



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

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

Before: **Trial Panel I**
Judge Mappie Veldt-Foglia, Presiding
Judge Roland Dekkers
Judge Gilbert Bitti
Judge Vladimir Mikula, Reserve

Registrar: Dr Fidelma Donlon

Filing Party: Acting Specialist Prosecutor

Date: 14 July 2023

Language: English

Classification: Public

Prosecution response to Defence request for time extension to file its witness and exhibit lists

Specialist Prosecutor's Office

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Counsel for the Accused

Jean-Louis Gilissen

I. INTRODUCTION

1. The Specialist Prosecutor's Office ('SPO') opposes the Defence request for an extension of time to file its lists of witnesses and exhibits,¹ and requests that they be filed by the set deadline. There is no reason for an extension and no prejudice, as the Defence can seek to amend its lists – upon timely notice and a showing of good cause² – once the Defence has completed the investigations it plans to carry out during the summer recess.³
2. The SPO does not oppose an extension of the deadline to disclose the items the Defence will list until immediately after the summer recess.

II. SUBMISSIONS

3. The Trial Panel's ('Panel') scheduling order of 16 June 2023 did not create any expectations that the 17 July 2023 deadline for the filing of the witness and exhibit lists⁴ would be changed, had the Defence elected to file a motion pursuant to Rule 130 ('Rule 130 Motion').⁵ On that date, in fact, the Panel set the calendar for the next procedural steps subject to the filing and *outcome* of a Rule 130 Motion.⁶
4. When, on 6 July 2023, the Defence notified the Panel of its intention to present a case pursuant to Rule 119(1) and to file a Rule 130 Motion, seeking an extension to file the latter, it did not seek an extension of the deadline set by the Panel for the witness and exhibit lists.⁷

¹ Defence Request for an Extension of Time for the Submission of its List of Witnesses and Exhibits Under Rule 119(2)(a) and (b) of the Rules, KSC-BC-2020-04/F00583, 12 July 2023, public ('Defence Request').

² Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 ('Rules'), Rule 119(5). *See also* Rule 104(6).

³ Defence Request, KSC-BC-2020-04/F00583, para.8.

⁴ Transcript (Procedural Matters), 16 June 2023, pp.2019.

⁵ *Contra* Defence Request, KSC-BC-2020-04/F00583, para.7.

⁶ Transcript (Procedural Matters), 16 June 2023, pp.2019, 2021.

⁷ Defence Notice Pursuant to Rules 119(1) and 130 of the Rules and Request for an Extension of Time and Word Limit, KSC-BC-2020-04/F00571, 6 July 2023, public, paras 1, 4, 10.

5. In addition, one of the deadlines listed in the Defence Request as obstacles to the filing of the exhibit and witness lists⁸ has now been extended.⁹ It is also unclear how preparations to allow the inspection of the materials the Defence intends to use at trial could constitute an obstacle for the filings under Rule 119(2)(a) and (b),¹⁰ since there will be no materials to inspect if the Defence does not submit these filings.

6. While the SPO is aware that the Defence will be conducting further investigations over the summer, there is no impediment to the filing, on 17 July 2023, of a list of witnesses and exhibits based on a good faith assessment of the investigations it has conducted so far. Upon timely notice and a showing of good cause, the Defence will then be able to amend these lists, pursuant to Rule 119(5), and to disclose any additional witness statements within the time limits set forth in Rule 104(6).

7. Accordingly, the filing of witness and exhibit lists by 17 July 2023 will cause no prejudice to the Defence, regardless of the outcome of the Rule 130 Motion, and will allow the SPO and other participants to begin preparing for the Defence case sufficiently in advance before its start.

8. Finally, the SPO does not oppose an extension of the deadline to permit the inspection of the statements of witnesses and exhibits the Defence will include in its 17 July 2023 notification until immediately after the end of the summer recess.

II. RELIEF REQUESTED

9. For the foregoing reasons, the SPO requests the Panel to reject the Defence Request and order the Defence to file, by 17 July 2023, lists of witnesses and exhibits under Rule 119(2)(a) and (b).

⁸ Defence Request, KSC-BC-2020-04/F00583, para.9.

⁹ The Defence deadline to respond to the Prosecution motion for admission of documentary evidence relating to the Accused (F00565) has been extended to 22 August 2023, *see* Decision on the Defence Request for an Extension of Time (F00582), KSC-BC-2020-04/F00586, 13 July 2023.

¹⁰ Defence Request, KSC-BC-2020-04/F00583, para.9.

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Friday, 14 July 2023

At The Hague, the Netherlands.