



KOSOVO SPECIALIST CHAMBERS  
DHOMAT E SPECIALIZUARA TË KOSOVËS  
SPECIJALIZOVANA VEÇA KOSOVA

**In:** KSC-BC-2020-06  
**Before:** Pre-Trial Judge  
Judge Nicolas Guillou  
**Registrar:** Dr Fidelma Donlon  
**Date:** 19 October 2020  
**Language:** English  
**Classification:** Strictly Confidential and *Ex Parte*

---

**Order Setting Target Date for a Decision Pursuant to Article 39(2)**

---

**Specialist Prosecutor**

Jack Smith

**THE PRE-TRIAL JUDGE**,<sup>1</sup> pursuant to Article 39(2) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rule 85(5) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), hereby issues the following order.

## I. PROCEDURAL BACKGROUND

1. On 24 April 2020, the Specialist Prosecutor's Office ("SPO") submitted for confirmation a strictly confidential and *ex parte* indictment ("Indictment"), together with supporting evidentiary material and a detailed outline of the evidentiary material's relevance to each allegation.<sup>2</sup>

2. On 28 May 2020, the SPO requested, *inter alia*, the (i) issuance of arrest warrants for Hashim Thaçi ("Mr Thaçi"), Kadri Veseli ("Mr Veseli"), Rexhep Selimi and Jakup Krasniqi (collectively, the "Suspects") and related transfer orders; and (ii) interim non-disclosure of the Indictment, related documents and identities of witnesses and victims.<sup>3</sup>

3. On 17 June 2020, upon request of the SPO,<sup>4</sup> the Pre-Trial Judge issued a decision authorising the submission of additional supporting material and an updated detailed outline.<sup>5</sup>

---

<sup>1</sup> KSC-BC-2020-06, F00001, President, *Decision Assigning a Pre-Trial Judge*, 23 April 2020, public.

<sup>2</sup> KSC-BC-2020-06, F00002, Specialist Prosecutor, *Submission of Indictment for Confirmation*, 24 April 2020, strictly confidential and *ex parte*, with Annexes 1-3, strictly confidential and *ex parte*.

<sup>3</sup> KSC-BC-2020-06, F00005, Specialist Prosecutor, *Request for Arrest Warrants and Related Orders*, 28 May 2020, strictly confidential and *ex parte*, with Annexes 1-3, strictly confidential and *ex parte*.

<sup>4</sup> KSC-BC-2020-06, F00006, Specialist Prosecutor, *Request to Present Additional Supporting Materials*, 2 June 2020, strictly confidential and *ex parte*, with Annexes 1-2, strictly confidential and *ex parte*.

<sup>5</sup> KSC-BC-2020-06, F00007, Pre-Trial Judge, *Decision on Specialist Prosecutor's Request to Present Additional Supporting Material*, 17 June 2020, strictly confidential and *ex parte*, para. 10.

4. On 23 June 2020, the Pre-Trial Judge authorised an SPO request<sup>6</sup> for the following information from the Indictment to be publicly disclosed: (i) the identities of Mr Thaçi and Mr Veseli as charged suspects; and (ii) the number of counts, legal characterisation and nature of the alleged crimes, approximate number of known victims, and their affiliation or ethnicity.<sup>7</sup>

5. On 2 July 2020, the Pre-Trial Judge requested the SPO to (i) prepare a revised indictment incorporating a detailed statement of facts that delineates with more specificity the factual allegations corresponding to each alleged crime; and (ii) charge the four Suspects solely under Articles 13, 14, and 16 of the Law.<sup>8</sup>

6. On 24 July 2020, the SPO submitted a revised indictment for confirmation (“Revised Indictment”).<sup>9</sup>

7. On 29 July 2020, the SPO filed a second request for authorisation to submit additional supporting material.<sup>10</sup> The Pre-Trial Judge authorised this on 30 July 2020, and ordered the submission of a supplemental detailed outline.<sup>11</sup> The SPO submitted the latter on 12 August 2020.<sup>12</sup>

8. On 18 September 2020, the Pre-Trial Judge requested the SPO to clarify discrepancies between the Revised Indictment and the detailed outline in relation to

---

<sup>6</sup> KSC-BC-2020-06, F00008, Specialist Prosecutor, *Urgent Request for Authorisation to Disclose Information Relating to the Indictment*, 23 June 2020, strictly confidential and *ex parte*.

<sup>7</sup> KSC-BC-2020-06, F00009, Pre-Trial Judge, *Decision on Specialist Prosecutor’s Urgent Request*, 23 June 2020, strictly confidential and *ex parte*, paras 4, 9.

<sup>8</sup> KSC-BC-2020-06, F00010, Pre-Trial Judge, *Order to the Specialist Prosecutor Pursuant to Rule 86(4) of the Rules*, 2 July 2020, strictly confidential and *ex parte*, paras 22-23, 26, 27(a)-(b).

<sup>9</sup> KSC-BC-2020-06, F00011, Specialist Prosecutor, *Submission of Revised Indictment for Confirmation*, 24 July 2020, strictly confidential and *ex parte*, with Annex 1 (“Revised Indictment”), strictly confidential and *ex parte*.

<sup>10</sup> KSC-BC-2020-06, F00012, Specialist Prosecutor, *Second Request to Present Additional Supporting Materials*, 29 July 2020, strictly confidential and *ex parte*.

<sup>11</sup> KSC-BC-2020-06, F00013, Pre-Trial Judge, *Second Decision on Specialist Prosecutor’s Request to Present Additional Supporting Material*, 30 July 2020, strictly confidential and *ex parte*.

<sup>12</sup> KSC-BC-2020-06, F00014, Specialist Prosecutor, *Submission of Supplemental Rule 86(3)(b) Outline*, 12 August 2020, strictly confidential and *ex parte*, with Annex 1, strictly confidential and *ex parte*.

certain locations and individuals and, if need be, to submit a further revised indictment.<sup>13</sup> The SPO provided these clarifications on 24 September 2020, adding that it did not intend to submit a further revised indictment.<sup>14</sup>

## II. APPLICABLE LAW

9. Pursuant to Rule 85(5) of the Rules, the target date for the Pre-Trial Judge's decision on the confirmation or dismissal of an indictment shall be, subject to the specificities of the case, no later than six months from the filing of the indictment and all supporting material.

## III. DETERMINATION OF THE TARGET DATE

10. The Pre-Trial Judge's decision to confirm or dismiss an indictment is contingent upon the finalised (revised) version of that indictment and the totality of the supporting material and all other relevant information and submissions made by the SPO. It is only at this point that the Pre-Trial Judge is in possession of all submissions, material and information necessary to reaching his decision under Article 39(2) of the Law. Consequently, the six-month time limit set out in Rule 85(5) of the Rules should not start running until that point. In the present case, this means that the six-month time limit started running as of 12 August 2020, the date when the SPO submitted the supplemental detailed outline.

---

<sup>13</sup> KSC-BC-2020-06, F00016, Pre-Trial Judge, *Second Order to the Specialist Prosecutor Pursuant to Rule 86(4) of the Rules*, 18 September 2020, strictly confidential and *ex parte*.

<sup>14</sup> KSC-BC-2020-06, F00018, Specialist Prosecutor, *Submission Pursuant to Order KSC-BC-2020-06/F00016*, 24 September 2020, strictly confidential and *ex parte*.

11. Nonetheless, to ensure the expeditious conduct of the proceedings, the Pre-Trial Judge decides to issue the decision pursuant to Article 39(2) of the Law in advance of said deadline.

#### IV. DISPOSITION

12. The Pre-Trial Judge hereby:

**DETERMINES** that a decision pursuant to Article 39(2) of the Law will be issued on Monday, 26 October 2020.



---

**Judge Nicolas Guillou**  
**Pre-Trial Judge**

Dated this Monday, 19 October 2020,  
At The Hague, the Netherlands.