

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 Kadri Veseli

Date: 23 June 2021

Language: English

Classification: Public

**Veseli Defence Response to SPO Request KSC-BC-2020-06/F00356
(Extension of Time to Provide Notice pursuant to Rule 102(3))**

Specialist Prosecutor's Office

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I. INTRODUCTION

1. Pursuant to the *Order for Expedited Responses and Replies*,¹ the Defence for Mr Kadri Veseli ("Defence") hereby responds to the *Prosecution request for extension of time limit to provide its Rule 102(3) notice* filed on 18 June 2021 ("SPO Request").²

II. SUBMISSION

2. The Defence opposes the SPO Request which i) was not brought in timely fashion, ii) lacks "good cause", and iii) is prejudicial to Mr Veseli.

i) *The SPO Request was not brought in timely fashion*

3. The Defence recalls that the 25 June 2021 deadline for the provision of the Rule 102(3) notice was fixed three months ago.³ The SPO Request for a five-week extension, however, was filed just one week prior to this deadline – late on a Friday afternoon.⁴ By raising such concerns at the eleventh hour, the SPO hampers the ability of the Pre-Trial Judge, whose responsibilities extend beyond case KSC-BC-2020-06, to manage proceedings. It is most certainly not "an efficient use of [the] Pre-Trial Judge's time".⁵
4. Furthermore, it has not escaped the Defence's notice that the present request was craftily filed only after the SPO had alleged that the Defence should shoulder partial responsibility for procedural delay.⁶

¹ KSC-BC-2020-06/F000359.

² KSC-BC-2020-06/F000356.

³ Transcript of Status Conference, 24 March 2021, pp. 390:20-391:10.

⁴ KSC-BC-2020-06/F000356 was notified approved and distributed at 14:55.

⁵ KSC-BC-2020-06/F00356 at para. 4.

⁶ KSC-BC-2020-06/F00354 at para. 24.

ii) *The SPO Request lacks "good cause" for the variation sought*

5. Although claiming that it might have been possible to provide the Rule 102(3) notice in advance of its other disclosure deadlines, the SPO now asserts "that doing so after completion of Rule 102(1)(b) disclosure is in fact necessary".⁷ No true necessity has been demonstrated as will be explained below.

6. There is nothing new or even remotely surprising about the SPO's observations regarding the overlapping nature of its disclosure obligations. Such duplicative requests could have been anticipated from the outset. The disclosure of identical documentation under different procedural rules is a recognised feature of international criminal trials. It is not a reason for further delaying the disclosure of materials to which the Defence may be entitled.

7. Furthermore, the purportedly "resource intensive" nature of preparing a Rule 102(3) notice and the series of administrative and security-related steps required to prepare it were all clearly foreseeable. Better management within the SPO (albeit suddenly handicapped by "limited resources") would have ensured that these matters were brought to the attention of the Pre-Trial Judge at an earlier date.

iii) *The SPO Request is prejudicial to Mr Veseli*

8. Contrary to the SPO assertion, the relief sought by the SPO Request will not "streamline" but, rather, complicate the work of the Parties and of the Panel. If the SPO Request is granted, the Defence will be forced to reassess the timetable for its investigation. Rather insultingly, the SPO has previously argued that "[t]he VESELI Defence is effectively refusing to investigate the case as pled".⁸ Yet the SPO

⁷ *ibid* at para 3.

⁸ KSC-BC-2020-06/F00354 at para. 25.

is now proposing to deny the Defence access to the very materials "which are deemed by the Defence to be material to its preparation"⁹ for five more weeks. The Defence is, thus, at a loss as to what investigations it can meaningfully undertake in the absence of information which it had expected to receive.

9. Mr Veseli has now been in detention for more than seven months and there is still no date for the delivery of a pre-trial brief or for the start of trial. As the Defence has argued in its pleadings on detention review,¹⁰ the SPO's time projections have been shown to be thoroughly unreliable. Any further delay occasioned by the SPO while Mr Veseli remains in detention is unacceptable.

III. CONCLUSION

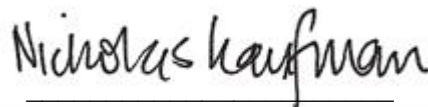
10. The Pre-Trial Judge is respectfully requested to reject the SPO Request.

Word Count: 637



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⁹ Rule 102(3).

¹⁰ KSC-BC-2020-06/F00341.