



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA KOSOVA

In: **KSC-BC-2020-07**
The Prosecutor v. Hysni Gucati and Nasim Haradinaj

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

Registrar: Dr Fidelma Donlon

Date: 8 March 2021

Language: English

Classification: **Public**

Consolidated Calendar for the Remainder of the Pre-Trial Proceedings

Specialist Prosecutor
Jack Smith

Counsel for Hysni Gucati
Jonathan Elystan Rees
Huw Bowden

Counsel for Nasim Haradinaj
Toby Cadman
Carl Buckley

THE PRE-TRIAL JUDGE,¹ pursuant to Article 39(1) and (13) of the Law on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rule 95(2)(a) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), hereby issues this order.

I. PROCEDURAL BACKGROUND

1. On 8 January 2021, the Pre-Trial Judge held the first status conference in this case.²

2. On 22 January 2021, further to written and oral submissions from the Parties,³ the Pre-Trial Judge issued a framework decision on disclosure ("Framework Decision"), setting out, *inter alia*, time limits for the Specialist Prosecutor's Office ("SPO") to meet its disclosure obligations under the Rules.⁴

3. On 24 February 2021, the Pre-Trial Judge held the second status conference in this case ("Second Status Conference"), on the occasion of which the Parties submitted their views on upcoming procedural steps.⁵

4. Following the Second Status Conference, the Parties had to comply with the following deadlines:

¹ KSC-BC-2020-07, F00061, President, *Decision Assigning a Pre-Trial Judge*, 29 October 2020, public.

² KSC-BC-2020-07, F00089, Pre-Trial Judge, *Order Setting the Date for the Plea Hearing and the First Status Conference and on Related Matters*, 18 December 2020, public; Transcript, 8 January 2021 ("First Status Conference"), public.

³ KSC-BC-2020-07, F00096, Specialist Prosecutor, *Prosecution Submissions for First Status Conference* ("SPO Submissions"), 5 January 2021, public; F00099, Defence for Mr Haradinaj, *Defence Submissions for First Status Conference on Behalf of Nasim Haradinaj* ("Haradinaj Submissions"), 7 January 2021, public; F00100, Defence for Mr Gucati, *Defence Submissions for the First Status Conference* ("Gucati Submissions"), 7 January 2021, public; First Status Conference, pp. 92-94, 101, 108-120.

⁴ KSC-BC-2020-07, F00104, Pre-Trial Judge, *Framework Decision on Disclosure of Evidence and Related Matters* ("Framework Decision"), 22 January 2021, public.

⁵ KSC-BC-2020-07, F00129, Pre-Trial Judge, *Order Setting the Date for the Second Status Conference and Related Matters* ("Order for Second Status Conference"), 17 February 2021, public; Transcript, 24 February 2021 ("Second Status Conference"), public.

- a. the SPO to disclose to the Defence a redacted version of the information identified in F00136, by **Thursday, 4 March 2021**;⁶ and
 - b. the Defence to indicate to the SPO, by **Friday, 5 March 2021**, or at any time earlier, which items, among those listed in the detailed notice under Rule 102(3) of the Rules submitted by the SPO on 19 February 2021, they seek to have access to by way of disclosure or inspection,⁷ and which other items should be on an updated such list.⁸
5. On 8 March 2021, the Pre-Trial Judge issued a decision on the preliminary motions filed by the Defence.⁹

II. DISPOSITION

6. Having considered the Parties' submissions on the progress of disclosure and investigations as well as on the upcoming procedural steps, recalling the outstanding time limits from the Framework Decision and other orders and with a view to setting a calendar for the remainder of the pre-trial proceedings, the Pre-Trial Judge hereby:

- a. **REMINDS** the Parties of the following orders:
 - i. the SPO to seize the Pre-Trial Judge, **within five days of the Defence indication(s)** as referred to under paragraph 4.b above, should it dispute the materiality of evidence;¹⁰

⁶ KSC-BC-2020-07, F00136, Pre-Trial Judge, *Decision on Non-Disclosure of Certain Witness Contacts*, 22 February 2021, confidential, para. 32(b). *See also* Disclosure Batch 8, 4 March 2021.

⁷ Framework Decision, para. 85(d).

⁸ Second Status Conference, p. 131, lines 4-9.

⁹ KSC-BC-2020-07, F00113/RED, Defence for Mr Gucati, *Public Redacted Version of the Preliminary Motion Alleging Defects in the Form of the Indictment Pursuant to Rule 97(1)(b)*, 2 February 2021, public; F00116, Defence for Mr Haradinaj, *Preliminary Motion on the Issue of the Indictment Being Defective*, 4 February 2021 (incorrectly dated 3 February 2021), confidential; F00147/RED, Pre-Trial Judge, *Public Redacted Version of Decision on Defence Preliminary Motions*, 8 March 2021, public.

¹⁰ Framework Decision, para. 85(g).

- ii. the SPO, on the basis of any Defence indication(s) under paragraph 4.b above, to disclose to or provide the Defence with access to the selected material that does not require redactions no later than **Friday, 12 March 2021, or within one week of the Defence indication**, whichever is earlier;¹¹
- iii. the SPO, on the basis of any Defence indication(s) as referred to under paragraph 4.b above, to file any request for protective measures of selected material no later than **Friday, 19 March 2021, or within two weeks of the Defence indication**, whichever is earlier;¹²
- iv. the SPO to submit any outstanding requests under Rules 107 and/or 108 of the Rules by **Friday, 19 March 2021**, and the Defence to respond, if it so wishes, to any such requests **within five (5) days of notification**;¹³
- v. the SPO to provide to the Defence by **Friday, 19 March 2021**, further information, as set out in F00141;¹⁴
- vi. the Parties to notify, by **Friday, 9 April 2021**, the Pre-Trial Judge by joint submission of any agreement on points of law and fact;¹⁵
- vii. the SPO to file, by **Friday, 9 April 2021**, its Pre-Trial Brief, witness and exhibits lists as well as its consolidated Rule 109(c) disclosure chart;¹⁶

¹¹ Framework Decision, para. 85(e).

¹² Framework Decision, para. 85(f).

¹³ Order for Second Status Conference, para. 10(c).

¹⁴ KSC-BC-2020-07, F00141, Pre-Trial Judge, *Decision on Disclosure of Certain Documents Seized from the KLA War Veterans Association*, 23 February 2021, confidential, para. 47(b).

¹⁵ Second Status Conference, p. 178, lines 2-3.

¹⁶ Second Status Conference, p. 178, lines 4-6.

- viii. the SPO to complete, by **Friday, 9 April 2021**, its disclosure under Rule 102 and disclosure of any Rule 103 material in its possession;¹⁷
- b. in order to facilitate Defence investigations and advance the next steps in the pre-trial proceedings:
- i. **DIRECTS** the Registrar to file, by **Monday, 15 March 2021**, written submissions accessible to the Pre-Trial Judge and the Defence only, providing up-to-date information on:
- 1) the support provided by the Registry to persons traveling on official SC business into the Netherlands and Kosovo; and
 - 2) any steps the Registry's Defence Office is in a position to take in order to identify investigators or otherwise connect Defence Counsel directly with professionals who can assist in their investigations;
- ii. **ORDERS** the Defence to:
- 1) indicate, by **Tuesday, 11 May 2021**, any intention to give notice of an alibi, pursuant to Rule 95(5) of the Rules, and any associated disclosure pursuant to Rule 104(1)(a) of the Rules, and, should the Defence need to seize the Pre-Trial Judge with any request(s) for protective measures prior to disclosing alibi-related material, to do so no later than **Monday, 26 April 2021**;
 - 2) indicate, by **Tuesday, 11 May 2021**, any intention to give notice of grounds for excluding responsibility, pursuant to Rule 95(5) of the Rules, and any associated disclosure

¹⁷ Second Status Conference, p. 178, lines 7-9.

- pursuant to Rule 104(1)(b) of the Rules, and, should the Defence need to seize the Pre-Trial Judge with any request(s) for protective measures prior to disclosing material related to grounds excluding responsibility, to do so no later than **Monday, 26 April 2021**;
- 3) indicate, by **Tuesday, 11 May 2021**, any intention to make requests concerning unique investigative opportunities, pursuant to Rules 99(1) and 100(1) of the Rules; and
 - 4) file, by **Monday, 14 June 2021**, if they so wish, their Pre-Trial Briefs as set out in Rule 95(5) of the Rules; and
- c. subject to the conclusion of the aforementioned procedural steps and provided that the preliminary motions have been disposed of by the Court of Appeals Panel, **SETS** as tentative date for the transmission of the case file under Rule 98(1) of the Rules the day of **Wednesday, 30 June 2021**.



Judge Nicolas Guillou
Pre-Trial Judge

Dated this Monday, 8 March 2021
At The Hague, the Netherlands.