

Annex 1 to
Order Setting the Date for the First Status Conference and for Submissions

Public

Agenda for the Status Conference and/or Written Submissions

Information to be provided by the Specialist Prosecutor's Office ("SPO") and the Defence, as the case may be:

1. General Questions (*SPO, Registry and Defence*):

- (a) Whether the SPO's investigation in this case is still ongoing and, if so, whether and how this will impact the expeditious conduct of the proceedings;
- (b) As regards the SPO: Whether forensic examinations of evidence collected by and in possession of the SPO will be requested/are ongoing and in relation to how many evidentiary items; if in the affirmative, what type of evidentiary material is or will be forensically examined and how much time is (still) needed to complete the outstanding forensic examination; lastly, whether the forensic analysis of certain evidentiary items can be prioritised;
- (c) As regards the Registry: Whether forensic examinations of evidence transmitted to the Registry will be requested/are ongoing and in relation to how many evidentiary items; if in the affirmative, what type of evidentiary material is or will be forensically examined and how much time is (still) needed to complete the outstanding forensic examination; lastly, whether the forensic analysis of certain evidentiary items can be prioritised;
- (d) What is the overall amount of evidence that the SPO is currently in possession of and intends to use for the purpose of these proceedings;
- (e) Whether the evidence to be disclosed and relied upon by the SPO requires special software or tools for its access and review;
- (f) How many witnesses did the SPO rely upon for the purposes of the Confirmed Indictment (KSC-BC-2023-12, F00040/A01) and does it intend to

rely upon them at trial; and how many witnesses does the SPO intend to add to the list of witnesses for the purpose of trial;

- (g) Whether it is feasible for the SPO to indicate at this stage when, in its view, the disclosure of its evidence and information, as foreseen in Rule 95(4) of the Rules of Procedure and Evidence before the Specialist Chambers (“Rules”), can be concluded;
- (h) In case the Defence wishes to contribute: at this stage, and without prejudice to the Accused’s rights under the Law, whether the Defence foresees to investigate and approximately how much time it will require to conclude its investigative activities;
- (i) In case the Defence wishes to contribute: at this stage, and without prejudice to the Accused’s rights under the Law, whether the Defence can indicate if it will provide notice of alibi or any other grounds excluding criminal responsibility; and
- (j) Whether the Defence intends to file preliminary motions.

2. Rule 102(1)(a) Material (Supporting Material to the Confirmed Indictment)

- (a) The overall amount of such material, including a breakdown thereof (number of witness statements, statements obtained from the Accused (if relevant), transcripts, reports, other documents, audio/video material, photographs, objects), including the total number of pages and the length of any audio/video material, where applicable;
- (b) Whether translations into Albanian of witness statements whom the SPO intends to call to testify at trial have been finalised or, if in progress, when such translations are expected to be completed;

- (c) Whether the Rule 102(1)(a) material and the Rule 86(3)(b) outline¹ require redactions; and
- (d) Whether the SPO would be prepared to disclose to the Defence such material, in whole or in part, shortly after the first status conference or in any case ahead of the thirty (30)-day deadline provided for in Rule 102(1)(a) of the Rules, *i.e.* 7 January 2025.

3. Rule 102(1)(b) Material (Additional Material Intended for Use at Trial)

- (a) Whether the SPO intends to disclose, in addition to material falling under Rule 102(1)(a) of the Rules, material falling under Rule 102(1)(b) of the Rules, including:
- statements of witnesses whom the SPO intends to call to testify at trial, including whether their translations into Albanian have been finalised or, if in progress, when such translations are expected to be completed;
 - other witness statements, expert reports, depositions, or transcripts that the SPO intends to present at trial; and
 - exhibits that the SPO intends to present at trial.
- (b) If the SPO intends to disclose such material, an indication of the estimated amount and type thereof, including the number of pages and the length of any audio/video material, where applicable;
- (c) Whether and how much of the Rule 102(1)(b) material will require redactions;
- (d) When would the SPO be prepared to disclose to the Defence the material falling under this provision; and
- (e) Whether, in order for the Defence to be able to expeditiously prepare for trial, the SPO can endeavour to disclose all documents and material referred to in

¹ See KSC-BC-2023-12, F00028/A02, Specialist Prosecutor, *Annex 2 to Submission of Indictment for confirmation and related requests*, 12 December 2024, strictly confidential and *ex parte*.

witness statements, taken either by the SPO or another entity, simultaneously with said statements, as well as to disclose witness statements and their respective translations in the same disclosure batch.

4. Rule 102(3) Material (Evidence Material to Defence Preparation, or Obtained from or Belonging to the Accused)

- (a) Whether the SPO has in its custody or control material falling under Rule 102(3) of the Rules, including any statements, documents, photographs, or other tangible objects which may be deemed by the Defence to be material to its preparation, or were obtained from or belonged to the Accused;
- (b) In case the SPO possesses such material in its custody or control, what is the type and the estimated amount thereof, including the number of pages and the length of any audio/video material, where applicable;
- (c) Whether and how much of the Rule 102(3) material will require redactions; and
- (d) When would the SPO be prepared to provide detailed notice of such material to the Defence.

5. Rule 103 Material (Exculpatory Evidence)

- (a) What is the amount and the type of exculpatory material within the meaning of Rule 103 of the Rules in the custody, control or actual knowledge of the SPO to date, and a breakdown thereof (number of witness statements, transcripts, reports, other documents, audio/video material, photographs, objects), including the total number of pages and the length of any audio/video material, where applicable; and
- (b) In case the SPO possesses such material, whether redactions will be required prior to immediate disclosure.

6. Rule 107 Material (Protected Material)

- (a) Whether the SPO has custody or control over material that it intends to tender into evidence which has been provided on a confidential basis and solely for the purpose of generating new evidence, including an indication of the estimated amount and type thereof, including the number of pages and the length of any audio/video material, where applicable;
- (b) In case the SPO intends to disclose such material, whether the material falls under Rules 102 and/or 103 of the Rules;
- (c) Whether and for which material the SPO intends to seek the consent of information providers and when receipt of such consent can be expected; whether the SPO has already taken steps to obtain the consent of the information providers to disclose such material or whether such steps are foreseen in the near future;
- (d) Whether the SPO intends to apply to the Pre-Trial Judge to be relieved in whole or in part of its obligation under Rules 102 and/or 103 of the Rules to disclose the initial material;
- (e) Whether, if such material is to be disclosed, redactions will be required; and
- (f) Whether, if such material cannot be disclosed, other counterbalancing measures pursuant to Rule 108(2) of the Rules will be requested, including which type of material may be affected thereby.

7. Redactions Regime (both SPO and Defence)

- (a) Whether the Parties concur to apply the redaction regime adopted in case KSC-BC-2023-10, in the “Framework Decision on Disclosure of Evidence and Related Matters” (F00076/RED).

8. Procedure for Disclosure (both SPO and Defence)

- (a) Whether: (i) the SPO, when disclosing batches of Rule 102(1)(a) supporting material and Rule 102(1)(b) evidence; and (ii) the Defence, when disclosing batches, if any, of material falling under Rule 104(1), (5), and (6) of the Rules, can adopt, in addition to the generic categories set out in Rule 109(c) of the Rules, case-specific categorisation in Legal Workflow at the time of disclosure of each batch of such material, in accordance with the following categories: (i) underlying offences: “count 1”, “count 2”, “count 3”, and so on, and “all”; (ii) alleged conduct of the Accused: “commission”, “incitement”, “assistance”, “agreement to commit criminal offences”, “all”; and (iii) Accused: “Thaçi”, “Smakaj”, “Fazliu”, “Kilaj”, “Kuçi”, “all”;
- (b) Whether the Parties wish to make any proposals as to further sub-categories to be added, in addition to those set out under point (a) above, should they consider this necessary;
- (c) Whether the Parties can agree on a model consolidated disclosure chart that satisfies the requirements of Rule 109(c) of the Rules and includes the aforementioned case-specific categories to be discussed at the Status Conference; and
- (d) Whether the Defence agrees to be provided with this consolidated disclosure chart at the time the SPO Pre-Trial Brief is submitted; by analogy, whether the SPO agrees to be provided with this consolidated chart at the time of filing of the Defence Pre-Trial Brief.