



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: 12 July 2021

Language: English

Classification: **Public**

Order Setting the Date for a Sixth Status Conference and for Submissions

Specialist Prosecutor
Jack Smith

Counsel for Victims
Simon Laws

Counsel for Hashim Thaçi
Gregory Kehoe

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 96(1) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), hereby renders this order.

I. PROCEDURAL BACKGROUND

1. On 26 October 2020, the Pre-Trial Judge confirmed the indictment against Hashim Thaçi, Kadri Veseli, Rexhep Selimi, and Jakup Krasniqi (collectively referred to as the "Defence").²
2. On 12 March 2021, the Pre-Trial Judge issued the "Decision on Categorisation of Evidence Under Rule 109(c) and Related Matters", in which case-specific categorisation of Rule 102(1)(b) material was ordered and the deadline for disclosure of such material was extended to 23 July 2021.³
3. On 19 May 2021, pursuant to a scheduling order of the Pre-Trial Judge,⁴ a fifth status conference was held ("Fifth Status Conference"), in which the SPO indicated that its most recent estimate for the filing of a pre-trial brief is mid-October 2021.⁵

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

² KSC-BC-2020-06, F00026/RED, Pre-Trial Judge, *Public Redacted Version of Decision on the Confirmation of the Indictment Against Hashim Thaçi, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi*, 26 October 2020, public; KSC-BC-2020-06, F00045/A03, Specialist Prosecutor, *Further Redacted Indictment*, 4 November 2020, public.

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. 22.

⁴ KSC-BC-2020-06, F00300, Pre-Trial Judge, *Order Setting the Date for a Fifth Status Conference and for Submissions*, 14 May 2021, public, para. 19.

⁵ KSC-BC-2020-06, Transcript of Hearing, 19 May 2021, public, p. 420, line 24 to p. 421, line 3. Four status conferences were held prior to that at regular intervals, namely on 18 November 2020, 17 December 2020, 16 February 2021, and 24 March 2021. See KSC-BC-2020-06, F00074, Pre-Trial Judge, *Order Setting the Date for a Status Conference and for Submissions*, 11 November 2020, public, with Annex 1, public; Transcript of Hearing, 18 November 2020, public; F00130, Pre-Trial Judge, *Order Setting the Date for a Second Status Conference and for Submissions*, 8 December 2020, public; Transcript of Hearing, 17 December 2020, public; F00185, Pre-Trial Judge, *Order Setting the Date for a Third Status Conference and for Submissions*, 3 February 2021, public; F00193, Pre-Trial Judge, *Order Rescheduling the Third Status*

4. On 24 June 2021, pursuant to a request of the SPO,⁶ the Pre-Trial Judge extended the deadlines in relation to Rule 102(3) material.⁷

5. On 8 July 2021, the SPO filed its eighth request for protective measures.⁸

II. APPLICABLE LAW

6. Pursuant to Rule 96(1) of the Rules, following the first status conference, the Pre-Trial Judge shall convene subsequent status conferences as deemed necessary in order to: (i) organise exchanges between the Parties and, where applicable, Victims' Counsel so as to ensure expeditious preparation for trial; (ii) take steps to ensure that all necessary preparations are being conducted by the Parties in a timely and diligent fashion; and (iii) review the status of the case and allow the Parties and, where applicable, Victims' Counsel the opportunity to raise issues in relation thereto.

7. Pursuant to Article 21(6) of the Law, all material and relevant evidence or facts in possession of the SPO which are for or against the Accused shall be made available to the Accused before the beginning of and during the proceedings, subject only to restrictions which are strictly necessary and when any necessary counter-balance protections are applied. Pursuant to Rule 102(3) of the Rules, the SPO shall provide detailed notice to the Defence of any material and evidence in its possession.

8. 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

Conference, 9 February 2021, public; Transcript of Hearing, 16 February 2021, public; F00227, Pre-Trial Judge, *Order Setting the Date for a Fourth Status Conference and for Submissions*, 17 March 2021, public; Transcript of Hearing, 24 March 2021, public.

⁶ KSC-BC-2020-06, F00356, Specialist Prosecutor, *Prosecution Request for Extension of Time Limit to Provide Rule 102(3) Notice*, 18 June 2021, public.

⁷ KSC-BC-2020-06, F00370, Pre-Trial Judge, *Decision on Prosecution Request for Extension of Time Limit to Provide its Rule 102(3) Notice*, 24 June 2021, public, para. 16.

⁸ KSC-BC-2020-06, F00387, Specialist Prosecutor, *Eighth Request for Protective Measures*, 8 July 2021, strictly confidential and *ex parte*, with Annexes 1-18, strictly confidential and *ex parte*.

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.

9. Pursuant to Rule 95(5) of the Rules, after submission of the items under Rule 95(4) of the Rules, the Pre-Trial Judge shall invite the Defence to file a pre-trial brief within a set time limit. Moreover, within a time limit set by the Pre-Trial Judge, the Defence shall notify the SPO of its intention to offer a defence of alibi or any other grounds excluding criminal responsibility, including that of diminished or lack of mental capacity, intoxication, necessity, duress, and mistake of fact or law.

10. Pursuant to Rule 96(2) of the Rules, with the Accused's written consent after receiving advice from Counsel, a status conference may be conducted: (i) in the Accused's presence, with Counsel participating via video-conference; (ii) in Defence Counsel's presence, with the Accused participating via video-conference; or (iii) in the Accused's absence, with Counsel present or participating via video-conference. In addition, any request to attend the status conference via video-conference, shall be made directly to the Registrar, in accordance with the Registrar's Practice Direction on Video Links (KSC-BD-23/COR), sufficiently in advance for the Registrar to take the appropriate steps, including to inform the Pre-Trial Judge.⁹

III. DISCUSSION

11. Having considered the scheduling preferences expressed by the Parties, the Pre-Trial Judge convenes the sixth status conference in this case on Wednesday, 21 July 2021, at 14:30.

⁹ See also KSC-BC-2020-06, F00062, Pre-Trial Judge, *Decision Authorising Video Link Participation*, 6 November 2020, public, para. 10; F00069, Pre-Trial Judge, *Decision Authorising Video Link Participation*, 9 November 2020, public, para. 9.

12. During the hearing, the Pre-Trial Judge will ask the Parties for updates, if any, on the outstanding issues from the Fifth Status Conference, and the written and oral submissions they have made thereon. Specifically and in addition, the Pre-Trial Judge will seek updates on the following issues, in the sequence set out below:

(1) Disclosure:

- a. What progress has been made in the disclosure of Rule 102(1)(b) material by the SPO by the deadline of 23 July 2021, in particular, and in light of the approaching deadline, how much of such material remains to be disclosed and does the SPO intend to submit further requests for protective measures for the additional Rule 102(1)(b) material; if in the affirmative, what is a realistic time line for the SPO to meet its Rule 102(1)(b) disclosure obligations;
- b. Whether the SPO is on track to provide the Defence with a detailed notice of evidence falling under Rules 102(3) of the Rules by Friday, 30 July 2021;
- c. Whether there remains exculpatory evidence in the SPO's custody, control or actual knowledge that must be disclosed to the Defence, pursuant to Rule 103 of the Rules, and whether, any request for protective measures for such material is imminent; and
- d. Whether the Parties are facing or foresee any difficulties related to the disclosure process with respect to Rule 107 material, and whether any application pursuant to this rule is imminent.

(2) Translations:

- a. Whether the Language Services Unit has made progress on the translation of prioritised documents; and
- b. Whether the Parties have made any further urgent requests for translation.

(3) SPO investigations and next steps:

- a. Whether the SPO can further update on the estimated date of completion for outstanding investigative steps; and
- b. Whether the SPO's estimate of mid-October 2021 to file its pre-trial brief and related material pursuant to Rule 95(4)(a)-(c) of the Rules still stands.

(4) Defence investigations and next steps:

- a. Whether the Defence can provide more information on the status of their investigations;
- b. Similarly, whether the Defence can provide more information on any intention to make requests concerning unique investigative opportunities, pursuant to Rule 99(1) of the Rules; and
- c. Whether the Defence can provide more information on any intention to give notice of an alibi or grounds for excluding responsibility, pursuant to Rule 95(5) of the Rules, and any associated disclosure, pursuant to Rule 104(1) and (2) of the Rules.

(5) Points of agreement on matters of law and fact:

- a. Have the Parties had any further *inter partes* discussions on identifying a list of issues subject to dispute and one with issues not subject to dispute.

(6) Detention:

- a. Whether the exchange of documents between Counsel and the Accused in the detention facilities has improved as a result of updated COVID-19 regulations; and
- b. Whether the Registry will be able to resume family visits of immediate family members in July.

13. Finally, taking into consideration the September 2021 courtroom availability, the Parties and participants will be asked to indicate their availability on 13 or 14 September 2021 for the next status conference in this case.

14. The Parties and participants are invited to file written submissions, if they so wish, on any of the above matters. Should the Parties or participants wish to raise any additional matter not listed in this order during the upcoming status conference, they are invited to include these matters in their written submissions. The Parties and participants are invited to file any such submissions by Friday, 16 July 2021.

IV. DISPOSITION

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

- a. **DECIDES** to convene a status conference in the presence of the SPO, Victims' Counsel and the Defence, at **14:30 on Wednesday, 21 July 2021**; and
- b. **REQUESTS** the Parties and participants to provide written submissions, if they so wish, by **Friday, 16 July 2021**, as set forth in paragraph 14.



Judge Nicolas Guillou
Pre-Trial Judge

Dated this Monday, 12 July 2021
At The Hague, the Netherlands.