

1 Tuesday, 10 May 2022
2 [Further Appearance]
3 [Open session]
4 [The accused entered court via videolink]
5 --- Upon commencing at 11.15 a.m.

6 JUDGE GUILLOU: Good morning and welcome everyone in and outside
7 the courtroom.

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

9 THE COURT OFFICER: Good morning, 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 May I please 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. Good morning to all.
17 Alan Tieger and Dounia Hattabi representing the Specialist
18 Prosecutor's Office.

19 JUDGE GUILLOU: Thank you, Mr. Prosecutor.

20 Now I turn to the Defence, please.

21 Mr. Emmerson.

22 MR. EMMERSON: [via videolink] Good morning, Your Honour and to
23 all inside and outside the courtroom watching these proceedings.
24 This is Ben Emmerson together with, in court, Ms. Annie O'Reilly,
25 co-counsel, representing Mr. Veseli this morning.

1 JUDGE GUILLOU: Thank you, Mr. Emmerson.

2 Mr. Laws, please.

3 MR. LAWS: [via videolink] Good morning, Your Honour and to
4 everyone. I'm Simon Laws representing the victims in this case. And
5 in the courtroom is my co-counsel, Maria Radziejowska.

6 JUDGE GUILLOU: Thank you, Mr. Laws.

7 And finally, the Registry.

8 Mr. Nilsson, please.

9 MR. NILSSON: Good morning, Your Honour. Good morning,
10 colleagues. Jonas Nilsson, Judicial Services Division.

11 JUDGE GUILLOU: Thank you, Mr. Nilsson.

12 And, for the record, I note that Mr. Veseli attends this hearing
13 via video-conference.

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

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

22 The second category consisted of two incidents of persecution
23 and murder committed in connection with a detention site in
24 Gjilan/Gnjilane municipality and a modification of the timeframe for
25 this detention site.

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

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

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

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

16 On 22 April 2022, I confirmed the first and second category of
17 amendments and the charges against the accused contained therein.

18 I also ordered the SPO to submit by Friday, 29 April 2022, an
19 amended indictment with the first category and the second category of
20 amendments.

21 On 29 April 2022, the SPO filed its amended indictment, a lesser
22 confidential redacted and a public redacted version of the first
23 category evidentiary outline, and a confidential and a public
24 redacted version of the amended second category evidentiary outline.

25 And on 2 May, I scheduled this Further Appearance.

1 Now allow me to explain the specific purpose of this Further
2 Appearance for the benefit of the accused and those joining us in the
3 public gallery or online.

4 Today is not a trial. No evidence will be presented or debated.
5 The purpose of this Further Appearance is regulated by Article 39 of
6 the Law and Rules 90 and 92 of the Rules.

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

14 However, if the accused wishes to do so, he may immediately
15 admit guilt or plead not guilty.

16 I expect the parties to adhere to these matters, which I will
17 address in turn. And should either party want to discuss any other
18 matter not expressly foreseen in the context of this Further
19 Appearance, they're invited to do so in writing by making a filing
20 before me.

21 First, Mr. Veseli, may I ask you to confirm that you have
22 received the Confirmed Amended Indictment dated 29 April 2022?

23 THE ACCUSED VESELI: [via videolink] [Interpretation] Yes, I have
24 received it.

25 JUDGE GUILLOU: Thank you, Mr. Veseli.

1 I will now ask the Court Officer to read out the new charges
2 contained in the Confirmed Amended Indictment as foreseen in
3 Article 39 of the Law and Rule 92.

4 Madam Court Officer, please.

5 THE COURT OFFICER: Thank you, Your Honour.

6 In the Amended Confirmed Indictment, the Specialist Prosecutor
7 adds the following new charges against Mr. Kadri Veseli:

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

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

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

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

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

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

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

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

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

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

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

8 b. in relation to crimes alleged to have been committed in
9 Gjilan/Gnjilane in Gjilan/Gnjilane municipality, also in July 1999,
10 involving at least three persons:

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

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

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

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

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

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

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

25 viii. Count 8: The crime against humanity of murder punishable

1 under Article 13(1) (a) of the Law; and

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

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

15 3. The crimes under Counts 3, 5, 7, and 9 were committed against
16 persons not taking active part in the hostilities, and in the context
17 of and associated with a non-international armed conflict in Kosovo
18 between the KLA and forces of the FRY and the Republic of Serbia,
19 including units of the Yugoslav Army, police, and other units of the
20 Ministry of Internal Affairs, and other groups fighting on behalf of
21 the FRY and Serbia from at least March 1998 to approximately
22 16 September 1999.

23 4. In relation to these crimes, there is a well-grounded
24 suspicion that Mr. Veseli is criminally responsible, pursuant to
25 Article 16(1) (a) of the Law for:

1 a. Committing, as a member a joint criminal enterprise, the
2 crimes under Counts 1-10, or alternatively, committing, as a member
3 of the aforementioned joint criminal enterprise, the crimes under
4 Counts 1-10 by being aware that such crimes might be perpetrated in
5 carrying out the common purpose of the joint criminal enterprise and
6 by willingly taking that risk; and/or

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

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

12 Thank you, Your Honour.

13 JUDGE GUILLOU: Thank you, Madam Court Officer.

14 Mr. Veseli, I wish to remind you that this is not the time to
15 contest to the charges, but simply to acknowledge your understanding
16 of the new charges. You will have ample opportunity to challenge the
17 new charges with the assistance of your counsel.

18 Mr. Veseli, did you understand the new charges contained in the
19 Confirmed Indictment as read to you by Madam Court Officer?

20 THE ACCUSED VESELI: [via videolink] [Interpretation] Thank you,
21 Your Honour. I read the charges. My only wish is that these
22 proceedings start as soon as possible and that I'm given the
23 opportunity to express my opinion, my innocence in front of the
24 people of Kosovo, in front of the fighters of the KLA, and everybody.

25 Thank you very much.

1 JUDGE GUILLOU: Thank you, Mr. Veseli.

2 Now let me recall your rights before this Court.

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

6 First, you shall be presumed innocent until proven guilty beyond
7 reasonable doubt.

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

11 You have the right to be informed promptly and in detail in a
12 language which you understand of the nature and cause of the charges
13 against you.

14 You have the right to have adequate time and facilities for the
15 preparation of your defence and to communicate with the counsel of
16 your own choosing.

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

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

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

22 You have the right to examine or have examined the witnesses
23 against you and to obtain the attendance and examination of witnesses
24 on your behalf.

25 You have the right to have the free assistance of an interpreter

1 if you cannot understand or speak the language used in the court.

2 You have the right not to be compelled to testify against
3 yourself or to admit guilt.

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

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

8 You have the right to lodge preliminary motions.

9 You have the right to receive the supporting material to the
10 amended indictment submitted for confirmation.

11 You have the right to receive all statements of witnesses whom
12 the Specialist Prosecutor intends to call to testify at trial in the
13 language you understand and speak.

14 You have the right to receive immediately any information which
15 may reasonably suggest your innocence or mitigate your guilt or
16 affect the credibility or reliability of the Specialist Prosecutor's
17 evidence as soon as the information is in his custody, control, or
18 actual knowledge.

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

24 You have the right not to be detained for an unreasonable period
25 prior to the opening of the case, to request review of decisions on

1 your detention, and to appeal such decisions directly before the
2 Court of Appeal.

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

5 Mr. Veseli, you heard the most important rights that you enjoy
6 in accordance with the applicable legal framework of the Specialist
7 Chambers. Do you understand these rights?

8 THE ACCUSED VESELI: [via videolink] [Interpretation]
9 Your Honour, thank you for reading all these rights. And I would
10 wish that these rights -- I would have the right to actually apply
11 these rights before this Court.

12 JUDGE GUILLOU: These are the rights that apply before this
13 Court, Mr. Veseli.

14 Mr. Veseli, I also wish to inform you that according to
15 Article 21(5) of the Law, you may not represent yourself because you
16 are currently in detention and representation by Specialist Counsel
17 is therefore mandatory. I take note that you are represented by
18 counsel, and that you have been represented by counsel since the
19 beginning of the proceedings. I am therefore satisfied that the
20 accused is presently represented by counsel.

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

23 Mr. Veseli, within 30 days from today, you will be called upon
24 to admit guilt or plead not guilty on each new charge in the
25 Confirmed Amended Indictment. If you wish to do so, you may choose

1 to immediately admit guilt or plead not guilty.

2 I would therefore like to ask you, Mr. Veseli, if you have had
3 the opportunity to discuss the charges in the Confirmed Indictment
4 with your counsel, and if you are prepared to enter a plea at this
5 time?

6 Mr. Veseli.

7 THE ACCUSED VESELI: [via videolink] [Interpretation] I plead not
8 guilty.

9 JUDGE GUILLOU: Thank you, Mr. Veseli. This is noted.

10 At this point, I would like the parties and participants,
11 whether they have any other issues they would like to raise.
12 Starting with the Specialist Prosecutor's Office.

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

14 JUDGE GUILLOU: Thank you, Mr. Prosecutor.

15 Mr. Laws, please.

16 MR. LAWS: [via videolink] No, thank you, Your Honour.

17 JUDGE GUILLOU: And now I turn to the Defence.

18 Mr. Emmerson, please.

19 MR. EMMERSON: [via videolink] Nothing at this stage,
20 Your Honour. Obviously further issues are to be raised at the Status
21 Conference on 20 May.

22 JUDGE GUILLOU: Thank you, Mr. Emmerson.

23 I will just take time, very briefly, to issue an oral order on
24 the briefing schedule in relation to the Defence request for a
25 reconsideration and leave to appeal from Mr. Veseli, which is F796.

1 In light of the question of admissibility I posed in my decision
2 of 2 May 2022, which is F795, and the briefing schedule set therein,
3 I order the SPO to respond to the Veseli request, which is F796, by
4 Monday, 23 May 2022.

5 In addition, I note that I vary the deadline pursuant to Rule 9
6 of the Rules for a decision on the request for leave to appeal my
7 decision confirming the new charges to the indictment to seven days
8 from the latest submission of any of the parties on this matter.

9 And this concludes my oral order.

10 This concludes today's hearing. I thank the parties and
11 participants for their attendance, and the hearing is adjourned.

12 Thank you.

13 --- Whereupon the Further Appearance adjourned
14 at 11.37 a.m.

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