



SPECIALIST PROSECUTOR'S OFFICE
ZYRA E PROKURORIT TË SPECIALIZUAR
SPECIJALIZOVANO TUŽILAŠTVO

In: KSC-BC-2020-06
Specialist Prosecutor v. Hashim Thaçi, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi

Before: Trial Panel II
Judge Charles Smith III, Presiding
Judge Christoph Barthe
Judge Guénaél Mettraux
Judge Fergal Gaynor, Reserve

Registrar: Dr Fidelma Donlon

Filing Participant: Acting Specialist Prosecutor

Date: 1 April 2023

Language: English

Classification: Confidential

URGENT Prosecution response to Thaçi Defence request regarding opening statements

Specialist Prosecutor's Office

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Counsel for Kadri Veseli

Ben Emmerson

Counsel for Rexhep Selimi

David Young

Counsel for Jakup Krasniqi

Venkateswari Alagendra

1. The Request¹ is late, misguided, and entirely lacking in legal basis. It should be rejected accordingly. There is simply no requirement that visual aids or exhibits used during opening statements be (i) disclosed under the Rules,² (ii) on a Party's exhibit list, or (iii) ultimately tendered for admission. In fact, the Specialist Prosecutor's Office ('SPO') has not requested any such change to the exhibit list, and has merely provided the Defence with these items as a courtesy – almost a week before commencement of the opening statements.³ This is more than ample notice, considering that the Defence has had the underlying transcripts since December 2020.⁴
2. Indeed, any such requirement would not be logical, noting that – at this stage of proceedings - the Defence (who are also scheduled to present opening statements) have yet to make any disclosure of evidence or produce any exhibit lists.
3. The parties should, of course, ensure that any visuals or demonstrative exhibits used in their presentations are drawn from or correspond to the evidence, and use of the videos in question clearly comports with that requirement.
4. The Defence's submissions regarding on-going litigation for admission of the underlying transcripts are equally misguided. By their very nature, occurring at the outset of proceedings, opening statements occur in advance of and without prejudice to any decisions ultimately made as to the admissibility of any particular items.⁵
5. For the foregoing reasons, the relief sought in the Request should be rejected.

¹ URGENT Thaçi Defence Request related to SPO Opening Statements, 31 March 2023, KSC-BC-2020-06/F01412 ('Request').


² Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 ('Rules'). All references to 'Rule' or 'Rules' herein refer to the Rules, unless otherwise specified.

³ Notably, despite have received the disclosure and accompanying explanation from the SPO on 28 March 2023, the Defence did not submit their filing until after 6pm on Friday 31 March, even though opening statements are scheduled to commence at 9am on Monday morning. The Request should be rejected on this basis alone.

⁴ As they were interviewed as suspects by the SPO, both Hashim Thaci and Rexhep Selimi were entitled to receive a copy of the video of their own interviews, pursuant to Rule 44 of the Rules.

⁵ This filing is submitted confidentially pursuant to Rule 82(4). The SPO has no objection to reclassifying this filing as public.

Word count: 394



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Saturday, 1 April 2023

At The Hague, the Netherlands