



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

In: KSC-BC-2020-04
Specialist Prosecutor v. Pjetër Shala

Before: Pre-Trial Judge
Judge Nicolas Guillou

Registrar: Dr Fidelma Donlon

Filing Participant: Specialist Prosecutor

Date: 10 September 2021

Language: English

Classification: Confidential

**Prosecution response to KSC-BC-2020-04/F00074 and related request for
modification of deadlines**

Specialist Prosecutor
Jack Smith

Counsel for the Accused
Jean-Louis Gilissen

I. INTRODUCTION

1. On 9 September 2021, the Defence requested an extension of its deadline to identify items from the Rule 102(3) relevance list.¹ The Specialist Prosecutor's Office ('SPO') (i) does not object to the requested extension, and (ii) relatedly requests the modification of certain additional Rule 102(3)² disclosure deadlines in the case, together with the deadline for the filing of the SPO's pretrial brief. These requested revisions to the timeline have been discussed with the Defence, which has confirmed *inter partes* that it does not oppose the request.

II. SUBMISSIONS

2. On Friday, 3 September 2021, the SPO provided the Defence with a detailed notice of evidence falling under Rule 102(3), subject to a small number of outstanding items falling under Rule 107 protections. The Defence is currently scheduled to indicate by 17 September 2021 which items among those listed in the Rule 102(3) notice it seeks to have access to by way of disclosure or inspection. The SPO does not object to the Defence's request to extend this deadline by four weeks. The SPO considers that this additional time will further allow the Defence to review the materials and make targeted requests in an efficient manner, which will benefit both parties, and has encouraged the Defence to provide its requests in batches before the deadline, if feasible, so that the SPO may begin the work described below as soon as possible.

3. The SPO respectfully submits that additional time will be necessary to allow the SPO to adequately respond to the Defence's selection of Rule 102(3) materials and

¹ Defence Motion for an Extension of Time for its Rule 102(2) Request, KSC-BC-2020-04/F00074, 9 September 2021, Confidential ('Defence Motion for Extension').

² 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.

to prepare the pretrial brief and the Rule 109(c) chart. Good cause³ exists for such modification for the reasons set out below.

4. Specifically, after completing the processing of similar Rule 102(3) requests in other cases, the SPO has determined that additional time is required for the SPO to review the Defence's Rule 102(3) selections, meet and confer with the Defence regarding any disputes over materiality in an attempt to avoid unnecessary litigation, identify any materials subject to protective measures in this or other cases, apply necessary redactions (including standard redactions), and process and disclose the requested materials. This will be particularly true if the Defence identifies a large number of documents at or near the end of its deadline period.

5. Accordingly, the SPO proposes the following revised deadlines:

- a. 15 October 2021 – deadline for the Defence to indicate to the SPO which items among those listed in the detailed notice referred to under Rule 102(3) of the Rules it seeks to have access to by way of disclosure or inspection;⁴
- b. 29 October 2021 (or within two weeks of the Defence indication) – deadline for the SPO to seize the Pre-Trial Judge should it dispute the materiality of evidence;
- c. 12 November 2021 (or within four weeks of the Defence indication) – deadline for the SPO to disclose to or provide the Defence with access to the selected material that does not require redactions;
- d. 26 November 2021 (or within six weeks of the Defence indication) – deadline for the SPO to disclose materials requiring standard redactions or file any request for non-standard redactions/protective measures of selected material;
- e. 28 January 2022 – deadline for the SPO to file its pretrial brief; and

³ Rule 9(5).

⁴ *Consistent with* Defence Motion for Extension, KSC-BC-2020-04/F00074.

f. 11 February 2022 – deadline for the SPO to file its Rule 109(c) chart.

6. In respect of the request to modify the SPO's deadline for the filing of the pretrial brief, the extension to the briefing schedule will be needed as the SPO will be occupied through the end of November responding to the Rule 102(3) requests. In respect of the request to modify the deadlines for the Rule 109(c) chart, the SPO has determined, from experience in other cases, that this process cannot be started until the brief is finalised and, to be properly accomplished, it requires a minimum of two weeks of preparation by a team of dedicated staff.

7. The SPO has engaged in *inter partes* communications with the Defence, and the Defence has confirmed that they do not object to this proposed timeline. The SPO has also confirmed in these discussions that it would not object to corresponding extensions for the Defence (*e.g.*, for the deadline for the Defence to file its Rule 109(c) chart).

III. RELIEF REQUESTED

8. For the foregoing reasons, the SPO requests the Pre-Trial Judge to grant the request for modification of the timeline as specified in paragraph 5 above.

IV. CLASSIFICATION

9. This request is filed as confidential pursuant to Rule 82(4). The SPO has no objection to it being reclassified as public.

Word Count: 823



Jack Smith

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Friday, 10 September 2021
At The Hague, the Netherlands.