



KOSOVO SPECIALIST CHAMBERS  
DHOMAT E SPECIALIZUARA TË KOSOVËS  
SPECIJALIZOVANA VEÇA KOSOVA

**In:** **KSC-BC-2020-05**  
**The Prosecutor v. Salih Mustafa**

**Before:** **Pre-Trial Judge**  
Judge Nicolas Guillou

**Registrar:** Dr Fidelma Donlon

**Date:** 23 October 2020

**Language:** English

**Classification:** **Public**

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**Order Shortening the Time Limits**

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**Specialist Prosecutor**  
Jack Smith

**Counsel for the Accused**  
Julius von Bóné

**THE PRE-TRIAL JUDGE**,<sup>1</sup> pursuant to Article 39(13) of the Law on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rule 9(5)(a) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), hereby renders this order.

## I. PROCEDURAL BACKGROUND

1. On 9 October 2020, the Pre-Trial Judge issued the "Framework Decision on Disclosure of Evidence and Related Matters" ("Framework Decision"), in which he, *inter alia*, ordered the Specialist Prosecutor's Office ("SPO") to submit disclosure charts together with any future disclosure package of incriminating evidence falling under Rule 102(1)(b) of the Rules.<sup>2</sup> The same applies to the Defence, should it choose to disclose any evidence.<sup>3</sup>
2. On 19 October 2020, the SPO submitted a request seeking reconsideration of or, in the alternative, leave to appeal the order to file disclosure charts ("Request").<sup>4</sup>
3. On the same day, the Pre-Trial Judge issued an order convening a status conference on disclosure matters for Wednesday, 28 October 2020, at 15:00 hours.<sup>5</sup>

## II. APPLICABLE LAW

4. Pursuant to Rule 76 of the Rules, any response to a motion shall be filed within ten days of the motion and any reply to a response shall be filed within five days of the response.

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<sup>1</sup> KSC-BC-2020-05, F00001, President, Decision Assigning a Pre-Trial Judge, 14 February 2020, public.

<sup>2</sup> KSC-BC-2020-05, F00034, Pre-Trial Judge, *Framework Decision on Disclosure of Evidence and Related Matters*, 9 October 2020, public, para. 90(m).

<sup>3</sup> Framework Decision, para. 90(n).

<sup>4</sup> KSC-BC-2020-05, F00037, Specialist Prosecutor, *Request for Reconsideration of or, in the Alternative, Leave to Appeal the Order to File Disclosure Charts*, 19 October 2020, public.

<sup>5</sup> KSC-BC-2020-05, F00039, Pre-Trial Judge, *Order Setting the Date for the Plea Hearing and a Second Status Conference*, 19 October 2020, public, paras 19, 22(a).

5. Pursuant to Rule 9(5)(a) of the Rules, the Pre-Trial Judge may *proprio motu* reduce any time limit prescribed by the Rules.

### III. DISCUSSION

6. The time limit for any Defence response to the Request is Thursday, 29 October 2020, while the time limit for any SPO reply would be Tuesday, 3 November 2020, at the latest.

7. The Pre-Trial Judge considers, however, that the issue raised by the SPO in its Request may have implications for the disclosure process and the calendar for disclosure, as set out in the Framework Decision.<sup>6</sup> Therefore, in order to limit delays and to ensure the fair and expeditious conduct of the disclosure process, it is necessary to shorten the time limits for the Defence response and the SPO reply, should either Party choose to make submissions.

8. Accordingly, the Pre-Trial Judge considers it appropriate to order the Defence to provide any response in writing, by Tuesday, 27 October 2020, or to provide oral submissions during the upcoming status conference of Wednesday, 28 October 2020, at the Defence's discretion. It is also appropriate to hear the SPO reply, if any, orally during the same status conference or in writing, by Thursday, 29 October 2020, at the SPO's discretion.

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<sup>6</sup> Framework Decisions, in particular paras 44-53.

## IV. DISPOSITION

9. For the above-mentioned reasons, the Pre-Trial Judge hereby:

- a. **REQUESTS** the Defence to provide its response to the Request in writing, by **Tuesday, 27 October 2020**, or to provide oral submissions during the upcoming status conference of **Wednesday, 28 October 2020**, at the Defence's discretion; and
- b. **REQUESTS** the SPO to provide its reply to the Defence response orally, during the upcoming status conference of **Wednesday, 28 October 2020**, or in writing, by **Thursday, 29 October 2020**, at the SPO's discretion.



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

Dated this Friday, 23 October 2020  
At The Hague, the Netherlands.