

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: 9 December 2021

Language: English

Classification: Public

Selimi Defence Response to SPO Request for Extension of Word Limit

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 Alagenda

1. The Defence hereby opposes the SPO's request for an extension of the word limit to 150,000 words for the filing of its pre-trial brief which is scheduled for Friday 17 December 2021 ("Request").
2. Article 44 of Registry Practice Direction Files and Filings before the Kosovo Specialist Chambers already establishes a suitable manner for assessing the length of pre-trial briefs, in multi-accused trials, "namely 10,000 words for the contextual background and 10,000 words for each accused." Nothing put forward in the Request even begins to seek to explain why this should not be sufficient in the current circumstances.
3. The SPO Request, which seeks to triple the applicable word limit, is entirely devoid of reasoning. The generic arguments relied upon therein, namely that the case is complex and covers a long time period and significant geographic area,¹ are manifestly insufficient to warrant such a massive extension.² The same applies to the purported justification that the SPO requires additional words to comply with its legal obligations in referencing exhibits and witnesses in the footnotes to the pre-trial brief.
4. As recently held by the Appeals Panel when faced with a recent request for extension of words for an appeal, "the quality and effectiveness of appellate submissions do not depend on their length, but rather on the clarity and cogency of the presented arguments."³ The same rationale applies directly to the SPO Pre-Trial Brief. Allowing such an extension would simply cause greater confusion to pile on top of an already wholly vague case.
5. The timing of the request, only one week before the brief is to be filed borders on abusing the proceedings. The obligation of the SPO to file its pre-trial brief is no secret that has been sprung upon the SPO at the last minute. It has been discussed at every status conference and been the subject of repeated litigation. To only make the Pre-Trial Judge aware at this stage of the supposed requirement for 150,000 words attempts to create a *fait accompli* by forcing a favourable decision for the SPO or to alternatively

¹ KSC-BC-2020-06, F00598, Prosecution request for extension of word limit, 9 December 2021, para. 2 (Request).

² At most, such grounds have only justified a very minimal extension of word limit. See, in this regards, ICTY, *Prosecutor v. Goran Hadzic*, IT-04-75-PT, Decision on Prosecution Motion for Extension of Word Limit for Pre-Trial Brief, 26 June 2012, para. 2.

³ KSC-BC-2020-06/IA014/F00003, Decision on Veseli's Request for Variation of Word Limit, 2 December 2021, para. 4.

require the Judge to face a potential request for a further delay in filing the pre-trial brief if it is rejected. This should be countenanced by the Pre-Trial Judge.

6. Finally, as referred to repeatedly, the translation of the SPO pre-trial brief is of significant importance to the accused. A tripling of its expected length as requested by the SPO, will have inevitable prejudicial consequences for Mr. Selimi and significantly undermines the assertion that such an extension will “ultimately advance, not prejudice, these proceedings.”⁴ It will not advance the proceedings, and only cause prejudice to the accused.
7. For the foregoing reasons the Defence requests the Pre-Trial Judge to DENY the Request.

Word Count: 532

Respectfully submitted on 9 December 2021,



DAVID YOUNG
Lead Counsel for Rexhep Selimi



GEOFFREY ROBERTS
Co-counsel for Rexhep Selimi

⁴ Request, para. 3.