

1 Tuesday, 10 May 2022

2 [Further Appearance]

3 [Open session]

4 [The accused entered court]

5 --- Upon commencing at 2.00 p.m.

6 JUDGE GUILLOU: Good afternoon everyone inside and outside the
7 courtroom.

8 Madam Court Officer, can you please call the case.

9 THE COURT OFFICER: Good afternoon, Your Honour. This is case
10 KSC-BC-2020-06, The Specialist Prosecutor versus Hashim Thaci,
11 Kadri Veseli, Rexhep Selimi, and Jakup Krasniqi.

12 JUDGE GUILLOU: Thank you, Madam Court Officer.

13 Now I will kindly ask the parties and participants to introduce
14 themselves, starting with the Prosecutor's Office.

15 Mr. Prosecutor.

16 MR. TIEGER: Thank you, Your Honour. And good afternoon to all.
17 Alan Tieger and Eva Wyler appear on behalf of the Specialist
18 Prosecutor's Office.

19 JUDGE GUILLOU: Thank you, Mr. Prosecutor.

20 Now I turn to the Defence.

21 Ms. Alagendra, please.

22 MS. ALAGENDRA: Your Honour, Venkateswari Alagendra,
23 representing Mr. Krasniqi. Appearing together with me is
24 Mr. Aidan Ellis, co-counsel; Victor Baiesu, co-counsel;
25 Mentor Beqiri, Legal Associate; and Laura Abia Losada, Support Team

1 Member.

2 JUDGE GUILLOU: Thank you, Ms. Alagendra.

3 Now I turn to the counsel for victims, please.

4 MS. RADZIEJOWSKA: Good afternoon, Your Honour. Good afternoon,
5 everyone. I am Maria Radziejowska, co-counsel, representing victims
6 in this case.

7 JUDGE GUILLOU: Thank you very much.

8 Now I turn to the Registry.

9 Mr. Nilsson, please.

10 MR. NILSSON: Good afternoon, Your Honour. Good afternoon,
11 colleagues. Jonas Nilsson, Judicial Services Division, representing
12 Registry today.

13 JUDGE GUILLOU: Thank you, Mr. Nilsson.

14 And, finally, I note that Mr. Krasniqi is attending the hearing
15 in person today.

16 On 3 September 2021, the SPO filed a request to amend the
17 indictment pursuant to Rule 90(1)(b). The SPO presented three
18 categories of amendments.

19 The first category consisted of two detention sites located at
20 Suhareke/Suva Reka municipality at or in connection with which KLA
21 members committed acts of persecution, imprisonment/arbitrary
22 detention, other inhumane acts/cruel treatment, torture, murder, and
23 enforced disappearance.

24 The second category consisted of two incidents of persecution
25 and murder committed in connection with a detention site in

1 Gjilan/Gnjilane municipality and a modification of the timeframe for
2 the Gjilan/Gnjilane detention site.

3 The third category consisted of two incidents of the accused's
4 personal participation in the crimes charged.

5 On 23 December 2021, I issued a first decision on the SPO
6 request in which I granted the SPO motion to amend the indictment in
7 relation to the third category of proposed amendments which I
8 considered not to constitute new charges.

9 Further, I found that the first and second categories of
10 amendments were new charges and therefore must be assessed against
11 the requisite evidentiary threshold of well-grounded suspicion, as
12 per Rule 86(4) of the Rules, and in light of the evidence submitted
13 as per Rule 86(3) of the Rules.

14 The parties were ordered to file their responses and reply on
15 the question of whether the supporting material to the amendments
16 deemed to constitute new charges support a finding of well-grounded
17 suspicion pursuant to Rule 86(4) of the Rules.

18 On 22 April 2022, I confirmed the first and second category of
19 amendments and the charges against the accused contained therein. I
20 also ordered the SPO to submit by Friday, 19 April 2022, an amended
21 indictment with the first category and the second category of
22 amendments.

23 On 29 April 2022, the SPO filed its amended indictment, a lesser
24 confidential redacted and public redacted versions of the first
25 category evidentiary outline, and a confidential and a public

1 redacted version of the amended second category of evidentiary
2 outline.

3 And, finally, on 2 May 2022, I scheduled this Further
4 Appearance.

5 Now allow me to explain the specific purpose of this Further
6 Appearance for the benefit of the accused and those joining us in the
7 public gallery and online.

8 Today's hearing is not a trial. No evidence will be presented
9 or debated, and the guilt or innocence of the accused will not be
10 discussed or decided. The purpose of this Further Appearance is
11 regulated by Article 39 of the Law and Rules 90 and 92 of the Rules.

12 According to these provisions, I shall, as Pre-Trial Judge, have
13 the new charges in the Confirmed Indictment read to the accused;
14 confirm that the accused understands the new charges; satisfy myself
15 that the rights of the accused, in particular his right to counsel;
16 are respected; and inform the accused that within 30 days of today's
17 hearing he will be called upon to admit guilt or plead not guilty on
18 each new charge set out in the Confirmed Indictment.

19 If the accused wishes to do so, he may also immediately plead
20 guilty or not guilty.

21 I expect the parties to adhere to these matters, which I will
22 address in turn.

23 First, may I ask you, Mr. Krasniqi, to confirm that you have
24 received the Confirmed Indictment dated 29 April 2022?

25 MR. KRASNIQI: [Interpretation] Your Honour, ladies and gentlemen

1 that represent all the different segments of the justice sector that
2 are called to protect and to deliver justice, I ask for you to
3 understand me properly because during my entire life I have been a
4 person of high integrity, and I have been a person in terms of my
5 position with those that were the strongest.

6 But when it comes to the weakest, I've never shown any signs of
7 aggressiveness or humiliation. The only thing that I have shown is
8 human love.

9 In justice, no matter how risky it was, and no matter how risky
10 it is, as we speak, because it has stemmed from the same logics that
11 I have lived through at the time of Yugoslavia, I have never replied
12 to the situation with silence and, therefore, I just wish to say a
13 couple of words to you today.

14 Properly and probably I'm wrong, but I would have never, ever
15 believed that if this was not the case, that lawyers that are
16 educated in liberal democracies with countries with tradition,
17 lawyers that claim to work in a system of credible justice in order
18 to deliver standard justice dare to raise such an indictment that is
19 only and solely based on the lies of Serbia and which severely and
20 heavily infringes the life, freedom, and rights of the individual -
21 and not only of the individual but, at the same time, it strikes very
22 heavily in the backbone of a nation the aspirations for freedom and
23 state formation.

24 I feel ashamed that I am living in this time, at this time of
25 our people that with such an easy hand destroy the lives of the

1 people that have fought for the life and freedom, for democracy and
2 independence. So they have fought against one of the regimes that
3 was the most criminal one after the Second World War.

4 I believe that there was a second regime similar to this in the
5 world, such a criminal and genocide-based regime, as was the case
6 with the regime of Milosevic, and nothing has happened to the other
7 party.

8 Socrates says in the 4th century before Christ that no virtue
9 should derives from property, but it is, above all, the virtue from
10 which every good arises from both for the individual but for the
11 state as well. For the times we live in to, I would say: I can tell
12 you that from what I've seen during my political life that the fact
13 that someone can be rich or can have many powers in his hands or is
14 well educated, in itself this does not mean that this by no means is
15 accompanied by virtue. However, on the contrary, it's totally true
16 that from the people with virtue in centuries, those people that have
17 fought, of people, of justice, of well-being of people, it's because
18 of these people that humanism, humanity, and the social development
19 have come from.

20 The fights and injustices are not deeds of those with virtue.
21 However, this is not true. The latter one is not true for other
22 fights, for liberation, for life, and for the good of people.

23 Your Honour, I have read the indictment. I have read the
24 Confirmed Amended Indictment, and I can tell you that it is difficult
25 for me to understand the first indictment, and it is equally

1 difficult for me to understand the amended indictment, because I am
2 confident that I have never ever committed offences of this nature.
3 Therefore, I plead entirely not guilty.

4 Of course, we want for the trial to be carried out expeditiously
5 and not keep us for a longer period of time at detention.

6 Thank you very much for your attention.

7 JUDGE GUILLOU: Thank you very much, Mr. Krasniqi.

8 I wish now to remind you the rights that you have before this
9 Court.

10 The Law on the Specialist Chambers and the Rules of Procedure
11 and Evidence guarantee you a number of rights.

12 First, you shall be presumed innocent until proven guilty beyond
13 reasonable doubt.

14 In the determination of the charges against you, you are
15 entitled to a fair and public hearing, subject to any measures
16 ordered for the protection of victims and witnesses.

17 You have the right to be informed promptly and in detail in a
18 language which you understand of the nature and cause of the charges
19 against you.

20 You have the right to have adequate time and facilities for the
21 preparation of your defence and to communicate with a counsel of your
22 own choosing.

23 You have the right to be tried within a reasonable time.

24 You have the right to be tried in your presence and to defend
25 yourself through your counsel.

1 You have the right to have counsel assigned to you and without
2 payment if you do not have sufficient means to pay for it.

3 You have the right to examine or have examined the witnesses
4 against you and to obtain the attendance and examination of witnesses
5 on your behalf.

6 You have the right to have the free assistance of an interpreter
7 if you cannot understand or speak the language used in the court.

8 You have the right not to be compelled to testify against
9 yourself or to admit guilt.

10 You have the right to remain silent, and no adverse inference
11 shall be drawn from your silence.

12 You also have the right to make unsworn statements relevant to
13 the case, and you may appear as a witness under oath.

14 You have the right to lodge preliminary motions.

15 You have the right to receive the supporting material to the
16 amended indictment submitted for confirmation.

17 You have the right to receive all statements of witnesses whom
18 the Specialist Prosecutor intends to call to testify at trial in the
19 language you understand and speak; namely, Albanian.

20 You have the right to receive immediately any information which
21 may reasonably suggest your innocence or mitigate your guilt or
22 affect the credibility or reliability of the Specialist Prosecutor's
23 evidence as soon as the information is in his custody, control, or
24 actual knowledge.

25 You have the right that all material and relevant evidence of

1 facts in possession of the Specialist Prosecutor be made available to
2 you before the beginning of and during the proceedings. This right
3 is only subject to restrictions which are strictly necessary and when
4 any counterbalancing protections are applied.

5 You have the right not --

6 MS. ALAGENDRA: Your Honour, my apologies. Mr. Krasniqi doesn't
7 have the translation, so he's not able to follow.

8 JUDGE GUILLOU: Let us double-check.

9 MS. ALAGENDRA: So far whatever has been spoken, Your Honour, I
10 am informed that he does not have a translation of that.

11 JUDGE GUILLOU: Madam Court Officer, can you check if there is a
12 technical problem, or if it's me speaking too fast for the
13 interpretation.

14 So, Mr. Krasniqi, I will go back to what I was saying. Can you
15 just confirm that now you get the Albanian translation?

16 MR. KRASNIQI: [Interpretation] [Microphone not activated].

17 JUDGE GUILLOU: Perfect. Then if there is any other problem,
18 please let me know so that we fix the problem before I continue.

19 I was saying that you have the right to receive all statements
20 of witnesses whom the Specialist Prosecutor intends to call to
21 testify at trial in the language you understand and speak.

22 You have the right to receive immediately any information which
23 may reasonably suggest your innocence or mitigate your guilt or
24 affect the credibility or reliability of the Specialist Prosecutor's
25 evidence as soon as the information is in his custody, control, or

1 actual knowledge.

2 You have the right that all material and relevant evidence or
3 facts in possession of the Specialist Prosecutor be made available to
4 you before the beginning of and during the proceedings. This right
5 is only subject to restrictions which are strictly necessary and when
6 any counterbalancing protections are applied.

7 You have the right not to be detained for an unreasonable period
8 prior to the opening of the case, to request review of decisions on
9 your detention, and to appeal such decisions directly before the
10 Court of Appeal.

11 And, finally, you have the right to appeal, either directly or
12 through certification, as provided for under the Rules.

13 Mr. Krasniqi, you have heard the most important rights that you
14 enjoy in accordance with the applicable legal framework. Do you
15 understand and have you understood these rights?

16 And if you want me to repeat anything, because there was a
17 problem with the translation, feel free to ask me.

18 MR. KRASNIQI: [Interpretation] I have nothing to add. I
19 understood those rights, and I wish for justice to triumph.

20 JUDGE GUILLOU: Thank you, Mr. Krasniqi.

21 Now I will ask the Court Officer to read out the new charges
22 contained in the Confirmed Indictment as foreseen in Article 39 of
23 the Law and Rule 92.

24 Madam Court Officer, please.

25 THE COURT OFFICER: Thank you, Your Honour.

1 1. In the Amended Confirmed Indictment, the
2 Specialist Prosecutor adds the following new charges against
3 Mr. Jakup Krasniqi:

4 a. In relation to crimes alleged to have been committed in
5 Budakove/Budakovo and Semtishte/Semetiste, in Suhareke/Suva Reka
6 municipality, between about 4 July 1998 and September 1998 and on or
7 around 28 or 29 April 1999 involving at least 12 persons:

8 i. Count 1: The crime against humanity of persecution punishable
9 under Article 13(1) (h) of the Law;

10 ii. Count 2: The crime against humanity of imprisonment
11 punishable Article 13(1) (e) of the Law;

12 iii. Count 3: The war crime of arbitrary detention punishable
13 under Article 14(1) (c) of the Law;

14 iv. Count 4: The crime against humanity of other inhumane acts
15 punishable under Article 13(1) (j) of the Law;

16 v. Count 5: The war crime of cruel treatment punishable under
17 Article 14(1) (c) (i) of the Law;

18 vi. Count 6: The crime against humanity of torture punishable
19 under Article 13(1) (f) of the Law;

20 vii. Count 7: The war crime of torture punishable under
21 Article 14(1) (c) (i) of the Law;

22 viii. Count 8: The crime against humanity of murder punishable
23 under Article 13(1) (a) of the Law ;

24 ix. Count 9: The war crime of murder punishable under
25 Article 14(1) (c) (i) of the Law; and

1 x. Count 10: The crime against humanity of enforced
2 disappearance of persons punishable under Article 13(1)(i) of the
3 Law.

4 b. In relation to crimes alleged to have been committed in
5 Gjilan/Gnjilane, in Gjilan/Gnjilane municipality, also in July 1999
6 involving at least three persons:

7 i. Count 1: The crime against humanity of persecution punishable
8 under Article 13(1)(h) of the Law;

9 ii. Count 2: The crime against humanity of imprisonment
10 punishable under Article 13(1)(e) of the Law;

11 iii. Count 3: The war crime of arbitrary detention punishable
12 under Article 14(1)(c) of the Law;

13 iv. Count 4: The crime against humanity of other inhumane acts
14 punishable under Article 13(1)(j) of the Law;

15 v. Count 5: The war crime of cruel treatment punishable under
16 Article 14(1)(c)(i) of the Law;

17 vi. Count 6: The crime against humanity of torture punishable
18 under Article 13(1)(f) of the Law;

19 vii. Count 7: The war crime of torture punishable under
20 Article 14(1)(c)(i) of the Law;

21 viii. Count 8: The crime against humanity of murder punishable
22 under Article 13(1)(a) of the Law; and

23 ix. Count 9: The war crime of murder punishable under
24 Article 14(1)(c)(i) of the Law.

25 2. The crimes under Counts 1, 2, 4, 6, 8, and 10 were committed

1 as part of a widespread or systematic attack directed against the
2 civilian population in Kosovo and northern Albania from at least
3 March 1998 through September 1999. In particular, these crimes
4 targeted "Opponents," who were perceived to have been collaborating
5 or associating with Federal Republic of Yugoslavia ("FRY") forces,
6 officials or state institutions; or otherwise not supporting the aims
7 or means of the Kosovo Liberation Army ("KLA") and later the
8 Provisional Government of Kosovo, including persons associated with
9 the Democratic League of Kosovo, and persons of Serb, Roma, and other
10 ethnicities.

11 3. The crimes under Counts 3, 5, 7, and 9 were committed against
12 persons not taking active part in the hostilities, and in the context
13 of and associated with a non-international armed conflict in Kosovo
14 between the KLA and forces of the FRY and the Republic of Serbia,
15 including units of the Yugoslav Army, police, and other units of the
16 Ministry of Internal Affairs, and other groups fighting on behalf of
17 the FRY and Serbia from at least March 1998 to approximately
18 16 September 1999.

19 4. In relation to these crimes, there is a well-grounded
20 suspicion that Mr. Krasniqi is criminally responsible, pursuant to
21 Article 16(1)(a) of the Law for:

22 a. Committing, as a member of a joint criminal enterprise, the
23 crimes under Counts 1-10, or alternatively, committing, as a member
24 of the aforementioned joint criminal enterprise, the crimes under
25 Counts 1-10 by being aware that such crimes might be perpetrated in

1 carrying out the common purpose of the joint criminal enterprise and
2 by willingly taking that risk; and/or

3 b. Aiding and abetting the crimes under Counts 1-10.

4 5. In addition and in the alternative, there is a well-grounded
5 suspicion that Mr. Krasniqi is criminally responsible, pursuant to
6 Article 16(1)(c) of the Law, as a superior, for the crimes under
7 Counts 1-10.

8 Thank you, Your Honour.

9 JUDGE GUILLOU: Thank you, Madam Court Officer.

10 Mr. Krasniqi, I wish to remind you that today is not the time to
11 contest the new charges but simply to acknowledge your understanding
12 of the charges. You will have ample opportunity to challenge the
13 charges with the assistance of your counsel.

14 Mr. Krasniqi, did you understand the new charges contained in
15 the Confirmed Amended Indictment as read out to you by
16 Madam Court Officer?

17 MR. KRASNIQI: [Interpretation] I understood the charges, because
18 I understand Albanian very well, but I'm positive that I hold no kind
19 of responsibility about the charges that were raised against me.

20 JUDGE GUILLOU: Thank you, Mr. Krasniqi.

21 I wish to inform you that according to Article 21(5) of the Law,
22 you may not represent yourself because you are currently in
23 detention. Representation by Specialist Counsel is therefore
24 mandatory. I note that you are and you have been represented by
25 counsel since the beginning of the proceeding, so I am therefore

1 satisfied that the accused is represented by counsel.

2 I will now turn, even if you mentioned this before, but I will
3 formally turn to the possibility for the accused to enter a plea
4 today.

5 Mr. Krasniqi, within 30 days you will be called to admit guilt
6 or plead not guilty on each new charge in the amended Confirmed
7 Indictment. However, if you wish to do so, you can choose to
8 immediately plead guilty or not guilty.

9 I would therefore like to ask you if you have had the
10 opportunity to discuss the charges in the Confirmed Indictment with
11 your counsel, and if you are prepared to enter a plea at this time
12 today.

13 MR. KRASNIQI: [Interpretation] I have, of course, talked with my
14 counsel and my Defence team. I plead not guilty.

15 JUDGE GUILLOU: Thank you, Mr. Krasniqi. This is noted.

16 At this point, I would like to ask the parties and participants
17 if they have any other issues they would like to raise.

18 Mr. Prosecutor.

19 MR. TIEGER: No, Your Honour. Thank you.

20 JUDGE GUILLOU: Counsel for victims, please.

21 MS. RADZIEJOWSKA: The same here. No, Your Honour. Thank you.

22 JUDGE GUILLOU: Thank you very much.

23 And Ms. Alagendra?

24 MS. ALAGENDRA: No issues, Your Honour.

25 JUDGE GUILLOU: Thank you very much.

1 Then this concludes today's hearing. I thank the parties and
2 participants for their presence, and the hearing is adjourned.

3 --- Whereupon the Further Appearance adjourned
4 at 2.29 p.m.

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