



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: 24 May 2024

Language: English

Classification: Public

Prosecution response to F00292

Specialist Prosecutor's Office

Kimberly P. West

Counsel for Sabit Januzi

Jonathan Elystan Rees

Counsel for Ismet Bahtijari

Felicity Gerry

Counsel for Haxhi Shala

Toby Cadman

1. The Specialist Prosecutor's Office ('SPO') has no objection to a status conference being held whenever the Pre-Trial Judge considers it to be necessary or beneficial. However, the Request¹ does not support the need for a status conference; the matters raised are either moot or more appropriately addressed, in the first instance, in other forums.
2. First, the SPO's request for leave to amend the indictment² has already been ruled on,³ and a briefing schedule for further submissions is in place.
3. Second, the Defence suggests that submissions could be made on whether, pursuant to Article 25(2) of the Law,⁴ a single judge panel should be appointed to conduct the trial proceedings. However, Article 25(2) does not apply to the instant proceedings as the charges against the accused are not limited to 'crimes which are not classified as serious crimes under Article 22 of the Kosovo Criminal Procedure Code.' Article 22 of the Kosovo Criminal Procedure Code classifies as a serious crime 'intimidation during criminal proceedings, in accordance with Article 387 of the Criminal Code,' a crime with which all three accused have been charged.⁵ Thus, a single-judge Trial Panel is not an available option.
4. Third, the Defence submits that it does not have access on Legal Workflow to all of the materials that have been disclosed to the Defence by the SPO. Where technical difficulties with Legal Workflow are encountered (including accessing materials), the appropriate course of action is for the Defence to pursue this with the Registry, and only if no resolution (or interim solution) can be found there would it be necessary or appropriate for the Panel to be engaged.

¹ Request for the Pre-Trial Judge to Convene a Status Conference, KSC-BC-2023/10/F00292, 16 May 2024 ('Request').

² Request to amend pursuant to Rule 90(1)(b), KSC-BC-2023/10/F00189, 27 February 2024, Confidential.

³ Decision on Prosecution Request to Amend the Indictment, KSC-BC-2023/10/F00294, 17 May 2024, Confidential; *see also* Public Redacted Version of Decision on Request for Joinder and Amendment of the Indictment, KSC-BC-2023/10/F00161/RED, 8 February 2024, paras 55, 58(e).

⁴ Law No.05/L-053 on Specialist Chambers and Specialist Prosecutor's Office, 3 August 2015 ('Law').

⁵ Kosovo Criminal Procedure Code, Law No. 08/L-032, Art. 22(1.2.73).

5. Finally, the Defence complains that with the recent conditional assignment of Counsel under the KSC's legal aid framework came the termination of Co-Counsel, who were originally assigned outside of the legal aid framework. Again, the appropriate course would be to raise this with the Registry in the first instance. Indeed, it appears that the Defence has since been advised of the process to request admission of additional individuals as members of the team and is in the process of submitting its request.⁶

6. In light of all of the above, nothing requiring either the intervention of the Pre-Trial Judge at this time or the holding of a status conference has been identified. As such, the Request should be denied.

Word count: 491



Kimberly P. West

Specialist Prosecutor

Friday, 24 May 2024

At The Hague, the Netherlands

⁶ Registrar's Update on Defence Team Funding, KSC-BC-2023/10/F00297, 17 May 2024, Confidential, para.6.