



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA KOSOVA

In: KSC-BC-2020-06
**The Prosecutor v. Hashim Thaçi, Kadri Veseli, Rexhep Selimi,
and Jakup Krasniqi**

Before: Pre-Trial Judge
Judge Nicolas Guillou

Registrar: Dr Fidelma Donlon

Date: 17 October 2022

Language: English

Classification: Public

Order Setting the Date for a Fifteenth Status Conference and for Submissions

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THE PRE-TRIAL JUDGE,¹ pursuant to Articles 21(6) and 39(13) of the Law No. 05/L-53 on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rules 95 and 96 of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), hereby renders this order.

I. PROCEDURAL BACKGROUND

1. On 26 October 2020, the Pre-Trial Judge confirmed the indictment against Hashim Thaçi ("Mr Thaçi"), Kadri Veseli ("Mr Veseli"), Rexhep Selimi ("Mr Selimi"), and Jakup Krasniqi ("Mr Krasniqi") (collectively referred to as the "Defence").²
2. On 12 March 2021, the Pre-Trial Judge issued the "Decision on Categorisation of Evidence Under Rule 109(c) and Related Matters", in which case-specific categorisation of Rule 102(1)(b) material was ordered and the deadline for disclosure of such material was extended to 23 July 2021.³
3. On 24 June 2021, pursuant to a request of the Specialist Prosecutor's Office ("SPO"),⁴ the Pre-Trial Judge extended the deadlines in relation to Rule 102(3) material.⁵

¹ KSC-BC-2020-06, F00001, President, *Decision Assigning a Pre-Trial Judge*, 23 April 2020, public.

² KSC-BC-2020-06, F00026/RED, Pre-Trial Judge, *Public Redacted Version of Decision on the Confirmation of the Indictment Against Hashim Thaçi, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi*, 26 October 2020, public; F00045/A03, Specialist Prosecutor, *Further Redacted Indictment*, 4 November 2020, public. A confidential further lesser redacted version of the confirmed indictment was submitted on 11 December 2020, F00134, confidential. Subsequent to the Decision on Defects in the Form of the Indictment, a confidential redacted version, F00455/CONF/RED/A01, and a public redacted version, F00455/RED/A01, of the corrected confirmed indictment were filed on 8 September 2021. A confidential further lesser redacted version of the confirmed indictment was filed on 17 January 2022, F00647/A01.

³ KSC-BC-2020-06, F00218, Pre-Trial Judge, *Decision on Categorisation of Evidence under Rule 109(c) and Related Matters*, 12 March 2021, public, para. 22.

⁴ KSC-BC-2020-06, F00356, Specialist Prosecutor, *Prosecution Request for Extension of Time Limit to Provide Rule 102(3) Notice*, 18 June 2021, public.

⁵ KSC-BC-2020-06, F00370, Pre-Trial Judge, *Decision on Prosecution Request for Extension of Time Limit to Provide its Rule 102(3) Notice*, 24 June 2021, public, para. 16.

4. On 21 July 2021, the Pre-Trial Judge extended the deadline for the provision of Rule 102(1)(b) material to 27 September 2021.⁶
5. On 31 July 2021, the SPO filed a detailed notice of evidence falling under Rule 102(3) of the Rules (“Rule 102(3) Notice”).⁷
6. On 8 September 2021, the Pre-Trial Judge issued a decision amending the procedure in relation to disclosure of Rule 102(3) material.⁸
7. On 24, 28, and 30 September 2021, the Pre-Trial Judge granted various requests for extension of time in relation to the disclosure of Rule 102(3) material.⁹
8. On 18 October 2021, following a request of the SPO,¹⁰ the Pre-Trial Judge suspended the SPO deadlines in relation to Rule 102(3) material.¹¹
9. On 17 December 2021, the SPO filed its pre-trial brief and related material, including a list of witnesses (“Witness List”) and a list of exhibits (“Exhibit List”).¹²

⁶ KSC-BC-2020-06, Transcript of Hearing, 21 July 2021, public, p. 536, lines 4-9.

⁷ KSC-BC-2020-06, F00421, Specialist Prosecutor, *Prosecution Rule 102(3) Notice*, 31 July 2021, public, with Annex 1, confidential, and Annex 2, strictly confidential and *ex parte*. On 22 October 2021, the SPO submitted an amended Notice, *see* F00543, Specialist Prosecutor, *Prosecution Amended Rule 102(3) Notice Pursuant to F00421*, public, with Annexes 1 and 2, confidential.

⁸ KSC-BC-2020-06, F00460, Pre-Trial Judge, *Decision on the Defence Request for an Amended Rule 102(3) Notice*, 8 September 2021, public.

⁹ KSC-BC-2020-06, F00487, Pre-Trial Judge, *Decision on Prosecution Request for Extension of Time Limit*, 24 September 2021, public, para. 14; F00496, Pre-Trial Judge, *Decision on Prosecution Request for Extension of Time Limit*, 28 September 2021, para. 14; F00499, Pre-Trial Judge, *Decision on Prosecution Request for Extension of Time Limit*, 30 September 2021, para. 14.

¹⁰ KSC-BC-2020-06, F00527, Specialist Prosecutor, *Prosecution Request for Extension of Time Limit*, 14 October 2021, public.

¹¹ KSC-BC-2020-06, F00528, Pre-Trial Judge, *Order in Relation to Prosecution Request for Extension of Time Limit*, 18 October 2021, public.

¹² KSC-BC-2020-06, F00631, Specialist Prosecutor, *Submission of Pre-Trial Brief, with Witness and Exhibit Lists*, 17 December 2021, confidential, with Annexes 1-3, strictly confidential and *ex parte*. A public redacted version with confidential redacted Annexes 1-3 was filed on 21 December 2021, F00631/RED. A corrected version of the pre-trial brief was filed on 24 February 2022, F00709/A01 (strictly confidential and *ex parte*) and F00709/A02 (confidential redacted). The Exhibit List was last amended on 13 September 2022, F00967/A01 (strictly confidential and *ex parte*) and F00967/A02 (confidential). The Witness List was last updated on 2 September 2022, F00948/A01 (strictly confidential and *ex parte*) and F00948/A02 (confidential).

10. On 28 January 2022, the SPO submitted the Rule 109(c) Chart.¹³
11. On 31 January 2022, the SPO filed a notice indicating that it has disclosed all previously identified Rule 102(1)(b) material.¹⁴
12. On 22 April 2022, the Pre-Trial Judge confirmed amendments to the indictment.¹⁵
13. On 29 April 2022, the SPO filed an amended indictment and related documents.¹⁶
14. On 10 May 2022, separate further appearances were held for Mr Thaçi, Mr Veseli, Mr Selimi and Mr Krasniqi.¹⁷
15. On 20 May 2022, at the twelfth status conference, the deadline for the Defence's pre-trial briefs was set to 21 October 2022.¹⁸
16. On 30 June 2022, the SPO provided notification of its completion of its review, pursuant to Rule 103 of the Rules, of materials registered between 31 January 2022 and 16 June 2022.¹⁹

¹³ KSC-BC-2020-06, F00663, Specialist Prosecutor, *Prosecution Submission of Rule 109(c) Chart*, 28 January 2022, public with Annex 1, strictly confidential and *ex parte*, and Annex 2, confidential.

¹⁴ KSC-BC-2020-06, F00670, Specialist Prosecutor, *Prosecution Notice of Rule 102(1)(b) Disclosure and Related Requests*, 31 January 2022, strictly confidential and *ex parte*, with Annexes 1-9, strictly confidential and *ex parte*. A confidential redacted version was filed on the same day, F00670/CONF/RED.

¹⁵ KSC-BC-2020-06, F00777, Pre-Trial Judge, *Decision on the Confirmation of Amendments to the Indictment*, 22 April 2022, strictly confidential and *ex parte*. A confidential redacted version was filed on the same day, F00777/CONF/RED. A public redacted version was filed on 6 May 2022, F00777/RED.

¹⁶ KSC-BC-2020-06, F00789, Specialist Prosecutor, *Submission of Amended Indictment and Related Documents*, 29 April 2022, public, with Annex 1, strictly confidential and *ex parte*, Annexes 2-4, confidential and Annexes 5-7, public.

¹⁷ KSC-BC-2020-06, F00794, Pre-Trial Judge, *Decision Setting the Date for Further Appearances and Related Matters*, 2 May 2022, public, paras 9-13(a). See also Transcript of Hearing, 10 May 2022, public.

¹⁸ KSC-BC-2020-06, Transcript of Hearing, 20 May 2022, public, p. 1324, lines 1-6.

¹⁹ KSC-BC-2020-06, F00861, Specialist Prosecutor, *Third Prosecution Request for Protective Measures for Items Containing Rule 103 Information*, 30 June 2022, strictly confidential and *ex parte*, with Annexes 1-9, strictly confidential and *ex parte*.

17. On 8 September 2022, pursuant to a scheduling order of the Pre-Trial Judge,²⁰ a fourteenth status conference was held (“Fourteenth Status Conference”)²¹ in which the Defence was ordered to: (i) submit requests justifying the need for unique investigative measures by 28 October 2022;²² (ii) file notices of alibi or grounds for excluding responsibility by 28 October 2022;²³ and (iii) file notices regarding objections to the admissibility of evidentiary material by 18 November 2022.²⁴ The SPO was ordered to file: (i) by 28 October 2022, a notice on the record of when each redaction in the indictment is scheduled to be lifted

²⁰ KSC-BC-2020-06, F00940, Pre-Trial Judge, *Order Setting the Date for a Fourteenth Status Conference and for Submissions*, 30 August 2022, public.

²¹ KSC-BC-2020-06, Transcript of Hearing, 8 September 2022, public. Thirteen status conferences were held prior to that at regular intervals, namely on 18 November 2020, 17 December 2020, 16 February 2021, 24 March 2021, 19 May 2021, 21 July 2021, 14 September 2021, 29 October 2021, 15 December 2021, 4 February 2022, 24 March 2022, 20 May 2022 and 13 July 2022. See F00074, Pre-Trial Judge, *Order Setting the Date for a Status Conference and for Submissions*, 11 November 2020, public, para. 21(a), with Annex 1, public; Transcript of Hearing, 18 November 2020, public; F00130, Pre-Trial Judge, *Order Setting the Date for a Second Status Conference and for Submissions*, 8 December 2020, public, para. 19(a); Transcript of Hearing, 17 December 2020, public; F00185, Pre-Trial Judge, *Order Setting the Date for a Third Status Conference and for Submissions*, 3 February 2021, public, para. 19(a); F00193, Pre-Trial Judge, *Order Rescheduling the Third Status Conference*, 9 February 2021, public, para. 2; Transcript of Hearing, 16 February 2021, public; F00227, Pre-Trial Judge, *Order Setting the Date for a Fourth Status Conference and for Submissions*, 17 March 2021, public, para. 16(a); Transcript of Hearing, 24 March 2021, public; F00300, Pre-Trial Judge, *Order Setting the Date for a Fifth Status Conference and for Submissions*, 14 May 2021, public, para. 19(a); Transcript of Hearing, 19 May 2021, public; F00393, Pre-Trial Judge, *Order Setting the Date for a Sixth Status Conference and for Submissions*, 12 July 2021, public, para. 15(a); Transcript of Hearing, 21 July 2021, public; F00461, Pre-Trial Judge, *Order Setting the Date for a Seventh Status Conference and for Submissions*, 8 September 2021, public, para. 15(a); Transcript of Hearing, 14 September 2021, public; F00531, Pre-Trial Judge, *Order Setting the Date for Eighth Status Conference and for Submissions*, 18 October 2021, public, para. 18(a); Transcript of Hearing, 29 October 2021, public; F00593, Pre-Trial Judge, *Order Setting the Date for Ninth Status Conference and for Submissions*, 2 December 2021, public, para. 18(a); Transcript of Hearing, 15 December 2021, public; F00655, Pre-Trial Judge, *Order Setting the Date for Tenth Status Conference and for Submissions*, 25 January 2022, public, para. 19(a); Transcript of Hearing, 4 February 2022, public; F00734, Pre-Trial Judge, *Order Setting the Date for Eleventh Status Conference and for Submissions*, 15 March 2022, public, para. 21(a); Transcript of Hearing, 24 March 2022, public; F00798, Pre-Trial Judge, *Order Setting the Date for a Twelfth Status Conference and for Submissions*, 12 May 2022, public; Transcript of Hearing, 20 May 2022, public; F00863, Pre-Trial Judge, *Order Setting the Date for a Thirteenth Status Conference and for Submissions*, 1 July 2022, public; Transcript of Hearing, 13 July 2022, public.

²² KSC-BC-2020-06, Transcript of Hearing, 8 September 2022, public, p. 1582, line 21 to p. 1583, line 6.

²³ KSC-BC-2020-06, Transcript of Hearing, 8 September 2022, public, p. 1583, lines 7-13.

²⁴ KSC-BC-2020-06, Transcript of Hearing, 8 September 2022, public, p. 1583, lines 21 to p. 1584, line 2.

according to the current protective measures regime²⁵ and (ii) a provisional list of the first 40 witnesses it intends to call at trial by 18 November 2022.²⁶ In addition, the Parties were ordered to file notices indicating where points of agreement on issues of law and/or fact had been reached by 18 November 2022.²⁷

18. On 30 September 2022, the SPO submitted an updated Rule 109(c) Chart²⁸ and finalised the processing of Rule 102(3) requests.²⁹ On this same day, a further amended confirmed amended indictment was filed (“Further Amended Indictment”),³⁰ which reflected the withdrawal of certain charges³¹ and certain additions ordered for the purposes of increased specificity of the indictment.³²

19. On 7 October 2022, the SPO filed an updated Rule 102(3) Notice.³³ In addition, on this same day, the Defence for Mr Thaçi provided notice that he will seek unique investigative opportunities pursuant to Rule 99 of the Rules.³⁴

²⁵ KSC-BC-2020-06, Transcript of Hearing, 8 September 2022, public, p. 1584, lines 3-8.

²⁶ KSC-BC-2020-06, Transcript of Hearing, 8 September 2022, public, p. 1584, lines 9-12.

²⁷ KSC-BC-2020-06, Transcript of Hearing, 8 September 2022, public, p. 1583, lines 14-20.

²⁸ KSC-BC-2020-06, F01000, Specialist Prosecutor, *Prosecution Submission of Supplemental Rule 109(C) Chart*, 30 September 2022, public, with Annex 1, strictly confidential and *ex parte*, and Annex 2, confidential.

²⁹ KSC-BC-2020-06, F01005, Specialist Prosecutor, *Prosecution Notification of Compliance*, 3 October 2022, public.

³⁰ KSC-BC-2020-06, F00999, Specialist Prosecutor, *Submission of Confirmed Amended Indictment*, 30 September 2022, public, with Annex 1, strictly confidential and *ex parte*, Annex 2, confidential, and Annex 3, public.

³¹ KSC-BC-2020-06, F00993, Pre-Trial Judge, *Decision on the Prosecution Request to Amend the Indictment*, 29 September 2022, confidential. A public redacted version was filed the same day.

³² KSC-BC-2020-06, F00895, Pre-Trial Judge, *Decision on Motion Alleging Defects in the Form of the Amended Indictment*, 22 July 2022, public.

³³ KSC-BC-2020-06, F01021, Specialist Prosecutor, *Prosecution Supplemental Rule 102(3) Notice*, 7 October 2022, public, Annex 1, confidential.

³⁴ KSC-BC-2020-06, F01018, Specialist Counsel, *Thaçi Defence Notice of Unique Investigative Opportunities*, 7 October 2022, public.

II. APPLICABLE LAW

20. Pursuant to Rule 96(1) of the Rules, following the first status conference, the Pre-Trial Judge shall convene subsequent status conferences as deemed necessary in order to: (i) organise exchanges between the Parties and, where applicable, Victims' Counsel so as to ensure expeditious preparation for trial; (ii) take steps to ensure that all necessary preparations are being conducted by the Parties in a timely and diligent fashion; and (iii) review the status of the case and allow the Parties and, where applicable, Victims' Counsel the opportunity to raise issues in relation thereto.

21. Pursuant to Article 21(6) of the Law, all material and relevant evidence or facts in possession of the SPO which are for or against the Accused shall be made available to the Accused before the beginning of and during the proceedings, subject only to restrictions which are strictly necessary and when any necessary counter-balance protections are applied. Pursuant to Rule 102(3) of the Rules, the SPO shall provide detailed notice to the Defence of any material and evidence in its possession.

22. Pursuant to Rule 95(5) of the Rules, after submission of the items under Rule 95(4) of the Rules, the Pre-Trial Judge shall invite the Defence to file a pre-trial brief within a set time limit. Moreover, within a time limit set by the Pre-Trial Judge, the Defence shall notify the SPO of its intention to offer a defence of alibi or any other grounds excluding criminal responsibility, including that of diminished or lack of mental capacity, intoxication, necessity, duress, and mistake of fact or law.

23. Pursuant to Rule 96(2) of the Rules, with the Accused's written consent after receiving advice from Counsel, a status conference may be conducted: (i) in the Accused's presence, with Counsel participating via video-conference; (ii) in Defence Counsel's presence, with the Accused participating via video-conference; or (iii) in the Accused's absence, with Counsel present or participating via video-conference. In addition, any request to attend the status conference via video-conference, shall be made directly to the Registrar, in accordance with the Registrar's Practice Direction

on Video Links (KSC-BD-23/COR), sufficiently in advance for the Registrar to take the appropriate steps, including to inform the Pre-Trial Judge.³⁵

III. DISCUSSION

24. Having considered the scheduling preferences expressed by the Parties and Victims' Counsel as well as courtroom availability, the Pre-Trial Judge convenes the Fifteenth Status Conference in this case at 13:30, on Friday, 4 November 2022.

25. During the hearing, the Pre-Trial Judge will ask the Parties for updates, if any, on the outstanding issues from the Fourteenth Status Conference, and the written and oral submissions they have made thereon. Specifically, and in addition, the Pre-Trial Judge will seek updates on the following issues, in the sequence set out below:

(1) Disclosure:

- a. Whether progress has been made in the disclosure process with respect to Rule 107 material, in particular, how much of such material remains to be cleared and whether any additional applications pursuant to this rule are imminent.

(2) Translation:

- a. Whether the Registry can provide an update on outstanding translations, in particular the progress of the translation of the Further Amended Indictment and the Rule 109(c) Chart and its supplement.

³⁵ See also KSC-BC-2020-06, F00062, Pre-Trial Judge, *Decision Authorising Video Link Participation*, 6 November 2020, public, para. 10; F00069, Pre-Trial Judge, *Decision Authorising Video Link Participation*, 9 November 2020, public, para. 9.

(3) Defence investigations and next steps:

- a. Whether the Defence can provide more information on the status of their investigations, in particular what steps they have taken to move their investigations forward;
- b. Whether there has been any progress with respect to discussions on points of agreement on law and/or facts, pursuant to Rules 95(3) and 156 of the Rules, and whether the Parties foresee any difficulty in filing notices by 18 November 2022; and
- c. Whether the Defence foresees any difficulty in filing notices concerning their objections, if any at this stage of the proceedings, to the admissibility of evidentiary material disclosed, pursuant to Rule 95(2)(e) of the Rules, by 18 November 2022.

(4) Other Matters:

- a. Whether the SPO foresees any difficulty in providing a list of the first 40 witnesses it intends to call at trial by 18 November 2022;
- b. Concerning Rules 153, 154, and 155 of the Rules it is noted that there are witnesses who have given several witness statements; would the SPO be in a position to indicate (by ERN of the document) which statement(s) it intends to offer for admission under these rules; and
- c. Whether the Parties foresee any difficulty in transferring this case to a Trial Panel around the end of the year and whether the Parties foresee any difficulty in coming before a trial panel shortly after the hand-over of the case.

26. Finally, the Parties and participants are invited to indicate whether they foresee a need for a status conference in December before transfer of the case to a Trial Panel.

27. The Parties and participants are invited to file written submissions, if they so wish, on any of the above matters. Should the Parties or participants wish to raise any additional matter not listed in this order during the upcoming status conference, including difficulties with Legal Workflow or translations, they are invited to include these matters in their written submissions. The Parties and participants are invited to file any such submissions on Monday, 31 October 2022.

IV. DISPOSITION

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

- a. **DECIDES** to convene a status conference in the presence of the SPO, Victims' Counsel and the Defence, at **13:30 on Friday, 4 November 2022**; and
- b. **REQUESTS** the Parties and participants to provide written submissions, if they so wish, on **Monday, 31 October 2022**, as set forth in paragraph 27, above.



Judge Nicolas Guillou
Pre-Trial Judge

Dated this Monday, 17 October 2022
At The Hague, the Netherlands.