

In: KSC-BC-2020-06
Specialist Prosecutor v. Hashim Thaçi, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi

Before: Pre-Trial Judge
Judge Nicolas Guillou

Registrar: Dr Fidelma Donlon

Filing Participant: Counsel for Rexhep Selimi

Date: 27 November 2020

Language: English

Classification: Confidential

**Defence Request for Reconsideration of Decision
Varying Time Limit and Request for Extension of
Time and Word Limit**

Specialist Prosecutor
Jack Smith

Counsel for Hashim Thaçi
David Hooper

Counsel for Kadri Veseli
Ben Emmerson

Counsel for Rexhep Selimi
David Young

Counsel for Jakup Krasniqi
Venkateswari Alagendr

I. INTRODUCTION

1. Pursuant to Rules 76 and 79, the Defence hereby requests the Pre-Trial Judge to reconsider the Decision Varying Time Limit¹ and requests an extension of ten calendar days to respond to the Specialist Prosecutor's Request for Protective Measures filed on 24 November 2020² and Supplement to this Request filed on 26 November 2020.³ The current deadline for a response to this Request would be Friday 4 December 2020. The Defence therefore requests an extension until Monday 14 December to file a consolidated response to these motions.
2. The SPO Request seeks a range of protective measures for a total of 83 witnesses including anonymity, delayed disclosure and in-court protective measures. The SPO Supplement refers specifically to a search of Mr. Selimi's residence, the results of which have not yet been disclosed to the Defence.
3. These extensive protective measures sought by the SPO, and the evidence they rely upon in justification, will be litigated before the Specialist Chambers for the first time and will inevitably establish the framework for the remaining requests for protective measures which will be filed by the SPO on a monthly basis.⁴ The nature and scope of authorized protective measures will also significantly impact upon the ability of the Defence to conduct investigations and the resulting date at which trial will commence. Their importance cannot be overstated.
4. Further, as the Pre-Trial Judge is aware, the Defence is in the process of preparing a request for provisional release for Mr. Selimi which will be filed as soon as possible. Requiring a response to this oversized SPO Request to be filed concurrently would unfairly delay the preparation of the provisional release application.

¹ *Prosecutor v. Thaci et al.*, Decision Varying Time Limit, KSC-BC-2020-06/F00104, 27 November 2020.

² *Prosecutor v. Thaci et al.*, Confidential Redacted Version of 'Request for Protective Measures', KSC-BC-2020-06/F00094, dated 19 November 2020 with confidential Annex 13, 24 November 2020 ("SPO Request").

³ *Prosecutor v. Thaci et al.*, Confidential Redacted Version of Supplement to Request for Protective Measures with confidential redacted Annexes 1 and 2, KSC-BC-2020-06/F00102, 26 November 2020 ("SPO Supplement").

⁴ *Prosecutor v. Thaci et al.*, Framework Decision on Disclosure of Evidence and Related Matters, KSC-BC-2020-06/F00099, 23 November 2020, para.60.

5. The Decision Varying Time Limit was issued without submissions from the Defence and related solely to the deadline for responding to the SPO Request and SPO Supplement in light of the fact that the latter was filed two days after the former. It did not address the above arguments regarding the importance, complexity or scope of the SPO Request or concurrent obligations. As such, in accordance with Rule 79, it would cause an injustice to the Defence not to be provided with sufficient time to respond to these arguments.
6. Finally, in order not to delay the proceedings and given the impending deadline for disclosure of the indictment supporting material according to the Framework Decision, the Defence does not oppose the disclosure of the material which is the subject of the SPO Request with the proposed redactions. If any of the SPO's requests are unsuccessful, it can simply be re-disclosed with the redactions removed.
7. Further, pursuant to Article 41 of the Practice Direction,⁵ the SPO Request should have been limited to 6,000 words. The SPO sought an extension to 32,300 words in the Request itself, more than five times the normal length of a motion, rather than in advance as required by the Practice Direction.⁶ The Defence does not oppose the SPO's extension, on the understanding that the Defence benefits from the same extension of words for its response, although it is highly unlikely that so many words will be ultimately required.

Respectfully submitted on 27 November 2020,



DAVID YOUNG
Lead Counsel for Rexhep Selimi



GEOFFREY ROBERTS
Co-counsel for Rexhep Selimi

⁵ Registry Practice Direction, Files and Filings before the Kosovo Specialist Chambers, KSC-BD-15, 17 May 2019 ("Practice Direction").

⁶ Practice Direction, para 36(1).