



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

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

Before: Pre-Trial Judge
Judge Nicolas Guillou

Registrar: Dr Fidelma Donlon

Filing Participant: Specialist Prosecutor

Date: 4 November 2020

Language: English

Classification: Public

Joint submission of Rule 109(c) categorisation chart

with public Annex 1

Specialist Prosecutor's Office

Jack Smith

Counsel for the Accused

Julius von Bóné

1. Pursuant to the Order¹ of the Pre-Trial Judge, the Specialist Prosecutor's Office ('SPO') hereby submits a template Rule 109(c)² categorisation chart which has been discussed and agreed between the SPO and defence counsel for the Accused ('Defence').³
2. Consistent with Rule 109(c), the Proposed Chart categorises disclosed information in accordance with the charges in the indictment, with specific reference to the underlying crimes, contextual elements and alleged conduct of the accused.⁴
3. The Proposed Chart is intended as a tool to assist the parties, Pre-Trial Judge, and any Trial Panel in understanding and navigating material disclosed pursuant to Rule 102(1)(b) by the SPO or Rule 104 by the Defence.⁵ As such, the Proposed Chart is intended to provide sufficient flexibility for modification or supplementation, as relevant, to meet the needs of all users.⁶
4. In this case, a completed Rule 109(c) categorisation, in the format of the Proposed Chart, could be submitted by the SPO within a week from submission of the SPO's Pre-Trial Brief,⁷ noting that the categorisation and, in particular, the specific referencing would be drawn from the analysis in the Pre-Trial Brief.

¹ Transcript of Further Appearance and Status Conference, 28 October 2020, p.74 line 21 to p.75, line 2.

² Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 ('Rules'). Unless otherwise indicated, all references to 'Rule(s)' are to the Rules.

³ Annex 1 ('Proposed Chart'). The specific document entries in the Proposed Chart are by way of example only and do not necessarily reflect actual evidentiary items.

⁴ Beyond the express requirements of Rule 109(c), the Proposed Chart is subdivided into individual counts and modes of liability and will, as far as practicable, be further broken down by the legal elements of each and location/date, as relevant.

⁵ The categorisation is not binding on the parties, or any Trial Panel, in terms of how such material is ultimately used or relied upon. *See also* Rules 137(2), 139.

⁶ In this regard, for example, an additional 'Comments' column has been added, including to enable users of the chart to add their own analysis/ notes. To further facilitate the chart as a workable document for all users, the SPO and Defence have agreed that the disclosing party shall also make the completed chart available in either word or excel format.

⁷ Regarding proposed timing for submission of the Pre-Trial Brief *see* Transcript of Further Appearance and Status Conference, 28 October 2020, p.81, lines 4-19 (SPO and Defence submissions).

Word count: 409



Jack Smith

Specialist Prosecutor

Wednesday, 4 November 2020

At The Hague, the Netherlands.