

**In:** KSC-BC-2020-06  
**The 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 Guénaël Mettreaux  
Judge Fergal Gaynor, Reserve Judge

**Registrar:** Dr Fidelma Donlon

**Filing Participant:** Specialist Counsel for Hashim Thaçi  
Specialist Counsel for Kadri Veseli  
Specialist Counsel for Rexhep Selimi  
Specialist Counsel for Jakup Krasniqi

**Date:** 4 July 2022

**Language:** English

**Classification:** Public

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**Joint Defence Request for a Variation of the Time Limit to Provide Information  
about the examination of SPO Witnesses**

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## I. INTRODUCTION

1. The present request seeks an extension of the time allocated to the Defence to provide information about the next 12 witnesses and 9 reserve witnesses that the Specialist Prosecutor's Office ("SPO") intends to call in these proceedings.<sup>1</sup>

2. Currently, the Defence has seven (7) days<sup>2</sup> to indicate: (i) which witnesses it intends to cross-examine and, a time estimate for cross-examination of each witness; (ii) any objection to the admission of witness statements/transcripts of interview and/or exhibits, which the SPO proposes to tender through the witnesses<sup>3</sup> ("Defence Information").

3. The Defence notes that of the 21 witnesses listed in the SPO Submission, 4 are reserve witnesses for the July 2023 evidentiary block, *i.e.* W02153, W00072, W04586 and W04644.<sup>4</sup> The first 3 witnesses listed among the next 12 witnesses, W03879, W03832, and W03827, are likely to be called in August 2023. The Defence intends to submit the requested Defence Information for these 7 witnesses by Friday, 7 July 2023.

4. The 14 remaining witnesses<sup>5</sup> will not start to testify before 14 August 2023. The volume of material to be considered in respect of these witnesses constitutes good cause for an enlargement of the seven (7) day deadline. The Defence submits that a three-weeks period to compile the Defence Information for these 14 witnesses is reasonable and proportionate, for the reasons set out below.

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<sup>1</sup> KSC-BC-2020-06/F01630, Prosecution submission of list of the next 12 witnesses, reserve witnesses and associated information, Public, with confidential Annexes 1 and 2 and strictly confidential and ex parte Annex 3, dated 28 June 2023, notified on 30 June 2023 ("SPO Submission").

<sup>2</sup> KSC-BC-2020-06, Transcript of hearing of 19 June 2023, Public, Page 5068 Line 10 to Page 5068 Line 21.

<sup>3</sup> KSC-BC-2020-06/F01226/A01, Order in the Conduct of Proceedings, Public, para. 76.

<sup>4</sup> SPO Email dated 30 June 2023; SPO Submission, fn 6 and 8.

<sup>5</sup> W04018, W04408, W03880, W04769, W04781, W03724, W04577, W02161, W04566, W04368, W01504, W04255, W01493, W04448.

## II. APPLICABLE LAW

5. Pursuant to Rule 9(5)(a) of the Rules,<sup>6</sup> the Panel may, *proprio motu* or on showing of good cause by a participant in the proceedings, extend any time limit prescribed the Rules or set by the Panel.

## III. SUBMISSIONS

6. Compiling the Defence Information will require the review and analysis of the prior statements and testimony of the SPO witnesses, as well as the documents that the SPO intends to use during its examination of each. The numbers of documents linked to the SPO witnesses in question is significant, and much larger than those that could reasonably be reviewed by the Defence teams within seven (7) days, the Defence being already focused on the preparation of the cross-examination of the witnesses scheduled to testify in July 2023. For example, the SPO has linked 200 documents to W01493 alone in Legal Workflow and has identified 73 items as proposed documents and exhibits to be used with the witness.<sup>7</sup> Similarly, 152 documents are linked to W04577 and 84 documents have been linked to W04018.

7. In addition, the decision whether to cross-examine will require consideration not only of the documents the SPO intends to use with the witnesses, but any other contradictory or exculpatory material upon which the witnesses could comment, and which could assist the parties and Trial Panel in testing the witnesses' evidence. In particular, the Defence may need to review material from the corresponding crime sites and alleged co-detainees or co-fighters, relatives, *etc.* Instructions from the clients will also need to be sought.

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<sup>6</sup> KSC-BD-03/Rev3/2020, Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, 2 June 2020 ("Rules").

<sup>7</sup> KSC-BC-2020-06/F01630/A02, p. 40 & seq.

8. The review of these documents, formulating submissions on admissibility, and reaching decisions on cross-examination, will reasonably require more than seven (7) days. On this basis, the Defence teams seek an extension of three weeks in total to compile and provide the Defence Information for the remaining 14 witnesses. An extension of the deadline will also assist in the Defence being able to give meaningful responses to the Trial Panel's questions, rather than being required to seek to reserve its position as regards cross-examination and admissibility, having not had sufficient time to make an informed decision on the basis of instructions.

9. Nor can any argument reasonably be made that the Defence teams should have already read the documents in question and should therefore need only a few days to provide the Defence Information. SPO disclosure in the present case runs to millions of pages of documents. While Defence teams sought to read all disclosed documents as they were provided, this does not circumvent the need to review them in light of the SPO's finalisation of its witness list, and alongside any new information disclosed or located in the intervening period, particularly given that the SPO continues to disclose additional Rule 102(1), Rule 102(3) or Rule 103 material on a weekly basis.

10. The extension of time sought is limited, reasonable, and will have no negative impact on the trial schedule or readiness of the parties for trial. By contrast, it will ensure that the information being provided by the Defence about its intentions for the SPO witnesses and exhibits is the most accurate and exhaustive possible in the circumstances.

**IV. CONCLUSION & RELIEF SOUGHT**

11. For the above reasons, the Defence respectfully requests that the Trial Panel:  
**FIND** that good cause exists pursuant to Rule 9(5)(a) of the Rules for a variation of the time limit; and  
**ORDER** that the Defence Information for the 14 remaining witnesses<sup>8</sup> be provided by Friday, 21 July 2023.

[Word count: 935 words]

Respectfully submitted on 4 July 2023,



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<sup>8</sup> W04018, W04408, W03880, W04769, W04781, W03724, W04577, W02161, W04566, W04368, W01504, W04255, W01493, W04448.



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