



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:** 27 October 2021  
**Language:** English  
**Classification:** Public

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**Prosecution submissions for eighth status conference and request for extension of  
deadline**

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1. In accordance with the Order,<sup>1</sup> the Specialist Prosecutor's Office ('SPO') provides its submissions in advance of the eighth status conference, and also hereby requests a further extension of deadline in respect of certain Rule 102(1)(b)<sup>2</sup> materials as indicated below.<sup>3</sup>

### Status Conference Submissions

#### Item 1:<sup>4</sup> Disclosure

2. Since the last Status Conference, the SPO has disclosed a further package of Rule 102(1)(b) materials, comprising 107 items.<sup>5</sup> The SPO has also disclosed two packages containing translations of Rule 102(1)(b) materials.<sup>6</sup> The SPO is therefore nearing completion of Rule 102(1)(b) materials. Nonetheless, as outlined below,<sup>7</sup> the SPO requests a further extension of deadline for a limited number of materials which remain subject to third party clearance/ variation, as well as for the disclosure of certain outstanding translations.

3. Since provision of the SPO's Rule 102(3) notice,<sup>8</sup> Defence teams have made 15 requests for access to Rule 102(3) material. The SPO has completed processing of 10 of these requests.<sup>9</sup> Currently pending are a request from the Krasniqi Defence, received on 7 October 2021 and amounting to 5,945 items, three requests from the Veseli Defence, received on 16, 19 and 22 October 2021 and amounting to 7,849 items, and a

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<sup>1</sup> Order Setting the Date for Eighth Status Conference and for Submissions, 18 October 2021, KSC-BC-2020-06-F00531 ('Order').

<sup>2</sup> Rules 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.

<sup>3</sup> See Oral Order at Transcript dated 14 September 2021, p.625.

<sup>4</sup> The numbering follows that indicated in the Order.

<sup>5</sup> Disclosure Package 87 (containing 107 items). Two further package of Rule 102(1)(b) materials are due to be disclosed shortly.

<sup>6</sup> Disclosure Package 91 (containing 972 items); Disclosure Package 93 (containing 417 items). Two further packages of translations are also anticipated to be disclosed shortly.

<sup>7</sup> See paras 11 -19.

<sup>8</sup> KSC-BC-2020-06/F00421.

<sup>9</sup> Subject only to *inter partes* agreements for deferred disclosure of certain of the items pending R107 clearance and/or pending protective measures requests.

further request from the Krasniqi Defence received on 27 October 2021 and amounting to 8,305 items.

4. Although the deadlines for processing of Rule 102(3) requests are currently suspended,<sup>10</sup> the SPO continues to actively work on them. As previously indicated, the SPO seeks an extension until 23 November and 7 December for materiality and protective measures reviews, respectively, in relation to the Krasniqi request. Moreover, as previously outlined, and based on experience to date, the SPO reiterates its request<sup>11</sup> for a general extension of applicable Rule 102(3) deadlines. Such an extension is necessary to facilitate both the constructive *inter partes* exchanges which have occurred to date, and which have served to avoid unnecessary litigation in relation to these requests, and to enable the careful review and processing necessary to disclose the items sought, including seeking protective measures as relevant.

5. For similar reasons, and further noting the volume at issue, as well as the differing lengths and languages of the documents, good cause exists for an additional, longer extension of deadline for the processing of the three Veseli requests and the further Krasniqi request. Substantive review of the Veseli requests is unlikely to be able to start until the processing of the first Krasniqi request is significantly more advanced. The SPO therefore seeks an extension until 1 December and 17 December for materiality and protective measures reviews, respectively, in relation to the three latest Veseli requests. Given that the second Krasniqi request has only been very recently received, preliminary screening to assess relevant timelines will need to be conducted before a concrete extension request can be made.

6. Since the last status conference, three packages of potentially exculpatory items have been disclosed pursuant to Rule 103.<sup>12</sup> Review of further material remains ongoing, and the SPO will continue to disclose any such material on a rolling basis. No protective measures request for such material is imminent.

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<sup>10</sup> KSC-BC-2020-06/F00528.

<sup>11</sup> KSC-BC-2020-06/F00527.

<sup>12</sup> Disclosure packages 90 (146 items), 92 (54 items), and 98 (82 items).

7. The SPO is working to complete discussions with Rule 107 providers. Where there is a realistic prospect of further progress or of an imminent decision being made, the SPO is continuing to intensively pursue the matter. In relation to materials for which clearance has been denied and/or no further progress is anticipated, the SPO is in the process of preparing an application, which will be submitted shortly.

Item 3: SPO investigations and next steps

8. As previously outlined,<sup>13</sup> it is anticipated that SPO investigations in fulfilment of its mandate will continue for the foreseeable future. This should not, however, impact the pre-trial timeline as any disclosure and/or reliance on material resulting from such investigations is adequately governed by the applicable framework. The SPO is aware of the limitations which apply and tailors its investigations accordingly.

9. With respect to Rule 95(4) materials, the SPO submitted its preliminary witness list on 22 October 2021.<sup>14</sup> The preliminary witness list provided provisional indications of, in particular, the intended mode of testimony and a summary of the facts upon which each witness is anticipated to testify.

10. It is further confirmed that, as previously indicated,<sup>15</sup> the SPO anticipates being in a position to file its pre-trial brief, and related Rule 95(4) materials, on 17 December 2021. The requested extension for submission of the Rule 109(c) chart remains necessary.

Request for extension

11. With respect to a small number of Rule 102(1)(b) materials which are still the subject of clearance requests, as well as certain translations, each as outlined below, the SPO seeks a further extension of deadline for disclosure.

12. In particular, other than items for which there are protective measures requests pending:

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<sup>13</sup> Transcript of Status Conference dated 22 July 2021, pp.508-509; Transcript of Status Conference dated 14 September 2021, pp.600-601.

<sup>14</sup> Prosecution submission of preliminary witness list, KSC-BC-2020-06/F00542.

<sup>15</sup> Prosecution submissions regarding the date for filing of a pre-trial brief, KSC-BC-2020-06/F00520.

- a. the SPO is conducting further discussions with an information provider in relation to one associated exhibit of an international witness, for which Rule 107 clearance has been denied;
- b. in relation to three witnesses the SPO is awaiting lesser or unredacted versions of transcripts which have already been disclosed (and the related confidential associated exhibits);
- c. for two witnesses a variation of protective measures request remains pending before a third-party institution in respect of certain of their prior statements and associated exhibits. All other prior statements and associated exhibits for these two witnesses will have been disclosed by 1 November 2021.

13. In relation to translations, as indicated at the last Status Conference,<sup>16</sup> the translation of Rule 102(1)(b) materials in this case has been prioritised for several months and the SPO had sought to maximise its available resources. Since the last Status Conference, and in light of the Pre-Trial Judge's order setting a deadline of 1 November 2021, additional steps were taken, including (i) conducting a further review of outstanding translations to ensure that they were being processed in the most efficient manner possible, and (ii) further exploring the possibility of expanding translation resources.

14. Expanding the pool of available translation resources is something the SPO has continuously worked on over a long period of time, but has needed to do so in a manner which did not compromise either security or quality. Since the last Status Conference, the SPO has liaised further with the Registry, as well as various national authorities, and - to ensure that no viable option was missed - conducted renewed screenings of potential candidates who had previously not been contracted.

15. While each of these steps have generated some positive results, it has not substantially improved the prior forecast.

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<sup>16</sup> Transcript of Status Conference dated 14 September 2021, pp.553-555.

16. The SPO is required to provide translations into English, as the working language of the proceedings, of all Rule 102(1)(b) materials. In excess of 11,300 Rule 102(1)(b) items have been disclosed in total. Of those, English translations of approximately 760 items are yet to be disclosed. In respect of approximately 190 of those items, the translations are complete and the items in question are currently being processed for disclosure, including, as relevant, undergoing redaction review. For the remaining items, translation into English - from a variety of languages including Albanian, Serbian and other third languages - is ongoing. All of the outstanding items have already been disclosed under Rule 102(1)(b) in the original language. It is anticipated that translation into English of the remaining items will be completed by the end of December 2021, and that processing and disclosure of these items will be completed by 31 January 2022.

17. The SPO is also required to provide translations into Albanian of statements of SPO witnesses. In total, over 1,400 Rule 102(1)(b) statements have been disclosed. Of those, Albanian translations of 1000 statements are yet to be disclosed. Approximately 800 of those 1,000 statements are at the stage of being processed for disclosure, including undergoing redaction review. It is anticipated that translation into Albanian of the remaining items will be completed by the end of December 2021. Redaction review, processing and disclosure of remaining Rule 102(1)(b) statements will be completed by 31 January 2022.

18. The SPO will continue to provide all translations as soon as possible and on a rolling basis. No prejudice arises from ruling on this request, noting the disclosure of the original items as well as the limited nature of the extension being sought.

19. The SPO, therefore, respectfully asks the Pre-Trial Judge to grant an extension of the deadline for disclosure of translations of Rule 102(1)(b) material until 31 January 2022.

**Word count: 1,594**



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**Jack Smith**  
**Specialist Prosecutor**

Wednesday, 27 October 2021  
At The Hague, the Netherlands.