



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

Registrar: Dr Fidelma Donlon

Filing Participant: Specialist Prosecutor's Office

Date: 22 March 2024

Language: English

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Prosecution submission of list of witnesses for 22 April to 18 July 2024

with confidential Annexes 1 and 2

Specialist Prosecutor's Office

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1. Pursuant to the Conduct of Proceedings Order,¹ the Specialist Prosecutor's Office ('SPO') submits Annexes 1 and 2 listing the next witnesses,² with their tentative order of appearance, and reserve witnesses³ for the evidentiary blocks between 22 April to 18 July 2024.

2. The SPO proposes to call the reserve witnesses indicated in Annex 2 if, for example, scheduled witnesses indicated in Annex 1 are unavailable to testify, or if their cross-examinations proceed faster than foreseen. Due to the nature of reserve witnesses, there must be a degree of flexibility concerning when they are called. Therefore, the list in Annex 2 does not necessarily reflect the order in which their testimony may occur.

3. In reaching these discretionary scheduling decisions,⁴ the SPO has taken into account and balanced a number of—often competing—factors, including: (i) publicity; (ii) witness availability, testimony modes, examination estimates, and sitting schedules; (iii) the scope, nature, and subject matter of the witness's anticipated testimony; (iv) the status of the presentation of evidence;⁵ (v) the witness's personal circumstances; (vi) security concerns; and (vii) the need to provide adequate notice, to facilitate Defence preparation.

4. As required by the Conduct of Proceedings Order, Annexes 1 and 2 set out the following as to the proposed witnesses: (i) name and pseudonym; (ii) all prior statements; (iii) the mode of testimony, including whether fully live or Rule 154; (iv)

¹ Order on the Conduct of Proceedings, KSC-BC-2020-06/F01226/A01, 25 January 2023 ('Conduct of Proceedings Order'), paras 73-74, 80-81. *See also* Decision on Prosecution Request for Compliance with Third Oral Order Regarding Proposed Duration of Cross-Examination and Related Matters, KSC-BC-2020-06/F01336, 1 March 2023, paras 20, 25(d).

² Annex 1. This list and the list of reserve witnesses (*see* Annex 2 and fn.3 below) is subject to change.

³ Annex 2.

⁴ *See, inter alia*, Rules 118, 121, 127; Conduct of Proceedings Order, KSC-BC-2020-06/F01226/A01, Sections XII, XV(C).

⁵ This includes consideration of any noticed adjudicated facts related to the subject matter of each witness's evidence.

the issues, facts and circumstances in relation to which the witness will be examined; (v) time estimate for direct examination; (vi) documents and exhibits which the SPO intends to use with each witness (identified by their complete ERN,⁶ the date, description and claimed relevance of each document, and the exhibit or MFI number of any of those already admitted or marked for identification); and (vii) information regarding protective measures ordered in relation to the witness (with reference to relevant orders).

5. In the interest of fair and expeditious proceedings, the SPO has reduced the estimated examination time of four witnesses.⁷

6. As the order of the identified witnesses, and the need to call reserve witnesses at all, depends on examination estimates, the SPO again emphasises that accurate cross-examination estimates – noticed in a timely manner and sufficiently in advance of testimony – are essential, *inter alia*, for the necessary logistical arrangements to be made and for the SPO to provide timely notice of the witnesses it intends to call.⁸

7. Until further order, the SPO will, pursuant to the Conduct of Proceedings Order⁹ and one month prior to the completion of testimony of witnesses noticed in this filing, provide the Panel, Parties, and participants a list of the witnesses it intends to call in the ensuing three-month period.

8. Annexes 1 and 2 are confidential pursuant to Rule 82(4) and to give effect to existing protective measures.


⁶ Transcript parts and separate records of the same hearing, testimony, or interview are grouped together, where applicable.

⁷ See Annex 1, witnesses listed at nos.5, 11, 18, 24.

⁸ For recent examples of the potential logistical implications of inaccurate cross-examination estimates, see Transcript, 21 February 2024, pp.12792-12793; Transcript, 30 October 2023, pp.9239-9240; Transcript, 15 November 2023, pp.101222-101225. See also Oral Order, Transcript, 19 July 2023, p.6089; Prosecution response to THAÇI and SELIMI Defence request to postpone reserve witnesses, KSC-BC-2020-06/F01820, 27 September 2023, Confidential, paras 3-4.

⁹ Conduct of Proceedings Order, KSC-BC-2020-06/F01226/A01, para.73.

Word count: 652



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Specialist Prosecutor

Friday, 22 March 2024.

At The Hague, the Netherlands.