



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

In: KSC-BC-2020-06
Before: Pre-Trial Judge
Judge Nicolas Guillou

Registrar: Dr Fidelma Donlon
Filing Participant: Specialist Prosecutor
Date: 18 June 2021
Language: English
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Prosecution request for extension of time limit to provide its Rule 102(3) notice

Specialist Prosecutor's Office

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I. INTRODUCTION

1. The Specialist Prosecutor's Office ('SPO') requests an extension to 30 July 2021 for provision of the Rule 102(3)¹ detailed notice.² Good cause³ exists for this extension as it accords with the purpose of the Rule 102(3) notice within the wider disclosure framework, and will streamline the work of each of the Parties and of the Panel.

II. SUBMISSIONS

2. The Rule 102(3) detailed notice comprises residual items relevant to the case which are in the possession of the SPO following disclosure pursuant to other Rules, including Rule 102(1)(b).⁴ As such, and as previously submitted,⁵ the scope of Rule 102(3) material is necessarily impacted by and dependent on the disclosure of witness material and evidence to be presented at trial. Provision of the Rule 102(3) notice should therefore occur at a stage when disclosure pursuant to other Rules is sufficiently advanced.⁶

¹ Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 ('Rules'). All references to 'Rule' or 'Rules' herein refer to the Rules, unless otherwise specified.

² The current deadline for provision of the Rule 102(3) notice is 25 June 2021 (Transcript of Hearing on 24 March 2021, Oral order on SPO request for extension of the deadline for the detailed outline under Rule 102(3), pp.390-391). *See also* Prosecution submissions for fourth status conference and request for adjustment of time limits, 22 March 2021, KSC-BC-2020-06/F00235 ('Prior Submissions'), paras 10-13.

³ Rule 9(5)(a) provides that '[t]he Panel may, *proprio motu* or upon showing of good cause [,] extend or reduce any time limit prescribed by the Rules or set by the Panel'.

⁴ Framework Decision, KSC-BC-2020-06/F00099, para.26 ('[t]he items to be included in the Rule 102(3) notice will comprise any residual evidence potentially material to the Defence's preparation, after the items falling under Rule 102(1)(b) [...] have been disclosed').

⁵ Prior Submissions, KSC-BC-2020-06/F00235, para.12. *See also* Prosecution Submissions for first Status Conference, 13 November 2020, KSC-BC-2020-06/F00076, para. 16.

⁶ For example, in KSC-BC-2020-05 the Rule 102(3) notice was provided two weeks *after* completion of Rule 102(1)(b) disclosure (see KSC-BC-2020-05/F00034, para.90 (establishing deadlines of 16 November 2020 and 1 December 2020, respectively)). Similarly, in KSC-BC-2020-04 the Rule 102(3) notice is to be provided one month *after* completion of Rule 102(1)(b) disclosure (see KSC-BC-2020-04/F00033, para.92 (establishing deadlines of 30 July 2021 and 3 September 2021, respectively)). In KSC-BC-2020-07 the Rule 102(3) notice was to be provided concurrently with completion of Rule 102(1)(b) disclosure (see KSC-BC-2020-07/F00104, para.85 (setting a deadline of 19 February 2021 for both)).

3. As mentioned in the Fifth Status Conference, the SPO has been conducting a stock-taking of the ongoing disclosure process and adjusting its resources as required.⁷ While it had previously been anticipated that it might have been possible to provide the Rule 102(3) notice in advance of the Rule 102(1)(b) deadline, it is apparent that doing so after completion of Rule 102(1)(b) disclosure is in fact necessary.

4. Providing the detailed notice before further advancing disclosure pursuant to other Rules would not be an efficient use of the parties and Pre-Trial Judge's time, since: (i) material falling under Rule 102(1)(b) or Rule 103 would be likely to be duplicative with material listed in the Rule 102(3) notice; and (ii) the Defence may review and request material due to anyway be disclosed on or before 23 July 2021. As such, the limited extension of deadline requested is anticipated to facilitate the efficiency of the overall disclosure process.

5. Moreover, preparation of the Rule 102(3) notice is itself resource intensive, requiring, *inter alia*, careful review for accuracy, clearance status and, in many instances, individualised risk assessments. Within existing limited resources, these tasks cannot be adequately completed in parallel to the ongoing disclosure review.

6. After completion of Rule 102(1)(b) disclosure a certain number of further technical steps will be necessary to avoid duplication and ensure that the detailed notice does not contain items previously disclosed under Rule 102(1)(b) and Rule 103. For these reasons, the SPO respectfully requests an extension to 30 July 2021 for provision of the Rule 102(3) notice.

7. Should the requested extension be granted, the SPO does not object to the deadline of 20 August 2021 for the Defence to request Rule 102(3) materials, or subsequent Rule 102(3) deadlines, being adjusted accordingly.

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⁷ Transcript of Hearing on 19 May 2021, p.401.



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Friday, 18 June 2021
At The Hague, the Netherlands.