



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEĆA KOSOVA

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

Before: Pre-Trial Judge
Judge Nicolas Guillou

Registrar: Dr Fidelma Donlon

Date: 30 August 2022

Language: English

Classification: Public

**Decision on Defence Request for Variation of Time Limit
for Submission of its Rule 109(c) Chart**

Specialist Prosecutor

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Counsel for the Accused

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Counsel for Victims

Simon Laws

THE PRE-TRIAL JUDGE,¹ pursuant to Article 39(13) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rules 9(5)(a), 95(2)(b) and 109(c) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), hereby renders this decision.

I. PROCEDURAL BACKGROUND

1. On 30 April 2021, the Pre-Trial Judge issued the "Framework Decision on Disclosure of Evidence and Related Matters".² Therein, the Pre-Trial Judge ordered the Specialist Prosecutor's Office ("SPO") and the Defence for Pjetër Shala ("Defence") to file their respective Rule 109(c) charts within seven days from the filing of their respective pre-trial briefs.³

2. On 23 September 2021, the Pre-Trial Judge granted an SPO request to vary the time limit for the filing of its pre-trial brief and its Rule 109(c) chart, ordering the SPO to file its Pre-Trial Brief no later than 28 January 2022 and its Rule 109(c) chart no later than 11 February 2022.⁴ The Defence did not oppose this request.⁵

3. On 28 January 2022, the SPO filed its Pre-Trial Brief⁶ and, on 11 February 2022, its Rule 109(c) chart.⁷

¹ KSC-BC-2020-04, F00001, President, *Decision Assigning a Pre-Trial Judge*, 14 February 2020, public.

² KSC-BC-2020-04, F00033, Pre-Trial Judge, *Framework Decision on Disclosure of Evidence and Related Matters* ("Framework Decision on Disclosure"), 30 April 2021, public.

³ Framework Decision on Disclosure, paras 73-74, 92(n).

⁴ KSC-BC-2020-04, Transcript of Hearing, 23 September 2021, public, p. 92, lines 10-20.

⁵ KSC-BC-2020-04, Transcript of Hearing, 23 September 2021, public, p. 91, lines 6-22.

⁶ KSC-BC-2020-04, F00135, Specialist Prosecutor, *Submission of Pre-Trial Brief, with Witness and Exhibit Lists*, 28 January 2022, public, with Annexes 1-3, strictly confidential and *ex parte*. A confidential redacted version of the SPO Pre-Trial Brief, list of witnesses and list of exhibits was submitted subsequently in F00136, Specialist Prosecutor, *Submission of the confidential redacted version of the Pre-Trial Brief, Witness List, and Exhibits List*, 31 January 2022, public, with Annexes 1-3 confidential. A lesser redacted confidential version of the SPO Pre-Trial Brief and list of witnesses was submitted on 8 February 2022, F00139/A01 and F00139/A02.

⁷ KSC-BC-2020-04, F00144, Specialist Prosecutor, *Prosecution Submission of Rule 109(c) Chart*, 11 February 2022, public, with Annex 1, strictly confidential and *ex parte*, and Annex 2, confidential.

4. On 14 April 2022, the Pre-Trial Judge ordered the Defence to file its Pre-Trial Brief no later than 15 August 2022.⁸ Following a decision to allow the SPO to amend its exhibit and witness lists, the Pre-Trial Judge extended the deadline for the Defence to file its Pre-Trial Brief to 5 September 2022.⁹

5. On 29 August 2022, the Defence requested an extension of time to submit its Rule 109(c) chart by 19 September 2022 (“Request”).¹⁰

II. SUBMISSIONS

6. The Defence submits that the requested extension of time is equivalent to that granted to the SPO for the filing of its Rule 109(c) chart.¹¹ The Defence further submits that it has demonstrated good cause in view of the current number of competing deadlines and given that the requested extension would not delay the proceedings.¹²

7. The SPO did not respond to the Request.

III. APPLICABLE LAW

8. Pursuant to Article 39(13) of the Law, the Pre-Trial Judge may issue any orders as may be necessary for the preparation of a fair and expeditious trial.

9. Pursuant to Rule 109(c) of the Rules, in fulfilling their disclosure obligations, the Parties shall categorise the information in accordance with the charges in the

⁸ KSC-BC-2020-04, Transcript of Hearing, 14 April 2022, public, p. 299, lines 20-21.

⁹ KSC-BC-2020-04, F00234, Pre-Trial Judge, *Decision on Specialist Prosecutor’s Rule 102(2) and Related Requests*, 20 July 2022, confidential, paras 31, 46(c), (e). A public redacted version was issued on the same day, F00234/RED.

¹⁰ KSC-BC-2020-04, F00258, Specialist Counsel, *Defence Request for Variation of Time Limit for Submission of its Rule 109(c) Chart*, 29 August 2022, public.

¹¹ Request, para. 6.

¹² Request, para. 6.

indictment, with specific reference to the underlying crimes, contextual elements of the crimes, the alleged conduct of the Accused or, where applicable, evidence to be presented by the Specialist Prosecutor.

10. Pursuant to Rule 95(2)(b) of the Rules, the Pre-Trial Judge shall, *inter alia*, set time limits for disclosure.

11. Pursuant to Rule 9(5)(a) of the Rules, the Panel may, *proprio motu* or upon a showing of good cause, extend or reduce any time limit prescribed by the Rules or set by the Panel.

12. Pursuant to Rule 9(6) of the Rules, where no prejudice is caused to the opposing Party, a motion for variation of time may be disposed of without giving the opposing Party the opportunity to be heard.

III. DISCUSSION

13. The Pre-Trial Judge finds that the Request has been submitted sufficiently in advance, as required by Rule 76, third sentence, of the Rules.

14. As regards the showing of good cause to extend the Rule 109(c) deadline, the Pre-Trial Judge recalls that the extension of time granted to the SPO for the filing of its Rule 109(c) chart was granted, in part, with a view to achieving case efficiency through quality disclosure by the SPO.¹³ The same reasoning applies, *mutatis mutandis*, to the Request. Further, the Pre-Trial Judge notes that should he grant the Request, the extension of time given to the Defence to file its Rule 109(c) chart would be at parity with that granted to the SPO to file its Rule 109(c) chart. Finally, the Pre-Trial Judge notes that the Request will not delay the transmission of the case file to a Trial Panel.

15. In light of the above, the Pre-Trial Judge considers that the Defence has demonstrated good cause for the Request.

¹³ KSC-BC-2020-04, Transcript of Hearing, 23 September 2021, public, p. 91, line 6, to p. 92, line 20.

16. The Pre-Trial Judge considers that no prejudice has been caused in issuing the present decision prior to receiving the SPO's response to the Request.

IV. DISPOSITION

17. For the above-mentioned reasons, the Pre-Trial Judge hereby:

- (a) **GRANTS** the Request; and
- (b) **EXTENDS** the Defence deadline for filing its Rule 109(c) chart by
Monday, 19 September 2022.



Judge Nicolas Guillou
Pre-Trial Judge

Dated this Tuesday, 30 August 2022

At The Hague, the Netherlands.