

In: KSC-BC-2020-06
The Prosecutor v Hashim Thaci, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi

Before: Judge Nicolas Guillou

Registrar: Dr Fidelma Donlon

Filing Participant: Specialist Defence Counsel for Kadri Veseli

Date: 15 December, 2020

Language: English

File name: Public

Classification: Pre-Trial Judge

**Submissions of the Defence for Kadri Veseli
Status Conference, 17 December 2020**

Specialist Prosecutor's Office

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I. SUBMISSIONS

1. The Pre-Trial Judge, acting pursuant to Article 39(13) of the Law on Specialist Chambers and Specialist Prosecutors Office (“Law”) and Rule 96(1) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers (“Rules”), issued an order on 8 December 2020, scheduling a status conference for Thursday 17 December 2020 at 11:00 hours, and identifying the issues to be addressed at that hearing. The Defence was requested to provide any written submissions by Tuesday 15 December 2020 at 16:00 hours.

Disclosure

2. The Defence of Mr. Veseli is just beginning the process of identifying the categories of material disclosed by the SPO, and is not yet in a position to make informed submissions on the adequacy of the procedures being adopted.

Defence investigations and next steps

3. Based upon the lesser redacted version of the indictment, it is apparent that the Defence of Mr. Veseli will need to carry out extensive investigations into each of the individual instances of enforced disappearance, acts of ill-treatment and murder alleged. It is difficult at this early stage to make fully informed submissions. However the Defence of Mr. Veseli can state that it anticipates appointing a senior international expert as supervisor of the defence investigations, together with a team of at least six investigators, working in pairs. Once the SPO case is known, it will be possible to begin devising the scope and scheme for the investigation. The Defence anticipates that this process can begin early in 2021. Based on previous experience, and the number of incidents and witnesses relied upon by the SPO, the Defence anticipates

that a minimum of 18 months will be required from the start of 2021 in order for the Defence to have any prospect of being trial-ready.

Unique investigative opportunities (Rule 99(1))

4. It is much too early for the Defence to be in a position to make informed submissions on Rule 99(1) requests. The Defence anticipates that it will be another six to nine months before it is in a position to judge whether there are witnesses it may need to call for whom arrangements under Rule 99(1) are necessary. The case has barely begun, and investigations have not yet commenced. Rule 99(1) requests can only be made once the Defence has had an opportunity to investigate and form a view on the necessity for certain witnesses. That is a decision that needs to be made after investigation, and not before.

Notice of alibi of grounds for excluding criminal responsibility

5. In a case premised upon an allegation of joint criminal enterprise, the scope for alibi defences is extremely limited. There is insufficient information in the lesser redacted indictment to enable Mr. Veseli to identify times and locations for which an alibi might be available. As regards other grounds for excluding criminal responsibility, the Defence of Mr. Veseli made submissions at the last status conference, and has nothing at this point to add.

Third status conference

6. A reasoned application for provisional release will be filed on behalf of Mr. Veseli in advance of the status conference on Thursday 17 December. The Pre-Trial Judge is requested to set a timetable for the SPO to respond, and for the Defence to file a Reply, prior to the third status conference.

7. The Defence suggests that the SPO should be required to file its response by Thursday 31 December 2020, with the Defence to file a reply by Monday 11 January 2021. The third status conference should be held on or about Thursday 14 January, with sufficient time set aside for the Pre-Trial Judge to hear oral submissions in support of the application for provisional release.

Word count: 343



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Monday, 9 November, 2020

At The Hague, the Netherlands

