

In: KSC-BC-2020-06
Specialist 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: 6 March 2023

Language: English

Classification: Public

**Selimi Defence Request for Lesser Redacted Version of Decision Confirming
the Indictment**

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Venkateswari Alagenda

1. The Defence hereby requests the Trial Panel to reclassify the Decision on the Confirmation of the Indictment (“Confirmation Decision”)¹ as confidential and lesser redacted,² to reflect the lesser redacted version of the indictment, filed on 27 January 2023, and the SPO Pre-Trial Brief filed on 15 February 2023.³
2. The Confirmation Decision was issued strictly confidential and *ex parte* on 26 October 2020. A confidential redacted version of the Confirmation Decision was notified to the Defence on 19 November 2020. Redactions to both the Indictment and the Confirmation Decision were authorised by the Pre-Trial Judge on the basis of Article 39(11) of the Law which stipulates that the Pre-Trial Judge may, where necessary, provide for the protection of victims and witnesses.⁴
3. The vast majority of remaining redactions to the Indictment ordered by the Pre-Trial Judge under Article 39(11) were lifted and an unredacted indictment notified to the Defence on 27 January 2023 and SPO Pre-Trial Brief filed on 15 February 2023. As the redactions to the Confirmation Decision were based on these redactions to the Indictment which have since been lifted, the commensurate redactions in the Confirmation Decision are no longer necessary or reasonable. Given the Trial Panel’s clear statement of the necessity of a public trial,⁵ the Confirmation Decision should be reclassified on this basis alone.

¹ F00026, Confidential Redacted Version of Decision on the Confirmation of the Indictment Against Hashim Thaçi, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi, 19 November 2020, (Original *Strictly Confidential and Ex Parte* Confirmation Decision is dated 26 October 2020).

² The Defence recognises that a fully unredacted version of the Confirmation Decision will not be available at this juncture due to the continuation of certain protective measures. This Request is therefore for a lesser redacted version to be filed, commensurate with the lesser redacted Pre-Trial Brief filed by the SPO on 15 February 2023.

³ F01296, Prosecution submissions pursuant to Decision F01229 with confidential Annexes 1-2 and public Annex 3, Annex 1, 15 February 2023.

⁴ Confirmation Decision, paras 26-30.

⁵ F01226/A01, Annex 1 to Order on the Conduct of Proceedings, 25 January 2023, paras 1-4; F01283, Order for Submissions on the Reclassification of Selected Filings, 13 February 2023, para. 4, see also F01333, Order for Submissions on Reclassification of Selected Filings, 1 March 2023, para. 4.

4. However, the unredacted indictment notified to the Defence also revealed a number of new allegations against Mr. Selimi⁶ and the judicial review and analysis of those allegations by the Pre-Trial Judge in redacted sections of the Confirmation Decision. Receipt of this information would assist the Defence to prepare in relation to these allegations.
5. Moreover, although the Defence's request for reclassifying the Rule 86(3)(b) Outline⁷ was rejected by the Trial Panel on the grounds that it does not constitute a post-indictment instrument intended or relevant to providing notice of the Prosecution's case,⁸ the Confirmation Decision is indeed a post-indictment instrument which weighs the charges in the indictment against the standard of establishing a well-grounded submission.
6. For these reasons, reclassification of the Confirmation Decision is warranted and the Trial Panel is empowered to order such reclassification. However, if the Panel finds that it should instead have been submitted to the Pre-Trial Judge, the Defence requests the Trial Panel to refer it to the Pre-Trial Judge directly for expeditious resolution.

Word count: 606

Respectfully submitted on 6 March 2023,

⁶ Newly unredacted paragraphs 41, 42, 49, 115, 139 and 149 of the unredacted indictment contain these new allegations.

⁷ F01220, Selimi Defence Consolidated Response to Prosecution submissions regarding Indictment redactions (F01210) and select delayed disclosure witnesses (F01208), 20 January 2023, para. 2.

⁸ F01229, Confidential Redacted Version of Decision on Indictment Redactions, 26 January 2023, para. 17.



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