

In: KSC-BC-2020-06

The Prosecutor v. Hashim Thaçi, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi

Before: Trial Panel II

Judge Charles L. Smith III, Presiding Judge
Judge Christoph Barthe,
Judge Guénaél Mettraux
Judge Fergal Gaynor, Reserve Judge

Registrar: Dr Fidelma Donlon

Filing Participant: Counsel for Rexhep Selimi

Date: 24 February 2023

Language: English

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Selimi Defence Response to KSC-BC-2020-06/F01310, dated 21 February 2023

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1. The Defence for Mr. Selimi hereby responds to the “Prosecution request for compliance with Third Oral Order regarding proposed duration of cross-examination and related matters with confidential Annex 1”.¹
2. Contrary to the SPO’s assertion, the Defence has not “refused” to indicate cross-examination times for the relevant witnesses.² As noted in the correspondence attached to the Request, the Selimi Defence (and indeed the other Defence teams), signalled their clear and unequivocal intention to provide these estimates *inter partes* as soon as practicable, providing two further proposed times regarding witnesses for whom analysis has been completed and with clear indication that it would provide the additional estimates.
3. As the SPO is well aware, the agreement to re-schedule the trial date is inextricably linked to the delayed disclosure of the thousands of pages of material provided to the Defence on 30 January 2023. It is no coincidence that the affected witnesses are, without exception, those for whom all relevant information had been withheld from the Defence until that time.
4. It is significant that the SPO highlights its need for both “timely” and “realistic” cross-examination estimates in making its necessary calculations.³ These two concepts are interrelated and the SPO’s singular emphasis on the former negatively affects the latter.
5. With regards to “timely”; 13 February 2023 was only 15 days before the date that trial was originally scheduled to start and the SPO raised no concerns that the provision of proposed cross-examination times according to this timeline would

¹ KSC-BC-2020-06/F01310, Prosecution request for compliance with Third Oral Order regarding proposed duration of cross-examination and related matters with confidential Annex 1, 21 February 2023 (“Request”).

² Request, para. 13.

³ Request, para. 15.

impose an “unreasonable burden on witnesses”.⁴ As noted above, the Selimi Defence did not refuse to provide these estimates and fully expected the matter to be settled through *inter partes* correspondence, with enough time to be fairly given to the SPO to fulfil its obligations.

6. With regards to “realistic”; as noted above, the Defence has been in possession of the material for the affected witnesses for roughly three weeks. As the Defence continues its preparations as quickly as its resources will allow, the “realistic” quality of these estimates increases. In order to actually assist the SPO in making its calculations, the Defence sought to fulfil the “realistic” limb of the SPO’s dual criteria by making an informed estimation of the time needed with the affected witnesses based on diligent analysis of each witness’ evidence.
7. In order for the SPO to receive Defence estimations for cross-examination within the timeframe it claims to need, the Selimi Defence provides the following proposed hours for the affected witnesses, with the proviso that as provisional and preliminary estimates, they may be subject to change:
 - (i) W02652: 4 Hours
 - (ii) W04748: 3 Hours
 - (iii) W04323: 3.5 Hours.

Word count: 475

Respectfully submitted on 24 February 2023,

⁴ Request, para. 15.



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