

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: 28 January 2022

Language: English

Classification: Confidential

Veseli Defence Response to Prosecution
Request for Extension of Time (KSC-BC-2020-06/F00657)

Specialist Prosecutor's Office

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I. INTRODUCTION

1. Pursuant to the Order Varying Time Limit,¹ the Defence for Mr Kadri Veseli ("Defence") hereby responds to the Prosecution request for extension of time limit to disclose Rule 102(1)(b) items, filed on 27 January 2022 ("Request").²

II. SUBMISSIONS

2. The Defence opposes the Request which i) was not brought in timely fashion, ii) lacks "good cause", and, due to heavy redactions iii) hampers the Defence's ability to meaningfully respond thereto.

A. **The SPO Request was not brought in Timely Fashion**

3. The Defence recalls that the 31 January 2022 deadline for the provision of the disclosure of Rule 102(1)(b) items was fixed three months ago.³ The SPO Request for an indeterminate extension, however, was filed just days prior to the deadline. By raising such concerns at the eleventh hour, the SPO hampers the other parties' ability to respond, and more importantly, forces the Pre-Trial Judge's hand.

¹ F00659, Order Varying Time Limit, 27 January 2022.

² F00657, Specialist Prosecutor, Prosecution Request for Extension of Time, 27 January 2022.

³ 8th Status Conference, 29 October 2021, p.753.

B. The SPO Request lacks "Good Cause" for the Variation Sought

4. The SPO requests a variation for items: (i) audio-visual records, including the Albanian audio records, of witnesses who testified before the ICTY; and (ii) two exhibits subject to Rule 107 conditions, associated with SPO witness interviews.
5. Good cause has not been shown. The ICTY records sought originate from witness interviews during the Limaj and Haradinaj trials. The SPO was aware well in advance that such items would be subject to disclosure should the SPO wish to tender them into evidence during trial. Considering that the SPO's intention to rely upon the Limaj and Haradinaj proceedings was evident since the filing of the Indictment, the SPO had at least 14 months -- between the indictment and its 31 January 2022 deadline -- to obtain the records. Yet, it waited more than 4 months following the confirmation of the indictment to obtain a decision to order the IRMCT to provide the records.
6. The Request adds further delays to the proceedings, which are already proceeding at a slower pace than initially anticipated.⁴ It also further demonstrates that the SPO has again miscalculated its readiness for the case and ability to meet its own proposed deadlines.⁵

⁴ Originally, the SPO's deadline was 31 May 2021, *see* F00099 Framework Decision on Disclosure of Evidence and Related Matters, 23 November 2020, para 60.

⁵ "The SPO does not currently foresee difficulty in meeting the 31 January 2022 deadline for disclosure of remaining Rule 102(1)(b) items, including translations" *See* F00609 Prosecution submissions for ninth status conference, 10 December 2021, para 2. Furthermore, it is a deadline imposed by the SPO on itself: "The SPO, therefore, respectfully asks the Pre-Trial Judge to grant an extension of the deadline for disclosure of translations of Rule 102(1)(b) material until 31 January 2022" *see* F00549, Prosecution submissions for eighth status conference and request for extension of deadline, 27 October 2021, para 19.

C. The Heavy Redactions hamper the Defence's Ability to Respond

7. The Defence notes that the associated interviews are heavily redacted, thus making it is difficult for the Defence to meaningfully respond to the Request. While the Defence appreciates judicial oversight, it stresses that the former cannot serve as a substitute to the principle of *audi alteram partem*.

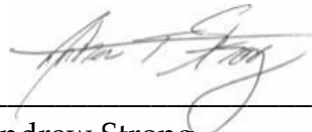
III. CONCLUSION

8. For the above-mentioned reasons, the Pre-Trial Judge is respectfully requested to reject the SPO Request for extension of time limit.

Word Count: 580



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