



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA KOSOVA

In: KSC-BC-2020-06

**The Prosecutor v. Hashim Thaçi, Kadri Veseli, Rexhep Selimi,
and Jakup Krasniqi**

Before: Pre-Trial Judge

Judge Nicolas Guillou

Registrar: Dr Fidelma Donlon

Date: 15 April 2021

Language: English

Classification: Public

Decision on the Defence Request in Relation to the Prosecution Pre-Trial Brief

Specialist Prosecutor
Jack Smith

Counsel for Hashim Thaçi
David Hooper

Counsel for Kadri Veseli
Ben Emmerson

Counsel for Rexhep Selimi
David Young

Counsel for Jakup Krasniqi
Venkateswari Alagendra

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

I. PROCEDURAL BACKGROUND

1. On 12 March 2021, the Pre-Trial Judge issued the "Decision on Categorisation of Evidence Under Rule 109(c) and Related Matters" ("Categorisation Decision"), in which, *inter alia*, the Pre-Trial Judge rejected the request² by the Defence for Kadri Veseli ("Veseli Defence") to order the Specialist Prosecutor's Office ("SPO") to file its Pre-Trial Brief pursuant to Rule 95(4) of the Rules by April 2021.³
2. On 24 March 2021, during the fourth status conference in this case, the Veseli Defence requested that the Pre-Trial Judge order the SPO to file its Pre-Trial Brief on 1 June 2021 at the latest ("Request").⁴
3. On 6 April 2021, the SPO submitted its response to the Request ("Response").⁵
4. On 12 April 2021, the Veseli Defence submitted its reply ("Reply").⁶

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

² KSC-BC-2020-06, Transcript of Hearing, 16 February 2021 ("16 February 2021 Transcript"), p. 267, line 12 to p. 268, line 9.

³ KSC-BC-2020-06, F00218, Pre-Trial Judge, *Decision on Categorisation of Evidence under Rule 109(c) and Related Matters*, 12 March 2021, public, para. 23.

⁴ KSC-BC-2020-06, Transcript of Hearing, 24 March 2021 ("24 March 2021 Transcript"), public, p. 392, lines 10-12.

⁵ KSC-BC-2020-06, F00243, Specialist Prosecutor, *Prosecution Response to the Veseli Defence Request Relating to the Pre-Trial Brief*, 6 April 2021, public.

⁶ KSC-BC-2020-06, F00244, Veseli Defence, *Veseli Defence Reply to "Prosecution Response to the Veseli Defence Request Relating to the Pre-Trial Brief"*, 12 April 2021, public.

II. APPLICABLE LAW

5. Pursuant to Rule 95(2) of the Rules, the Pre-Trial Judge shall ensure that the proceedings are not unduly delayed and shall take all necessary measures for the expeditious preparation of the case for trial.

6. Pursuant to Rule 95(4) of the Rules, the Pre-Trial Judge shall order the SPO to file, within a set time limit: (i) its pre-trial brief, including any admissions by the Defence and a statement of matters which are not in dispute; (ii) a list of witnesses it intends to call; and (iii) a list of exhibits it intends to present, including, where possible, any Defence objections to authenticity.

III. DISCUSSION

7. The Pre-Trial Judge recalls that in the Categorisation Decision, he stated that the case-specific categorisation to be implemented in Legal Workflow, the designated electronic software for disclosure, provides adequate guidance to the Defence when reading the Rule 102(1)(b) disclosed material.⁷ Accordingly, the Pre-Trial Judge found no reason to order the SPO to file its Pre-Trial Brief as early as April 2021.⁸

8. At the outset, the Pre-Trial Judge stresses that the legal framework of the Specialist Chambers remains silent regarding the temporal proximity of the filing of the SPO Pre-Trial Brief and the transmission of the case file to the Trial Panel, even more so based on considerations of witness protection.⁹ The determination of the timing and stage at which the Parties' respective Pre-Trial Briefs and related material under Rule 95(4) and (5) of the Rules should be filed is primarily related to the efficient and fair conduct of proceedings, taking into account the state of advancement of the disclosure process and the consequent need for each Party to prepare for trial. At this

⁷ Categorisation Decision, para. 23.

⁸ Categorisation Decision, para. 23.

⁹ Reply, paras 2, 8.

juncture, the Defence is able to commence its investigation, if it so wishes, considering the guidance provided by numerous documents, evidence and categorisation that have been shared with or disclosed to the Defence.¹⁰ Therefore, considering that the categorisation and disclosure of Rule 102(1)(b) material is supposed to continue until 23 July 2021,¹¹ and that disclosure of Rule 102(3) material is also likely to extend through September 2021,¹² the Pre-Trial Judge finds it premature, at this stage, to set any date for the SPO Pre-Trial Brief and related material.

IV. DISPOSITION

9. For the above-mentioned reasons, the Pre-Trial Judge hereby **REJECTS** the Request.



Judge Nicolas Guillou

Pre-Trial Judge

Dated this Thursday, 15 April 2021

At The Hague, the Netherlands.

¹⁰ Categorisation Decision, paras 14, 23.

¹¹ Categorisation Decision, para. 22.

¹² KSC-BC-2020-06, F00099, Pre-Trial Judge, *Framework Decision on Disclosure of Evidence and Related Matters*, 23 November 2020, public, para. 99(h); 24 March 2021 Transcript, p. 390, line 19 to p. 391, line 8.