



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: 28 March 2022

Language: English

Classification: Public

Public Redacted Version of

'Prosecution request pursuant to Rule 102(2) and to amend its witness and exhibit lists', KSC-BC-2020-04/F00169, dated 25 March 2022

Specialist Prosecutor

Jack Smith

Counsel for Pjetër Shala

Jean-Louis Gilissen

Counsel for Victims

Simon Laws

I. INTRODUCTION

1. Pursuant to Rule 102(2) of the Rules¹ and to the Pre-Trial Judge's instructions,² the Specialist Prosecutor's Office ('SPO') hereby seeks leave to disclose the transcripts of its interviews with W04276, W04480, W04481, and W04882. These statements were not disclosed within the time limits imposed by Rule 102(1)(b) because the investigative need to interview these witnesses arose after the expiry of that deadline.
2. In addition, the SPO requests authorisation to amend its Rule 95(4) witness and lists so as to include these four additional witnesses, and their related statements.

II. PROCEDURAL BACKGROUND

3. On 11 January 2022, the SPO filed its submissions for the fifth status conference, in which it informed the Pre-Trial Judge that it needed to carry out some limited additional investigative steps.³ At the status conference of 14 January 2022, the SPO explained that these further investigations had become necessary [REDACTED]. These investigations involved [REDACTED].⁴ The SPO also informed the Pre-Trial Judge that [REDACTED], which would impact on the time required to interview them.⁵
4. On 17 February 2022,⁶ and at the sixth status conference of 4 March 2022, the SPO informed the Pre-Trial Judge that it was engaged with the competent national

¹ Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD0-3/Rev3/2020, 2 June 2020 ('Rules'). All references to Rule or Rules herein refer to the Rules, unless otherwise specified.

² Confidential version of the Transcript of Case 04 Status Conference, 14 January 2022, p.8.

³ Prosecution submissions for fifth status conference, KSC-BC-2020-04/F00127, 11 January 2022, para. 10.

⁴ Confidential version of the Transcript of Case 04 Status Conference, 14 January 2022, p.41.

⁵ Confidential version of the Transcript of Case 04 Status Conference, 14 January 2022, p.42.

⁶ Prosecution submission for sixth status conference, KSC-BC-2020-04/F00150, 17 February 2022, para. 19.

authorities in order to carry out the outstanding investigative activities.⁷ The SPO stated that it was ready to carry out the remaining investigations as soon as it received the necessary authorisations and that it aimed at completing them and the related disclosure as soon as possible.⁸

5. [REDACTED], the SPO interviewed W04276, W04480, and W04481. [REDACTED], it interviewed W04882.

III. SUBMISSIONS

A. NOTICE AND DISCLOSURE OF ITEMS FALLING UNDER RULE 102(2)

6. Pursuant to Rule 102(2), the SPO hereby seeks leave to disclose the transcripts of the interviews conducted on [REDACTED] with W04276, W04480, and W04481.
7. The need to carry out these interviews arose [REDACTED]. Further to [REDACTED], the SPO carried out an evidentiary review and determined that [REDACTED] could assist the fact-finding process in this case, and took steps to locate them.⁹ After locating them, it filed a request for international legal assistance with the competent national authorities,¹⁰ and [REDACTED] it conducted interviews with W04480, W04481, and W04276. Immediately after that, the SPO processed the records of these interviews for their prompt disclosure to the Defence.
8. With a view of disclosing this evidence to the Defence as soon as possible, the SPO seeks leave to disclose these transcripts in English, with Albanian translations to

⁷ Prosecution submission for sixth status conference, KSC-BC-2020-04/F00150, 17 February 2022, para. 19; Confidential version of the Transcript of Case 04 Status Conference, 4 March 2022, pp.33-34.

⁸ Confidential version of the Transcript of Case 04 Status Conference, 4 March 2022, p.34.

⁹ Confidential version of the Transcript of Case 04 Status Conference, 14 January 2022, p.41.

¹⁰ Prosecution submission for sixth status conference, KSC-BC-2020-04/F00150, 17 February 2022, para. 19. *See* Confidential version of the Transcript of Case 04 Status Conference, 14 January 2022, p.42; Confidential version of the Transcript of Case 04 Status Conference, 4 March 2022, pp.33-34.

follow as soon as they become available. It is anticipated that the translations will be ready within a few days from the filing of this application.

9. [REDACTED] the SPO interviewed W04882, [REDACTED]. The SPO foresees being able to disclose the Albanian and English versions of these transcripts within two weeks from the filing of this application. In the interest of judicial efficiency, the SPO also seeks leave to disclose the records of this interview as soon as they become available.
10. The SPO will not be requesting protective measures for any of the above witnesses.

B. REQUEST TO AMEND THE WITNESS AND EXHIBIT LISTS UNDER RULE 95(4)

11. Further to the disclosure of the aforementioned transcripts, the SPO requests the Pre-Trial Judge to authorise the amendment of its witness and lists, under Rule 95(4), so as to include W04276, W04480, W04481, and W04882 and their related statements. The information provided by these witnesses gives important corroboration and context to [REDACTED], and will contribute to the establishment of the truth.

IV. CLASSIFICATION

12. This application is filed as confidential because [REDACTED], as well as to the [REDACTED]. While the SPO does not foresee, at this stage, that it will be seeking protective measures for these witnesses, their identity should not be revealed to the public during the pre-trial stage of the proceedings. A public redacted version will follow.

V. RELIEF REQUESTED

13. For these foregoing reasons, the SPO seeks leave:

- a. to disclose the transcripts of its interviews with W04480, W04481, and W04276 in English, with Albanian translations to follow;
- b. to disclose the transcript of its interview with W04882 in English and Albanian as soon as it becomes available; and
- c. to amend its Rule 95(4) witness and exhibit lists by adding W04276, W04480, W04481, and W04482 and their related statements.

Word Count: 974



Jack Smith

Specialist Prosecutor

Monday, 28 March 2022
At The Hague, the Netherlands.