



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: 8 September 2021

Language: English

Classification: Public

Order Setting the Date for a Seventh 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 24 June 2021, pursuant to a request of the SPO,⁴ the Pre-Trial Judge extended the deadlines in relation to Rule 102(3) material.⁵
4. On 21 July 2021, pursuant to a scheduling order of the Pre-Trial Judge,⁶ a sixth status conference was held ("Sixth Status Conference"), in which the Pre-Trial

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

⁵ 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.

⁶ KSC-BC-2020-06, F00393, Pre-Trial Judge, *Order Setting the Date for a Sixth Status Conference and for Submissions*, 12 July 2021, public, para. 15.

Judge extended the deadline for the provision of Rule 102(1)(b) material to 27 September 2021.⁷

5. On 8 September 2021, the Pre-Trial Judge issued a decision amending the procedure in relation to disclosure of Rule 102(3) material.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

⁷ KSC-BC-2020-06, Transcript of Hearing, 21 July 2021, public, p. 536, lines 4-9. Five status conferences were held prior to that at regular intervals, namely on 18 November 2020, 17 December 2020, 16 February 2021, 24 March 2021, and 19 May 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 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; F00300, Pre-Trial Judge, *Order Setting the Date for a Fifth Status Conference and for Submissions*, 14 May 2021, public, para. 19; Transcript of Hearing, 19 May 2021, public.

⁸ KSC-BC-2020-06, F00460, Pre-Trial Judge, *Decision on the Defence Request for an Amended Rule 102(3) Notice*, 8 September 2021, public.

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 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

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.

III. DISCUSSION

11. Having considered the scheduling preferences expressed by the Parties and Victims' Counsel, the Pre-Trial Judge convenes the Seventh Status Conference in this case on Tuesday, 14 September 2021, at 14:30.

12. During the hearing, the Pre-Trial Judge will ask the Parties for updates, if any, on the outstanding issues from the Sixth 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. Whether the Parties can provide further submissions on the value of categorising Rule 102(1)(a) material in Legal Workflow and the time required for its implementation;
- b. What progress has the SPO made in the disclosure of Rule 102(1)(b) material by the deadline of 27 September 2021, in particular, and in light of the approaching deadline, how much of such material remains to be disclosed and has the SPO submitted all its requests for protective measures for the Rule 102(1)(b) material;
- c. Whether the Parties can provide an update on their progress towards the completion of the procedure for the disclosure of Rule 102(3) material, in particular whether the Defence has requested or will request Rule 102(3) material to be disclosed, based on the existing Notice, by 24 September 2021, and whether the Defence has indicated or will indicate to the SPO the items for which further detail is needed;
- d. 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

- e. Whether progress has been made in the disclosure process with respect to Rule 107 material, and whether any additional applications pursuant to this rule are imminent.

(2) Translations:

- a. What is the Language Services Unit's best estimate for the translation of the decisions on preliminary motions; and
- b. Whether the Parties have made any further urgent requests for translation.

(3) SPO investigations and next steps:

- a. Whether the SPO can provide a further update on the estimated date of completion for outstanding investigative steps; and
- b. Whether the SPO is prepared to commit to a date for filing its pre-trial brief and related material pursuant to Rule 95(4)(a)-(c) of the Rules; and
- c. Whether the filing of a preliminary witness list ahead of the deadline set forth in Rule 95(4)(b) of the Rules is feasible and if so, when.

(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) Detention:

- a. Whether the Registry can provide any updates on the detention regime, including, but not limited to, counsel and family visitation policies.

13. Finally, taking into consideration the October 2021 courtroom availability, the Parties and participants will be asked to indicate their availability on 29 October 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 noon on Monday, 13 September 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 Tuesday, 14 September 2021**; and
- b. **REQUESTS** the Parties and participants to provide written submissions, if they so wish, by **noon on Monday, 13 September 2021**, as set forth in paragraph 14, above.



Judge Nicolas Guillou
Pre-Trial Judge

Dated this Wednesday, 8 September 2021
At The Hague, the Netherlands.