



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: 9 November 2021

Language: English

Classification: Public

Public Redacted Version of 'Prosecution submissions for fourth status conference'

Specialist Prosecutor
Jack Smith

Counsel for Pjetër Shala
Jean-Louis Gilissen

I. INTRODUCTION

1. Pursuant to the Order Setting the Date for the Fourth Status Conference and for Submissions,¹ the Specialist Prosecutor's Office ('SPO') hereby provides written submissions on the items identified by the Pre-Trial Judge.²

II. SUBMISSIONS

A. DISCLOSURE

1. The SPO is preparing the disclosure of the additional Rule 102(1)(b) materials which were the subject of the 4 November 2021 Decision.³ The SPO expects that these materials will be disclosed in advance of the 15 November 2021 status conference.

2. The SPO provided further information to the Defence regarding the items listed in the SPO's Rule 102(3) Notice by 22 October 2021, in accordance with the Defence's request to this effect.

3. The Defence provided its additional Rule 102(3) indications by 5 November 2021. Specifically, the Defence provided its additional Rule 102(3) indications on 2 November 2021.

4. The SPO is currently reviewing the materials designated by the Defence and at this time anticipates disputing the materiality on a small number of items. The SPO and Defence previously conducted *inter partes* discussions regarding the materiality

¹ Order Varying Time Limits for Certification Requests and Setting the Dates for the Fourth Status Conference and for Submissions, KSC-BC-2020-04/F00101, 5 November 2021, Public ('Order Setting the Dates for the Fourth Status Conference and for Submissions').

² Order Setting the Date for the Fourth Status Conference and for Submissions, KSC-BC-2020-04/F00101, para.16.

³ Decision on Request for Authorisation to Disclose Additional Material under Rule 102(1)(b) of the Rules, KSC-BC-2020-04/F00100 ('4 November 2021 Decision').

of certain previously requested items, and the parties were able to reach agreement about all such items. The SPO will undertake a similar process in this instance. No difficulties are currently envisaged in completing the relevant Rule 102(3) review within the designated timelines, although the review is ongoing at this time.

5. The SPO has disclosed three batches of Rule 103 materials to date, and review for potentially exculpatory materials is ongoing. The SPO will continue to disclose such material on a rolling basis as it is identified.

6. Since the last status conference, the SPO has further reduced the number of Rule 107 materials outstanding, and there are currently fewer than 20 items for which discussions with Rule 107 information providers remain ongoing. The SPO will seek leave to supplement the Rule 102(3) list to reflect recently cleared items, and the SPO is continuing to engage with providers about the remaining items.

7. The SPO anticipates submitting requests for non-standard redactions/protective measures, including for certain materials requested by the Defence pursuant to its Rule 102(3) indications. As review of these materials is ongoing, the SPO is not able to provide an exact number at this time, but to date the SPO has identified over 100 documents in this category.

8. The parties have continued to meet and confer about specific disclosure issues as they arise. At present, the SPO does not foresee difficulties related to the disclosure process defined in the Framework Decision.⁴

⁴ See Framework Decision on Disclosure of Evidence and Related Matters, KSC-BC-2020-04/F00033, 30 April 2021, Public, para. 92(g) ('Framework Decision').

B. TRANSLATIONS

9. The SPO has not made any requests for prioritising the translation of specific filings or evidentiary materials.

C. SPO INVESTIGATIONS AND NEXT STEPS

10. The SPO has completed all investigative steps. [REDACTED]. In light of this development, the SPO is currently exploring whether any additional investigative steps are necessary. In the event that limited additional investigative steps are required, the SPO would expect to complete such steps before the filing of the pre-trial brief.

D. POINTS OF AGREEMENT ON MATTERS OF FACT AND LAW

11. The parties have conducted additional discussions regarding potential points of agreement on law and or facts pursuant to Rules 95(3) and 156 of the Rules. The parties have agreed to continue these discussions in an effort to identify any such points of agreement, and the SPO expects to be in a position to identify certain of these issues by the filing of the SPO's pre-trial brief.

E. AVAILABILITY FOR NEXT STATUS CONFERENCE

12. The SPO will be available on Friday, 14 January 2022, for the next status conference in the case.

Word Count: 694



Jack Smith

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Tuesday, 9 November 2021
At The Hague, the Netherlands.