



KOSOVO SPECIALIST CHAMBERS  
DHOMAT E SPECIALIZUARA TË KOSOVËS  
SPECIJALIZOVANA VEÇA KOSOVA

**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

**Date:** 28 May 2021

**Language:** English

**Classification:** Public

---

**Decision on SPO Request for Leave to Sur-Reply**

---

**Specialist Prosecutor**  
Jack Smith

**Counsel for Hashim Thaçi**  
Gregory Kehoe

**Counsel for Victims**  
Simon Laws

**Counsel for Kadri Veseli**  
Ben Emmerson

**Counsel for Rexhep Selimi**  
David Young

**Counsel for Jakup Krasniqi**  
Venkateswari Alagendra

**THE PRE-TRIAL JUDGE**,<sup>1</sup> pursuant to Article 39(1) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office ("Law"), and Rule 97(1) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), hereby renders this decision.

## I. PROCEDURAL BACKGROUND AND SUBMISSIONS

1. On 25 May 2021, the Specialist Prosecutor's Office ("SPO") filed a request ("SPO Request"), submitting that the replies by the Defence for Kadri Veseli ("Veseli Defence") to the SPO's responses to the Veseli Defence's preliminary motions regarding Joint Criminal Enterprise and Customary International Law exceed the scope of permitted replies under Rule 76 of the Rules insofar as they concern a decision of the Constitutional Court of Serbia ("Veseli Defence Submissions"). If the Pre-Trial Judge were to consider these submissions, the SPO seeks leave to sur-reply.<sup>2</sup>
2. On 26 May 2021, the Veseli Defence responded to the SPO Request, submitting that the SPO includes the substance of its argument before leave has been granted by the Pre-Trial Judge, the statutory framework of the Specialist Chambers does not provide for a "sur-reply", and that it has not exceeded the scope of a reply. That being said, it does not object to the SPO clarifying its understanding of the decision of the Constitutional Court of Serbia at issue.<sup>3</sup>

---

<sup>1</sup> KSC-BC-2020-06, F00001, President, *Decision Assigning a Pre-Trial Judge*, 23 April 2020, public.

<sup>2</sup> KSC-BC-2020-06, F00322, Specialist Prosecutor, *Prosecution Request for Leave to Sur-Reply*, 25 May 2021, public, para. 2.

<sup>3</sup> KSC-BC-2020-06, F00323, Defence for Mr Veseli, *Veseli Defence Response to SPO Request* KSC-BC-2020-06/F00322, 26 May 2021 (notified on 27 May 2021), public, paras 1-4.

## II. APPLICABLE LAW

3. Pursuant to Article 39(1) of the Law, the Pre-Trial Judge shall, *inter alia*, have the power to rule on any preliminary motions and make any necessary orders or decisions to ensure the case is prepared properly and expeditiously for trial.

4. Pursuant to Rule 97(1) of the Rules, an Accused may file preliminary motions before the Pre-Trial Judge in accordance with Article 39(1) of the Law.

## III. DISCUSSION

5. As a preliminary matter, the Pre-Trial Judge notes that the SPO Request sets out its argumentation in relation to the substance of the Veseli Defence Submissions. The Pre-Trial Judge reminds the Parties that, when seeking leave to sur-reply, no arguments on the merits may be put forward, considering that the provision of such arguments is dependent on leave being granted.

6. With a view to receiving comprehensive arguments by the Parties, and noting that the Veseli Defence does not object, the Pre-Trial Judge grants leave to the SPO to sur-reply to the Veseli Defence Submissions. This decision is without prejudice to any future determination regarding the Veseli Defence's preliminary motions, including the Veseli Defence Submissions.

7. Having granted leave to sur-reply, the Pre-Trial Judge orders the SPO to submit its substantive sur-reply by no later than 1 June 2021. The Veseli Defence shall provide its submissions regarding the SPO's sur-reply, if any, by no later than 4 June 2021.

## IV. DISPOSITION

8. For the above-mentioned reasons, the Pre-Trial Judge hereby:
- a. **GRANTS** the SPO Request for leave to sur-reply to the Veseli Defence Submissions;
  - b. **ORDERS** the SPO to submit its sur-reply by no later than **Tuesday, 1 June 2021**; and
  - c. **ORDERS** the Veseli Defence to provide its submissions regarding the SPO's sur-reply, if any, by no later than **Friday, 4 June 2021**.



**Judge Nicolas Guillou**  
**Pre-Trial Judge**

Dated this Friday, 28 May 2021

At The Hague, the Netherlands