



SPECIALIST PROSECUTOR'S OFFICE
ZYRA E PROKURORIT TË SPECIALIZUAR
SPECIJALIZOVANO TUŽILAŠTVO

In: KSC-BC-2023-10
Specialist Prosecutor v. Sabit Januzi, Ismet Bahtijari and Haxhi Shala

Before: Pre-Trial Judge
Judge Nicolas Guillou

Registrar: Dr Fidelma Donlon

Filing Participant: Specialist Prosecutor's Office

Date: 29 April 2024

Language: English

Classification: Confidential

Prosecution response to F00261

Specialist Prosecutor's Office
Kimberly West

Counsel for Sabit Januzi
Jonathan Elystan Rees

Counsel for Ismet Bahtijari
Felicity Gerry

Counsel for Haxhi Shala
Toby Cadman

1. Pursuant to the Decision,¹ Haxhi Shala on 19 April 2024 requested an extension of time to file any requests related to the disclosure process in KSC-BC-2023-10 ('Case 10').² In the Request, Shala indicates his intention to object to the admissibility of certain evidence disclosed by the Specialist Prosecutor's Office ('SPO') on 19 April 2024, namely: (a) an audio recording made on 12 April 2023 (the 'Recording'); and (b) a transcript of the recording (the 'Recording Transcript').³

2. The SPO does not object to Shala's request for an extension of time, and reserves the right to respond to any disclosure-related filings. However, the SPO seeks here to clarify the record regarding certain assertions raised in the Request.

3. First, as the SPO made clear at the 22 March 2024 status conference, the Recording 'is not new . . . in that it is a version of the April 2023 recording that has already been disclosed to [the] Defence for all of the accused.'⁴ Indeed, the originally-obtained audio recording and original corresponding transcript were disclosed to Shala on 15 December 2023.

4. Second, on 19 April 2024, the SPO disclosed to Shala the Recording and Recording Transcript, as well as additional material related to the Recording.⁵ Shala has acknowledged receipt of disclosure package 26.⁶

5. Thus, although the SPO's request to add the Recording and Recording Transcript to its exhibit list remains pending with the Pre-Trial Judge,⁷ the SPO has already disclosed to Shala the materials identified in the Request.⁸ Moreover, the

¹ Decision Setting out the Calendar for the Remaining Procedural Steps of the Pre-Trial Phase, KSC-BC-2023-10/F00233, 27 March 2024 ('Decision'), para.30(e).

² Haxhi Shala Request for an Extension of Time to File its Submission of Requests Related to the Disclosure Process, KSC-BC-2023-10/F00261, 19 April 2024, Confidential ('Request').

³ See Request, KSC-BC-2023-10/F00261, paras 3-4.

⁴ Transcript (Status Conference), 22 March 2024, p.247, lines 15-17; 116623-01.

⁵ See Disclosure 26: 116623-01-TR-AT Revised, 116623-01-TR-AT-ET Revised; Disclosure 29: 120547, 120547-01, 120547-01-TR-AT, 120547-01-TR-AT-ET; 120520-120530; 120544-120544.

⁶ Request, KSC-BC-2023-10/F00261, para.3.

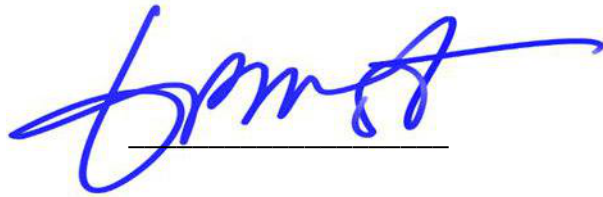
⁷ Prosecution request for Rule 102(1)(b) disclosure and to amend exhibit list, KSC-BC-2023-10/F00242, 5 April 2024, Confidential, para.5.

⁸ Request, KSC-BC-2023-10/F00261, para.5.

content of the recording and transcript is not new to the defence. Accordingly, the SPO submits that Shala should, contrary to the Request,⁹ be able in short order to provide a specific and reasonable anticipated date by which he will be able to raise any issues or challenges related to disclosure and/or evidence consistent with the Decision.¹⁰

6. This filing is submitted confidentially pursuant to Rule 82(4). The SPO does not object to its reclassification as public.

Word count: 433



Kimberly P. West

Specialist Prosecutor

Monday, 29 April 2024

At The Hague, the Netherlands.

⁹ Request, KSC-BC-2023-10/F00261, para.5.

¹⁰ See Decision, KSC-BC-2023-10/F00233, para.23.