



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:** 10 December 2021  
**Language:** English  
**Classification:** Public

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**Prosecution submissions for ninth status conference**

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**Specialist Prosecutor's Office**

Jack Smith

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Simon Laws

**Counsel for Hashim Thaçi**

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**Counsel for Kadri Veseli**

Ben Emmerson

**Counsel for Rexhep Selimi**

David Young

**Counsel for Jakup Krasniqi**

Venkateswari Alagenda

1. In accordance with the Order,<sup>1</sup> the Specialist Prosecutor's Office ('SPO') provides its submissions in advance of the ninth status conference.

### Status Conference Submissions

#### Item 1:<sup>2</sup> Disclosure

2. Since the last Status Conference, the SPO has disclosed a total of 15 new Rule 102(1)(b)<sup>3</sup> items, all comprising materials related to the 11<sup>th</sup> and 12<sup>th</sup> protective measures requests.<sup>4</sup> The SPO has also disclosed two packages containing translations of Rule 102(1)(b) materials.<sup>5</sup> The SPO does not currently foresee difficulty in meeting the 31 January 2022 deadline for disclosure of remaining Rule 102(1)(b) items, including translations. All requests for variation of protective measures which were outstanding before third party institutions have now been granted, and the SPO has begun receiving the materials in question and is processing them for disclosure. Rule 107 clearance is still awaited for one associated exhibit, as previously indicated.

3. With respect to outstanding translations, of the over 11,300 Rule 102(1)(b) items which have been disclosed, disclosure of English translations of approximately 496 items remains outstanding. Of the over 1,400 Rule 102(1)(b) statements which have been disclosed, disclosure of Albanian translations of approximately 545 items remains outstanding.

4. In line with the Pre-Trial Judge's order, the SPO has continued to work actively on processing of Rule 102(3) requests. Since the last Status Conference, three Rule 102(3) disclosure packages have been released.<sup>6</sup> Approximately 12,500 items – relating

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<sup>1</sup> Order Setting the Date for Ninth Status Conference and for Submissions, 2 December 2021, KSC-BC-2020-06-F00593 ('Order').

<sup>2</sup> The numbering follows that indicated in the Order.

<sup>3</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>4</sup> Disclosure Packages 115 (containing 1 new item; and two previously disclosed items with amended metadata); 117 (containing 11 items); 121 (containing 3 items). Two further package of Rule 102(1)(b) materials are due to be disclosed shortly.

<sup>5</sup> Disclosure Package 116 (containing 458 items) and Disclosure Package 123 (containing 201 items).

<sup>6</sup> Disclosure Packages 113 (relating to Thaçi request of 14 September 2021, following the authorisation of certain protective measures); 114 (relating to the Krasniqi request of 7 September 2021, following the

to requests from each of the Krasniqi, Selimi and Veseli Defence teams<sup>7</sup> - are in final disclosure processing, and due to be released shortly.<sup>8</sup> However, since the last Status Conference, Defence teams have made an additional eight Rule 102(3) requests.<sup>9</sup> The SPO will continue to work through these requests.

5. Given the multiplicity of concurrent requests, their varying size and complexity,<sup>10</sup> and the need to compare and coordinate between the requests,<sup>11</sup> there would be difficulty in ascribing deadlines to individual requests. For these same reasons, it is not possible to accurately determine the timeline for completion, particularly noting uncertainty generated by the ongoing receipt of new requests. However, the SPO envisages being in a position to commit additional resources to the Rule 102(3) disclosure process in January and February, including as language and other staff are freed from concurrent translation obligations, and that the processing pace will therefore increase further.

6. Since the last status conference, three further packages of potentially exculpatory items have been disclosed pursuant to Rule 103.<sup>12</sup> Review of certain further material remains ongoing, and the SPO will continue to disclose any such material on a rolling basis. A protective measures request in respect of a small number of items will be forthcoming.

7. The SPO is continuing to actively work to complete discussions with Rule 107 providers. Relevant providers are fully informed of the urgency of the matter, and are dedicating resources to completing their review processes. As previously indicated,

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authorisation of certain protective measures); 120 (relating to Thaçi request of 14 September 2021, following the authorisation of certain protective measures).

<sup>7</sup> Krasniqi request of 7 October; Veseli requests of 16, 19, and 22 October and 8 November; Selimi request of 1 November.

<sup>8</sup> A further four packages are due to be disclosed today, with additional packages scheduled for disclosure next week.

<sup>9</sup> Veseli requests dated 8, 12, 15 and 24 November and 10 December (amounting to 8,486 items in total); Krasniqi request dated 3 December (comprising 12,957 items), and Selimi requests dated 1 November (comprising 39,839 items) and 7 December (joining the Krasniqi request of 3 December).

<sup>10</sup> Including in terms of language and degree of redaction required.

<sup>11</sup> Including to identify any overlap.

<sup>12</sup> Disclosure packages 110 (97 items), 111 (110 items), and 119 (118 items).

to the extent that determinations have already been reached denying clearance an application is being prepared.

8. On 1 December 2021, the functionality in Legal WorkFlow for releasing linkages between batches of witnesses and their associated materials became available for testing, and was implemented in Legal WorkFlow on 7 December 2021.<sup>13</sup> To date, 123 witness entities have been released. The remaining witness entities are being prepared for release in the coming days.

9. The SPO is reviewing items categorised in relation to Mr SELIMI and will shortly revert to the Selimi Defence team with the results of that exercise.

10. The SPO is also conducting a review of the linking of translations of Rule 102(1)(b) materials. Certain adjustments have been made where necessary, and further changes are in the process of being implemented - for issues identified either in SPO review or in light of *inter partes* communications between the SPO and Selimi Defence team. Redacted and revised versions are currently identifiable by way of their ERN, and through the 'Redaction' tick-box in Legal WorkFlow, rather than by way of relations.

*Item 3: SPO investigations and next steps*

11. As previously outlined,<sup>14</sup> SPO investigations in fulfilment of its mandate are anticipated to 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.

12. The SPO does not currently anticipate difficulties regarding the 17 December 2021 deadline for Rule 95(4) materials, or the 28 January 2022 deadline for submission of the Rule 109(c) chart.

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<sup>13</sup> Prior to confirmation of implementation in Legal WorkFlow, the SPO began manual release of witness entities on 6 December 2021.

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

*Availability*

13. The SPO will be available on 4 February 2022 for the next status conference, or otherwise at the Pre-Trial Judge's convenience.

**Word count: 1,072**



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

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