence team.

15. The Panel therefore finds that there is no valid justification why the submission of the Witness and Exhibit Lists by the Defence should await the end of the process of Rule 107 authorisation. Any document for which Rule 107 clearance is still pending, as well as any related witness, can be identified in the Exhibit and Witness Lists to be submitted within the ordered timeframe together with an indication of the fact that Rule 107 clearance is pending. The Panel further notes that Rule 119(5) provides that the Panel may permit, upon timely notice and a showing of good cause, the Defence to amend its witness or exhibit lists where it was not in a position to provide full and adequate notice of the witnesses and items which it wishes to present as part of its case. Therefore, should such a situation arise as a result of the finalisation of the process of Rule 107 authorisation, any Defence team may without delay file an application to amend its Witness or Exhibit List, as has been the practice in this case thus far.

16. In light of the above, the Panel is not satisfied that the Defence has demonstrated that it lacks the time or facilities, or is otherwise unable, to meet the obligations prescribed by Rule 119(2) within the ordered timeframe.³⁵ The Panel therefore finds that the Defence has failed to show that good cause exists for its request to vary the time limit for the submission of its Witness and Exhibit Lists.

17. This being said, in light of the Defence's ongoing preparations,³⁶ and considering the SPO's position on that point,³⁷ and the fact that a short postponement of the Defence Preparation Conference could be granted without causing undue delay, the Panel is satisfied that the Defence has shown good cause to vary, in part, the Revised Scheduling Order so that the Defence Preparation

³⁵ *Contra* Defence Request, paras 3, 8-9.

³⁶ *See* Defence Request, para. 7.

³⁷ SPO Response, paras 1, 5, 8, 11.

Conference could be held immediately after the summer judicial recess. This should enable the Defence to finalise all necessary preparations for the effective presentation of its case.

18. The Panel therefore informs the Parties and participants that the Panel will hold the Defence Preparation Conference pursuant to Rule 119(3) on Tuesday, 19 August 2025, at 10:00. The Parties and participants should be prepared for the start of the Defence case the following week with the presentation of the case of the first defendant named on the Indictment, if he opts to present such a case, or, if not, with the presentation of the next named defendant who elects to present a case.

19. Furthermore, consistent with Rule 116, and with a view to ensuring that all steps are being diligently taken to carry out all necessary preparations for the completion of this case, the Panel will hold a status conference on Tuesday, 22 July 2025, at 14:00. Parties and participants shall notify the Panel no later than Friday, 18 July 2025, at 12:00 whether Counsel and the Accused will attend in person or via video-conference.

B. SPO FURTHER REQUESTS

20. While the Panel agrees with the Defence that, in principle, a response is not intended to serve as a vehicle to submit a fresh application,³⁸ the Panel notes that the SPO Further Requests concern time limits originating from the Rules or the Panel's orders. The Panel considers it to be in the interests of justice and of all those concerned that those issues be addressed as soon as appropriate in order to enable those concerned to prepare accordingly. The Panel is therefore not satisfied

³⁸ See Defence Reply, para. 7, referring to F02421, Panel, *Decision on Prosecution Motion for the Admission of the Evidence of Witnesses W00996, W02257, W02303, W04352, W04367, W04420, W04569, W04645, W04677, and W04732 Pursuant to Rule 153*, 2 July 2024, para. 23 (a public redacted version was issued on 3 July 2024, F02421/RED).

that the relief sought by the SPO through its Further Requests is 'extraneous' to the present matter.³⁹ The Defence's request for a summary dismissal of the SPO Further Requests is therefore rejected.

21. Turning to the merits of the SPO Further Requests, the Panel recalls its above finding that the Defence has failed to demonstrate that it lacks the time or facilities, or is otherwise unable, to meet the obligations prescribed by Rule 119(2) within the ordered timeframe.⁴⁰ For the same reasons outlined above,⁴¹ and contrary to the Defence's objections,⁴² the Panel is of the view that the Defence is also in a position to discharge its disclosure obligations pursuant to Rule 104(5): (i) by Monday, 21 July 2025, for witnesses and exhibits not dependent on outstanding Rule 107 clearances; and (ii) by Monday, 18 August 2025, for any remaining Rule 104(5) material. The Panel is also satisfied that, with a view to promoting the fair and expeditious conduct of the proceedings, it is appropriate to require of the Defence the notification obligations set out in paragraph 74 of the Order on the Conduct of Proceedings with respect to the SPO's presentation of evidence, and to set a time limit of Monday, 18 August 2025 for the compliance therewith.⁴³

22. Regarding the SPO's request that a single time limit in advance of the commencement of the Defence case be set for each Defence team to file any requests in relation to the witnesses that it intends to call to testify before the Panel,⁴⁴ the Panel notes that no such time limit was set for the SPO during its presentation of evidence.

23. Therefore, at this stage, the Panel does not find it appropriate to set such a

³⁹ *Contra* Defence Reply, para. 7, referring to F02765, Panel, *Decision on Prosecution Motion for the Admission of the Evidence of Witnesses W01234, W01338, W01743, W04423, W04570, W04696, W04812, W04859, and W04860 Pursuant to Rule 153 and Related Defence Motion to Exclude Evidence*, 11 December 2024, para. 48 (a public redacted version was issued on the same day, F02765/RED).

⁴⁰ *See above* para. 16.

⁴¹ *See above* paras 12-15.

⁴² *See* Defence Reply, paras 8-9.

⁴³ *Contra* Defence Reply, para. 10.

⁴⁴ SPO Response, paras 1(d), 10-11.

time limit for the Defence. This being said, the Defence is strongly encouraged to file any necessary requests relating to the witnesses that it intends to call to testify before the Panel, including any applications for in-court protective measures, for Rule 107 measures consistent with provider-applied conditions, and pursuant to Rule 154, without delay and at least three weeks in advance of the relevant witness's anticipated date of testimony.

24. Consistent with the need to ensure timely completion of their case, the Panel also urges each Defence team to be prepared to file any Rule 153 and Rule 155 motions at the earliest opportunity to avoid undue delay and sufficiently in advance of the end of the case of the Defence team in question. The Panel will verify the Defence's readiness to comply with the above at the Defence Preparation Conference and, if necessary, make associated orders.

25. In light of the above, the Panel orders the Defence to: (i) fulfil its disclosure obligations under Rule 104(5) in relation to any witnesses and exhibits not dependent on outstanding Rule 107 clearances by Monday, 21 July 2025; (ii) complete any remaining Rule 104(5) disclosure on a rolling basis and no later than Monday, 18 August 2025; and (iii) provide the information set out in paragraph 74 of the Order on the Conduct of Proceedings by Monday, 18 August 2025.

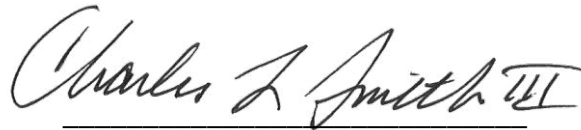
26. The Panel also strongly encourages the Defence teams to: (i) file any necessary requests relating to the witnesses that it intends to call to testify before the Panel, including any applications for in-court protective measures, for Rule 107 measures consistent with provider-applied conditions, and pursuant to Rule 154, without delay and at least three weeks in advance of the relevant witness's anticipated date of testimony; and (ii) to be prepared to file any Rule 153 and Rule 155 motions at the earliest opportunity to avoid undue delays and sufficiently in advance of the end of the case of the Defence team in question.

V. DISPOSITION

27. For the above-mentioned reasons, the Panel hereby:

- a) **GRANTS**, in part, the Defence Request;
- b) **REITERATES** its order to the Defence to: (i) notify the Panel pursuant to Rule 119(1) whether it intends to present a Defence case, no later than **Wednesday, 16 July 2025**; and (ii) submit the Witness and Exhibit Lists, and the information required by Rule 119(2)(a) and (b), no later than **Monday, 21 July 2025**;
- c) **INFORMS** the Parties and participants that the Panel will hold a status conference in accordance with Rule 116 on **Tuesday, 22 July 2025, at 14:00**, and **ORDERS** the Parties and participants to notify the Panel no later than **Friday, 18 July 2025, at 12:00** whether Counsel and the Accused will attend in person or via video-conference;
- d) **ORDERS** the Defence to: (i) fulfil its disclosure obligations under Rule 104(5) in relation to any witnesses and exhibits not dependent on outstanding Rule 107 clearances by **Monday, 21 July 2025**; (ii) complete any remaining Rule 104(5) disclosure on a rolling basis and no later than **Monday, 18 August 2025**; and (iii) provide the information set out in paragraph 74 of the Order on the Conduct of Proceedings by **Monday, 18 August 2025**; and

- e) **INFORMS** the Parties and participants that the Panel will hold the Defence Preparation Conference pursuant to Rule 119(3) on **Tuesday, 19 August 2025, at 10:00.**

A handwritten signature in dark ink, reading "Charles L. Smith, III", is positioned above a horizontal line.

Judge Charles L. Smith, III
Presiding Judge

Dated this Wednesday, 2 July 2025

At The Hague, the Netherlands.