

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: 1 November 2022

Language: English

Classification: Public

Public Redacted Version of Selimi

Defence Submissions for Fifteenth Status Conference

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

I. INTRODUCTION

1. The Defence for Mr. Selimi hereby files brief submissions in response to the Order of the Pre-Trial Judge scheduling the Fifteenth Status Conference.¹ The Defence reserves the right to develop additional submissions orally at the Status Conference both in relation to the topics addressed herein and others.

II. SUBMISSIONS

A. Defence Investigations and Next Steps

1. Status of Defence Investigations

2. Defence investigations are continuing since the fourteenth Status Conference and will continue to proceed with increasing intensity throughout the pre-trial period and beyond into trial. However, the two main obstacles of the Decision on Contact with Witnesses ("Contact Decision"), and the extensive redactions to the Indictment, the SPO Pre-Trial Brief and underlying witness statements both continue to significantly hamper these investigations.
3. Further, the recent decision by the Pre-Trial Judge [REDACTED]² [REDACTED]. [REDACTED]. The impact of this decision is therefore currently being assessed.
4. Finally, as Rule 102(3) disclosure forms a vital aspect of Defence investigations, the Defence informs the Pre-Trial Judge that it has requested disclosure of all 8,711 items from the SPO's supplementary 102(3) list. Disclosure of these items is requested as expeditiously as possible to ensure that no delay in transmission of the case file to the Trial Panel ensues. A deadline for disclosure of these supplementary Rule 102(3) documents, or the filing by the SPO of challenges to

¹ KSC-BC-2020-06, F01039, Order Setting the Date for a Fifteenth Status Conference and for Submissions, 17 October 2022.

² [REDACTED].

the materiality of such documents or requests for protective measures for them, should therefore be established by the Pre-Trial Judge.

2. Agreements on Facts and/or Law

5. There have been no discussions on law between the Parties since the fourteenth status conference and it is not expected that any agreements will be reached at this stage before transfer of the case to the Trial Panel.
6. The Defence has not agreed to any further facts proposed by the SPO since the fourteenth status conference and considers discussions on this to have come to an end. However, jointly with the other Defence teams, 135 proposed agreed facts delineating examples of the vast array of criminality conducted by Serb forces during the Indictment Period have been submitted to the SPO for their potential agreement. It is hoped that the SPO will respond positively to these proposals which will assist in limiting issues to be discussed during trial and ultimately will assist in reducing court time.
7. The Defence does not foresee any difficulty in filing notices in this regard by 18 November 2022.

3. Objections to Admissibility of Evidence

8. Objections to the admissibility of evidentiary material at this stage pursuant to Rule 95(2)(e) remain premature, regardless of the deadline suggested. Further, the SPO has not acceded to the previous request to the SPO to provide relevant information on which documents it will seek to rely upon at trial and why to determine whether the Defence may not oppose their admission during trial.³

³ See KSC-BC-2020-06, F00871, Selimi Defence Submissions for Thirteenth Status Conference, 8 July 2022, paras 34 – 36.

9. Consequently, the Defence's does not foresee any difficulty filing submissions on the admissibility of evidence by 18 November 2022, but these will likely be limited to submissions on the admissibility of certain categories of evidence.

B. Other Matters

1. Transfer of the Case File to a Trial Panel

10. If the SPO completes any outstanding disclosure obligations, and the Pre-Trial Judge has issued any decisions on protective measures or challenges to materiality of documents on the supplementary Rule 102(3) list by that stage, the Defence does not foresee any difficulty in transferring this case to a Trial Panel around the end of the year.
11. When the case has been transferred to the Trial Panel, the Defence does not foresee any difficult in appearing before the Trial Panel for the trial preparation conference in accordance with Rule 117 shortly after that date. However, it is expected that various hearings will be held before the Trial Panel before the commencement of trial proceedings pursuant to Rule 124.

2. Further Status Conference before the Pre-Trial Judge

12. The Defence is available for a further status conference before transfer of the case to a Trial Panel although notes the judicial recess which is scheduled from Monday 19 December 2022 until Friday 6 January 2023. A status conference should, however, only be scheduled if there are any issues for the Pre-Trial Judge to resolve before the transfer of the case to the Trial Panel.

C. Confidentiality

13. This filing is submitted as confidential pursuant to Rule 82(4). A public redacted version will be filed in due course.

Word count: 775

Respectfully submitted on 1 November 2022,



DAVID YOUNG
Lead Counsel for Rexhep Selimi



GEOFFREY ROBERTS
Co-counsel for Rexhep Selimi



ERIC TULLY
Co-counsel for Rexhep Selimi



RUDINA JASINI
Co-counsel for Rexhep Selimi