



SPECIALIST PROSECUTOR'S OFFICE
ZYRA E PROKURORIT TË SPECIALIZUAR
SPECIJALIZOVANO TUŽILAŠTVO

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

Before: Pre-Trial Judge
Judge Nicolas Guillou

Registrar: Dr Fidelma Donlon

Filing Participant: Specialist Prosecutor

Date: 31 October 2022

Language: English

Classification: Public

Prosecution submissions for fifteenth status conference

Specialist Prosecutor's Office

Jack Smith

Counsel for Victims

Simon Laws

Counsel for Hashim Thaçi

Gregory Kehoe

Counsel for Kadri Veseli

Ben Emmerson

Counsel for Rexhep Selimi

David Young

Counsel for Jakup Krasniqi

Venkateswari Alagendra

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

Status Conference Submissions

Item 1:² Disclosure

Rule 107

2. The SPO continues to engage with Rule 107 information providers concerning pending clearances. The information provider with the overwhelming majority of outstanding items previously estimated to the SPO that it would make clearance decisions on its items by the end of September 2022.³ Such clearance decisions were delayed by the provider. The SPO has been in contact with this provider repeatedly since then – including in the past week – in efforts to secure all necessary clearances. On 28 October 2022, the provider informed the SPO that it had cleared the majority of items – totaling 821 pages – pending clearance. The SPO expects to receive such documents in the coming days.

3. While, as of filing, there are still approximately 200 items relevant to this case pending clearance, once the items above are received, that number is anticipated to be under 50. Less than 25 of the items pending clearance have any sort of Rule 103 content.⁴ The SPO anticipates filing two Rule 107 applications by mid-November 2022. Further clearance decisions may prompt the need for future applications.

¹ Order Setting the Date for a Fifteenth Status Conference and for Submissions, KSC-BC-2020-06-F01039, 17 October 2022 ('Order').

² The numbering follows that indicated in the Order.

³ Prosecution submissions for fourteenth status conference, KSC-BC-2020-06/F00952, 5 September 2022, para.7.

⁴ Transcript of Hearing, 8 September 2022, p.1502.

Item 3: Defence investigations and next steps

Agreed facts

4. The SPO is currently reviewing a joint Defence proposal for agreed facts received today⁵ and the Defence's Pre-Trial Briefs to assess whether pursuing additional agreements of fact or law would be worthwhile. An agreed facts notice can be filed by 18 November 2022.

Item 4: Other Matters:

First 40 witnesses

5. The SPO intends to provide a provisional list of its first 40 witnesses by 18 November 2022.⁶ As a provisional list, certain adjustments may need to be made due to witness availability or other factors.⁷

Rule 153, 154, and 155 statements

6. Whether a witness's evidence is to be presented pursuant to Rules 153-155 is currently foreseen in the SPO's witness list.⁸ For each Rule 153-155 witness, the ERNs of the witness's prior statements are linked through a relation for each witness entity in Legal Workflow (subject to items covered by protective measures considerations).

7. As to which of these statements will be tendered for admission, the SPO intends to file its first motions seeking to admit evidence under Rules 153-155 before the commencement of trial.⁹ The SPO is aware of different approaches taken by Trial

⁵ This proposal was received by email at 14.45 on 31 October 2022.

⁶ Transcript of Hearing, 8 September 2022, p.1584.

⁷ As acknowledged in Transcript of Hearing, 8 September 2022, p.1527 (submissions of Selimi Defence when requesting a provisional list).

⁸ Annex 2 to Prosecution submission of revised witness list, KSC-BC-2020-06/F00948/A02, 2 September 2022, Confidential.

⁹ For Rule 154 specifically, the relief sought will be conditional on the procedural prerequisites of the rule being satisfied during the hearing.

Chambers at other institutions under comparable rules, and understands that trial efficiency will be best served by having the Trial Panel's first decisions inform the SPO's drafting of subsequent motions.

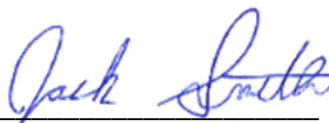
Transfer of case to Trial Panel

8. The SPO foresees no difficulty in transferring this case to a Trial Panel around the end of the year, nor in appearing before that Trial Panel in January 2023 shortly after the hand-over of the case and the judicial recess.¹⁰

December status conference

9. The SPO does not require a December 2022 status conference prior to the transfer of the case to a Trial Panel. This is a matter for the Pre-Trial Judge's discretion, and the SPO will make itself available for a future status conference should one be considered necessary.

Word count: 649



Jack Smith
Specialist Prosecutor

Monday, 31 October 2022

At The Hague, the Netherlands.

¹⁰ Rule 123(3).