

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

Before: Pre-Trial Judge
Judge Nicolas Guillou

Registrar: Dr Fidelma Donlon

Filing Participant: Defence Counsel for Jakup Krasniqi

Date: 22 March 2021

Language: English

Classification: Public

Krasniqi Defence Submissions

for Fourth Status Conference

Specialist Prosecutor

Jack Smith

Counsel for Hashim Thaçi

David Hooper QC

Counsel for Kadri Veseli

Ben Emmerson QC

Counsel for Rexhep Selimi

David Young

Counsels for Jakup Krasniqi

Venkateswari Alagenda, Aidan Ellis

I. INTRODUCTION

1. The Defence for Jakup Krasniqi (“Defence”) hereby provide written submissions for the Fourth Status Conference in accordance with the Order Setting the Date for a Fourth Status Conference and for Submissions.¹

II. PROCEDURAL HISTORY

2. On 8 March 2021, the Thaçi Defence submitted their Request for Orders related to Disclosure.²

3. On 17 March 2021, the Pre-Trial Judge listed the Fourth Status Conference to take place on 24 March 2021 and ordered the Defence to provide written submissions, if they so wish, no later than 22 March 2021.³

4. On 11 December 2020, the Specialist Prosecutor’s Office (“SPO”) released disclosure package 8 to the Defence, which comprises 1,309 documents disclosed to the Defence as exculpatory material pursuant to Rule 103 of the Rules of Procedure and Evidence before the Kosovo Specialist Chambers (“Rules”).⁴

5. On 12 December 2020, the SPO released disclosure packages 9 and 10 to the Defence, which comprise 1,662 documents and 98 documents respectively, as material upon which the SPO relies pursuant to Rule 102(1)(a) of the Rules.⁵

¹ KSC-BC-2020-06, F00227, Pre-Trial Judge, *Order Setting the Date for a Fourth Status Conference and for Submissions* (“Order Fourth Status Conference”), 17 March 2021, public.

² KSC-BC-2020-06, F00213, Thaçi Defence, *Thaçi Defence Request for Orders Related to Disclosure* (“Thaçi Defence Request”), 8 March 2021, public, with Annex 1, confidential.

³ Order Fourth Status Conference, para. 16.

⁴ Disclosure Package 8.

⁵ Disclosure Package 9, Disclosure Package 10.

6. Further disclosure packages were submitted on 14 December 2020,⁶ 15 December 2020,⁷ 19 December 2020,⁸ 22 December 2020,⁹ 15 January 2021,¹⁰ 20 January 2021,¹¹ 2 February 2021,¹² 11 February 2021,¹³ 12 February 2021,¹⁴ 15 February 2021,¹⁵ 12 March 2021,¹⁶ 17 March 2021¹⁷ and 18 March 2021.¹⁸ The Defence have now received disclosure of around 3,783 documents.

III. SUBMISSIONS

Disclosure and Defence Investigations

7. The Defence are continuing the process of reading and analysing the considerable volume of material that has been disclosed. That analysis has been slowed by difficulties currently being encountered in locating documents referenced during witness interviews. The Thaçi Defence have seised the Pre-Trial Judge with a request in relation to those difficulties,¹⁹ which the Defence support.

8. The Defence currently anticipate starting investigations in Kosovo by the end of April 2021, subject to the pandemic situation and resolving the current difficulties in relation to disclosure.

⁶ Disclosure Package 11, 2 documents (Rule 102(1)(a)).

⁷ Disclosure Package 12, 2 documents (Rule 102(1)(a)).

⁸ Disclosure Package 13, 54 documents (Rule 102(1)(a)).

⁹ Disclosure Package 14, 2 documents (Rule 102(3)).

¹⁰ Disclosure Package 16, 22 documents (Rule 102(1)(b)).

¹¹ Disclosure Package 17, 2 documents (Rule 102(1)(a)).

¹² Disclosure Package 18, 9 documents (Rule 102(3)).

¹³ Disclosure Package 20, 488 documents (Rule 103).

¹⁴ Disclosure Package 21, 49 documents (Rule 102(1)(a)).

¹⁵ Disclosure Package 22, 23 documents (Rule 102(1)(b)).

¹⁶ Disclosure Package 23, 20 documents (Rule 102(1)(b)).

¹⁷ Disclosure Package 24, 2 documents (Rule 102(1)(b)).

¹⁸ Disclosure Package 25, 39 documents (Rule 102(1)(a)).

¹⁹ Thaçi Defence Request.

Translation

9. During the third Status Conference, the Defence raised the concern that the lack of translation of relevant materials into Albanian is hindering the Defence since Mr. Krasniqi does not speak or read English.²⁰

10. The Defence have followed the Pre-Trial Judge's suggestion²¹ and identified priority filings for translation, which include the Decision Confirming the Indictment.²² The Registry has updated the Defence that the priority filings will be translated between May and the end of June 2021. The Defence appreciate the Registry's assistance, though it is unfortunate that Mr. Krasniqi will not be able to read the Decision Confirming the Indictment against him until May 2021 at the earliest (which will be six months after his arrest).

Points of agreement on matters of law and fact

11. The SPO provided an agreed facts proposal to the Defence on 17 March 2021.²³ The proposal was not accompanied by an Albanian translation. As Mr. Krasniqi requires an Albanian translation in order to provide his instructions to the Defence, arrangements to translate the SPO's proposal are in process. The Defence will respond to the SPO after having the opportunity to consult fully with Mr. Krasniqi on the proposal.

²⁰ KSC-BC-2020-06, Transcript of Hearing, 16 February 2021, public, p. 259, line 16 to p. 260, line 10.

²¹ *Ibid.*, p. 260, lines 18-21.

²² KSC-BC-2020-06, F00026/CONF/RED, Pre-Trial Judge, *Confidential Redacted Version of Decision on the Confirmation of the Indictment Against Hashim Thaçi, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi*, 19 November 2020, confidential.

²³ The Defence note that this is 17 days later than the end of February 2021, which the SPO had previously indicated as its target: see KSC-BC-2020-06, F00191/COR, Specialist Prosecutor, *Corrected Version of Prosecution Submissions for Third Status Conference*, 10 February 2021, public, para. 34.

Preliminary Motions

12. The Defence submitted its preliminary motions on 15 March 2021.²⁴ Considering the number and complexity of the preliminary motions, if the SPO seek a reasonable extension of time in which to respond the Defence would not oppose that application. Similarly, the Defence are likely to request an extension of time for the Reply though the length of the extension sought depends on the content of the SPO Response.

Word count: 875



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Monday, 22 March 2021

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²⁴ KSC-BC-2020-06, F00220, Krasniqi Defence, *Krasniqi Defence Preliminary Motion on Jurisdiction*, 15 March 2021, public, with Annex 1, public; F00221, Krasniqi Defence, *Krasniqi Defence Preliminary Motion Alleging Defects in the Indictment*, 15 March 2021, public.