



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: Trial Panel II
Judge Charles L. Smith, III, Presiding Judge
Judge Christoph Barthe
Judge Guénaël Mettraux
Judge Fergal Gaynor, Reserve Judge

Registrar: Dr Fidelma Donlon

Filing Participant: Specialist Prosecutor's Office

Date: 8 September 2023

Language: English

Classification: Public

**Prosecution supplemental Rule 102(3) notice
with confidential Annex 1**

Specialist Prosecutor's Office

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1. Pursuant to the Conduct of Proceedings Order,¹ the Specialist Prosecutor's Office ('SPO') hereby submits a supplemental notice under Rule 102(3) of the Rules² ('Notice').³
2. This Notice is the result of the further review described in the Response.⁴ This review is now complete. The materials reviewed included documents with parts, partial duplicates, and/or other versions, including other language versions, noticed and/or disclosed,⁵ as well as certain Rule 107 items that had been removed from pre-trial disclosure workstreams pending clearance and due to human error, were not processed following such clearance.⁶ The SPO's current disclosure practices have mitigated and addressed the risks of similar errors happening again.⁷
3. When conducting this further review, the SPO verified the disclosure status of the relevant documents and parts thereof, and assessed each in light of its disclosure obligations under Rules 102-103. In doing so, the SPO applied a broad and good faith understanding of its disclosure obligations, erring on the side of notification and/or disclosure in case of doubt.⁸ No further Rule 103 items were identified. However, based on a broad understanding of its obligations under Rule 102(3),⁹ certain relevant items were identified. The Notice includes these additional Rule 102(3) items, which consist of:

¹ Order on the Conduct of Proceedings, KSC-BC-2020-06/F01226/A01, 25 January 2023 ('Conduct of Proceedings Order'), paras 21-22.

² Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 ('Rules'). All references to 'Rule' or 'Rules' herein are to the Rules, unless otherwise specified.

³ See Annex 1.

⁴ Prosecution response to Joint Defence Request F01729, KSC-BC-2020-06/F01758, 1 September 2023, Confidential ('Response'), para.11(d).

⁵ Because these documents had parts, partial duplicates, and/or other versions disclosed, they were previously removed from pre-trial disclosure workstreams for further checks, and due to human error, were not completely processed.

⁶ The relevant clearances were received at the pre-trial stage of the proceedings.

⁷ Response, KSC-BC-2020-06/F01758, para.12.

⁸ Response, KSC-BC-2020-06/F01758, para.21 (and the sources cited therein).

⁹ In relation to its Rule 102(3) obligations, the SPO applies a broad relevance standard, wider than materiality (which is also interpreted broadly). See *Specialist Prosecutor v. Gucati and Haradinaj*, Public Redacted Version of Decision on the Appeals Against Disclosure Decision, KSC-BC-2020-07/IA005/F00008/RED, 29 July 2021, paras 41-42.

(i) 17 documents from large Serbian case files ('Serbian Documents');¹⁰ and (ii) six Rule 107 documents ('Rule 107 Documents').¹¹

4. The Serbian Documents primarily contain information that is reflected in other disclosed documents,¹² and consist of (i) police notes, summaries, and procedural documents compiled on the basis of or related to other documents from the same Serbian case files that have been previously disclosed;¹³ and (ii) three Belgrade District Court statements of individuals who are not witnesses in this case and provided incriminating information relating to incidents that are not charged in the Indictment.¹⁴ The Rule 107 Documents, consisting of 18 pages in total, are limited to photographs of artefacts from the Uglarë/Ugljare gravesite,¹⁵ and one statement by an individual who is not a witness in this case. This statement contains incriminating information primarily relating to incidents and sites that are not charged in the Indictment.¹⁶ Accordingly, while this late Notice is regrettable, any resulting prejudice is minimal.

¹⁰ Items 78050-78053, 78059-78071. The remaining, relevant parts of these case files (or duplicates thereof) were previously noticed and/or disclosed.

¹¹ Items 78054-78058, 78072.

¹² For example, items 78050 and 78065 (0189-0102-0189-0105; SITF00345779-00345783) reproduce or summarise information contained in 028983-028985-ET (Disclosure 66); item 78064 (SITF00345774-SITF00345774) contains largely the same information as SITF00357219-00357262 (Disclosures 477, 487); and item 78071 (SITF00414712-SITF00414713) primarily summarises information contained in SITF00414716-SITF00414717-ET (Disclosure 137).

¹³ Items 78050-78051, 78053, 78059-78071.

¹⁴ Item 78052.

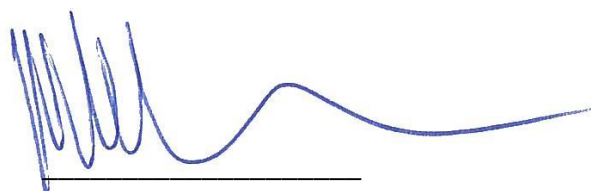
¹⁵ Items 78054 to 78058. Multiple other documents relating to this gravesite have previously been disclosed. *See, for example*, 0189-1043-0189-1067 (Disclosure 607); K037-2874-K037-2874 (Disclosures 207-208, 227, 255); SITF00187144-00187145 (Disclosures 141, 147, 352, 383); SITF00187146-00187147 (Disclosures 141, 147, 352, 383); SITF00187149-00187149 (Disclosures 141, 147, 352, 383); SITF00187150-00187151 (Disclosures 392, 406, 415, 420); SITF00187154-00187155 (Disclosures 347, 369, 373); SITF00187160-00187161 (Disclosures 207-208, 352); SITF00268954-00268985 (Disclosures 94, 134, 185, 352); SITF00287818-00287819 (Disclosures 269-270, 272, 352); SITF40008605-40008606 (Disclosure 595).

¹⁶ Item 78072. The witness also briefly discusses his knowledge of the Valljakë/Volujak cave.

5. The SPO is available to liaise *inter partes* with the Defence to address any concerns¹⁷ arising from the items included on this Notice, as well as those items noticed and disclosed following the Response.¹⁸

6. The Notice is confidential in accordance with Rule 82(4), to give effect to applicable confidentiality restrictions and protective measures, and for the protection and privacy of the individuals identified therein.

Word Count: 753



Ward Ferdinandusse

Acting Deputy Specialist Prosecutor

Friday, 8 September 2023

At The Hague, the Netherlands.

¹⁷ Conduct of Proceedings Order, KSC-BC-2020-06/F01226/A01, para.43.

¹⁸ See Response, KSC-BC-2020-06/F01758, para.11(c).