

1 Tuesday, 10 May 2022

2 [Further Appearance]

3 [Open session]

4 [The accused entered court via videolink]

5 --- Upon commencing at 3.15 p.m.

6 JUDGE GUILLOU: Good afternoon and welcome everyone in and
7 outside the 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 would kindly ask the parties and participants to introduce
14 themselves, starting with the Prosecutor's Office.

15 MR. TIEGER: Thank you, Your Honour. Good afternoon to everyone
16 in and outside the courtroom. Alan Tieger and Lies van Welde on
17 behalf of the Specialist Prosecutor's Office.

18 JUDGE GUILLOU: Thank you, Mr. Prosecutor.

19 Now I turn to the Defence.

20 Online, I see Mr. Young, please.

21 MR. YOUNG: [via videolink] Yes, good afternoon, Your Honour.
22 David Young appearing for Mr. Rexhep Selimi, assisted today by
23 co-counsel Mr. Roberts and Dr. Jasini. Thank you.

24 JUDGE GUILLOU: Thank you, Mr. Young.

25 And now I turn to the counsel for victims, please.

1 MS. RADZIEJOWSKA: Thank you, Your Honour, and good afternoon
2 everyone. Maria Radziejowska representing victims in this case.

3 JUDGE GUILLOU: Thank you, Ms. Radziejowska.

4 And for the record, I note that Mr. Selimi is not present in the
5 courtroom but attends this hearing via VTC.

6 And, finally, for the Registry, Mr. Nilsson, please.

7 MR. NILSSON: Good afternoon, Your Honour. Good afternoon,
8 colleagues. Jonas Nilsson, Judicial Services Division.

9 JUDGE GUILLOU: Thank you, Mr. Nilsson.

10 On 3 September, the SPO filed a request to amend the indictment
11 pursuant to Rule 90(1)(b). The SPO presented three categories of
12 amendments.

13 The first category consisted of two detention sites located at
14 Suhareke/Suva Reka municipality at or in connection with which KLA
15 members committed acts of persecution/imprisonment, arbitrary
16 detention, other inhumane acts/cruel treatment, torture, murder, and
17 enforced disappearance.

18 The second category consisted of two incidents of persecution
19 and murder committed in connection with a detention site in
20 Gjilan/Gnjilane municipality and a modification of the timeframe for
21 the Gjilan/Gnjilane detention site.

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

24 On 23 December 2021, I issued a first decision on the SPO
25 request in which I granted the SPO's motion to amend the indictment

1 in relation to the third category of proposed amendments, which I
2 considered not to constitute new charges.

3 Further, I found that the first and second category of
4 amendments were new charges and therefore must be assessed against
5 the requisite evidentiary threshold of well-grounded suspicion, as
6 per Rule 84(4) of the Rules, and in light of the evidence submitted
7 as per Rule 86(3) of the Rules.

8 The parties were ordered to file their responses and replies on
9 the question of whether the supporting material to the amendments
10 deemed to constitute new charges support a finding of well-grounded
11 suspicion pursuant to Rule 86(4) of the Rules.

12 On 22 April 2022, I confirmed the first and second category of
13 the charges against the accused contained therein. I also ordered
14 the SPO to submit by Friday, 29 April 2022, an amended indictment
15 with the first category and the second category of amendments.

16 On 29 April 2022, the SPO filed its amended indictment, a lesser
17 confidential redacted and public redacted versions of the first
18 category evidentiary outline, and a confidential and a public
19 redacted version of the second amended category evidentiary outline.

20 On 2 May 2022, I scheduled these Further Appearances.

21 And this is it for the procedural history.

22 Now allow me to explain the specific purpose of this Further
23 Appearance for the benefit of the public and those following us in
24 the courtroom or online.

25 Today's hearing is not a trial. No evidence will be presented

1 or debated, and the guilt or innocence of the accused will not be
2 discussed or decided.

3 The purpose of this Further Appearance is regulated by
4 Article 39 of the Law and Rules 90 and 92 of the Rules. According to
5 these provisions, as Pre-Trial Judge, I shall have the new charges in
6 the Confirmed Indictment read to the accused; confirm that the
7 accused understands the new charges; satisfy myself that the rights
8 of the accused, in particular, his right to counsel, are respected;
9 and inform the accused that within 30 days of today's hearing he will
10 be called upon to admit guilt or plead not guilty on each new charge
11 set out in the Confirmed Amended Indictment.

12 If the accused wishes, he may also immediately admit guilt or
13 plead not guilty.

14 I expect the parties to adhere to these matters, which I will
15 address in turn.

16 First, may I ask you, Mr. Selimi, to confirm that you have
17 received the Confirmed Amended Indictment dated 29 April 2022?

18 THE ACCUSED SELIMI: [via videolink] [Interpretation] Yes,
19 Your Honour. I received the indictment and I read it in full.

20 JUDGE GUILLOU: Thank you, Mr. Selimi.

21 I will now ask the Court Officer to read out the new charges
22 contained in the Confirmed Amended Indictment as foreseen in
23 Article 39 of 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. Rexhep Selimi:

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. Selimi 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. Selimi 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. Selimi, I wish to remind you that this 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. Selimi, did you understand the new charges contained in the
15 Confirmed Indictment as read by the Court Officer?

16 THE ACCUSED SELIMI: [via videolink] [Interpretation] Of course,
17 I read and I understood them. And I would like to confirm, again,
18 that I have nothing to do with the crimes and the charges included in
19 this indictment.

20 JUDGE GUILLOU: Thank you, Mr. Selimi.

21 Mr. Young, I see that you request the floor. Is it ...

22 MR. YOUNG: [via videolink] Your Honour, it was simply to
23 indicate that there has been some screen freezing for those that are
24 here online, but there is no need to go back. I am confident that
25 Mr. Selimi fully understands the allegations, and he's made that

1 clear, so I don't ask you or your assistant to repeat.

2 I just wanted you to be aware there have been three short, short
3 screen freezes.

4 Thank you.

5 JUDGE GUILLOU: Thank you very much.

6 Mr. Selimi, if you wish, it can be read again, of course. In
7 any case, I will ask Madam Court Officer to make sure that the
8 transcript of this hearing is transmitted or accessible to the
9 counsel so they can review everything that has been said today.

10 But, Mr. Young, I am happy to ask the Court Officer to proceed
11 again, if you wish.

12 MR. YOUNG: [via videolink] No, thank you.

13 JUDGE GUILLOU: Thank you, Mr. Young. This is noted.

14 Now, Mr. Selimi, let me recall you your rights before this
15 Court.

16 The Law on the Specialist Chambers and the Rules of Procedure
17 and Evidence guarantee you a number of rights, and I will read out
18 the most important ones.

19 First, you shall be presumed innocent until proven guilty beyond
20 reasonable doubt.

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

24 You have the right to be informed promptly and in detail in a
25 language that you understand of the nature and cause of the charges

1 against you.

2 You have the right to have adequate time and facilities for the
3 preparation of your defence and to communicate with the counsel of
4 your own choosing.

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

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

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

10 You have the right to examine or have examined the witnesses
11 against you and to obtain the attendance and examination of witnesses
12 on your behalf.

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

15 You have the right not to be compelled to testify against
16 yourself or to admit guilt.

17 You have the right to remain silent and no adverse inference
18 shall be drawn from your silence.

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

21 You have the right to lodge preliminary motions.

22 You have the right to receive the supporting material to the
23 amended indictment submitted for confirmation.

24 You have the right to receive all statements of witnesses whom
25 the Specialist Prosecutor intends to call to testify at trial in the

1 language that you understand and speak.

2 You have the right to receive immediately any information which
3 may reasonably suggest your innocence or mitigate your guilt or
4 affect the credibility or reliability of the Specialist Prosecutor's
5 evidence as soon as the information is in his custody, control, or
6 actual knowledge.

7 You have the right that all material and relevant evidence of
8 facts in possession of the Specialist Prosecutor be made available to
9 you before the beginning of and during the proceedings. This right
10 is only subject to restrictions which are strictly necessary and when
11 any counterbalancing protections are applied.

12 You have the right not to be detained for an unreasonable period
13 prior to the opening of the case, to request review of decisions on
14 your detention, and to appeal such decisions directly before the
15 Court of Appeal.

16 You have the right to appeal, either directly or through the
17 certification process, as provided for under the Rules.

18 Mr. Selimi, you have heard the most important rights that you
19 enjoy in accordance with the applicable framework of the Specialist
20 Chambers. Did you understand these rights?

21 THE ACCUSED SELIMI: [via videolink] [Interpretation] Yes, I do.

22 JUDGE GUILLOU: Thank you, Mr. Selimi.

23 I wish to inform that according Article 21(5) of the Law, you
24 may not represent yourself because you are currently in detention.
25 Representation by Specialist Counsel is therefore mandatory.

1 I take note that you are, and you have been represented since
2 the beginning of the proceedings before the Specialist Chambers by
3 counsel, and I am therefore satisfied that the accused is presently
4 represented by counsel.

5 I will now turn to the possibility for the accused to enter a
6 plea, if any, in accordance with Rule 92.

7 Mr. Selimi, within 30 days from today, you will be called upon
8 to admit guilt or plead not guilty on each new charge of the
9 Confirmed Indictment. If you wish to do so, you may also choose to
10 immediately admit guilt or plead not guilty.

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

15 THE ACCUSED SELIMI: [via videolink] [Interpretation]
16 Your Honour, allow me to plead not guilty to all the additional
17 points in the indictment.

18 JUDGE GUILLOU: Thank you, Mr. Selimi. This is noted.

19 At this point, I would like to ask the parties whether they have
20 any other issues they would like to raise.

21 Mr. Prosecutor.

22 MR. TIEGER: No issues, Your Honour. Thank you very much.

23 JUDGE GUILLOU: The counsel for victims, please.

24 MS. RADZIEJOWSKA: No, thank you, Your Honour.

25 JUDGE GUILLOU: Thank you very much, Ms. Radziejowska.

1 And now let me turn to the Defence.

2 Mr. Young, please.

3 MR. YOUNG: [via videolink] No, thank you. Not at this stage.

4 JUDGE GUILLOU: Thank you, Mr. Young.

5 So this concludes today's hearing. I thank the parties and
6 participants. And I also thank the interpreters, stenographers,
7 audio-visual technicians, and security personnel, as usual, for their
8 assistance throughout the day.

9 The hearing is adjourned.

10 --- Whereupon the Further Appearance adjourned
11 at 3.36 p.m.

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