

Annex 1 to
Order Setting the Date for the First Status Conference and for Submissions

Public

Agenda for the Status Conference and/or Written Submissions

Information to be provided by the Specialist Prosecutor's Office ("SPO") and the Defence, as the case may be:

1. General Questions:

- a) Is the SPO's investigation in this case still ongoing and, if so, whether and how this will impact the speedy conduct of the proceedings;
- b) What is the overall amount of evidence that the SPO is currently in possession of and intends to use for the purpose of these proceedings;
- c) How many witnesses did the SPO rely upon for the purposes of the Confirmed Indictment and does it intend to rely upon them at trial; and how many witnesses does the SPO intend to add to the list of witnesses for the purpose of trial;
- d) Is it feasible for the SPO to indicate at this stage when, in its view, the disclosure of its evidence and information, as foreseen in Rule 95(4) of the Rules of Procedure and Evidence before the Specialist Chambers ("Rules") can be concluded?
- e) If the Defence wishes to contribute: at this stage, and without prejudice to the Accused's rights under the Law, whether the Defence foresees to investigate and approximately how much time it will require to conclude its investigative activities;
- f) If the Defence wishes to contribute: at this stage, and without prejudice to the Accused's rights under the Law, whether the Defence can indicate if it will provide notice of alibi or any other grounds excluding criminal responsibility; and
- g) If the Defence intends to file preliminary motions.

2. Rule 102(1)(a) Material (Supporting Material to the Confirmed Indictment)

- a) The overall amount of such material, including a breakdown thereof (number of witness statements, statements obtained from the Accused, transcripts, reports, other documents, audio/video material, photographs, objects), including the total number of pages and the length of any audio/video material, where applicable;
- b) Whether translations into Albanian of witness statements whom the SPO intends to call to testify at trial have been finalised or, if in progress, when such translations are expected to be completed;
- c) Whether the Rule 102(1)(a) material and the Detailed Outline¹ require redactions; and
- d) Considering the limited amount of material falling under Rule 102(1)(a) of the Rules, whether the SPO would be prepared to disclose to the Defence such material, in whole or in part, shortly after the first status conference or in any case ahead of the 30-day deadline provided for in Rule 102(1)(a) of the Rules.

3. Rule 102(1)(b) Material (Additional Material Intended for Use at Trial)

- a) An indication as to whether the SPO intends to disclose, in addition to material falling under Rule 102(1)(a) of the Rules, material falling under Rule 102(1)(b) of the Rules, including:

¹ See KSC-BC-2023-10, F00002/A02, Specialist Prosecutor, *Annex 2 to Submission of Indictment for confirmation and related requests*, 11 September 2023, strictly confidential and *ex parte*.

- statements of witnesses whom the SPO intends to call to testify at trial, including whether their translations into Albanian have been finalised or, if in progress, when such translations are expected to be completed;
 - other witness statements, expert reports, depositions, or transcripts that the SPO intends to present at trial; and
 - exhibits that the SPO intends to present at trial.
- b) If the SPO intends to disclose such material, an indication of the estimated amount and type thereof, including the number of pages and the length of any audio/video material, where applicable;
- c) Whether and how much of the Rule 102(1)(b) material will require redactions;
- d) When the SPO would be prepared to disclose to the Defence the material falling under this provision; and
- e) Whether, in order for the Defence to be able to expeditiously prepare for trial, the SPO can endeavour to disclose all documents and material referred to in witness statements, taken either by the SPO or another entity, simultaneously with said statements, as well as to disclose witness statements and their respective translations in the same disclosure batch.

4. Rule 102(3) Material (Evidence Material to Defence Preparation, Obtained from or Belonging to the Accused)

- a) An indication as to whether the SPO intends to make available to the Defence any material in its custody or control falling under Rule 102(3) of the Rules, including any statements, documents, photographs, or other tangible objects which may be deemed by the Defence to be material to its preparation, or were obtained from or belonging to the Accused;

- b) If the SPO has such material in its custody or control, an indication of the type and estimated amount thereof, including the number of pages and the length of any audio/video material, where applicable;
- c) Whether and how much of the Rule 102(3) material will require redactions; and
- d) When the SPO would be prepared to provide detailed notice of such material to the Defence.

5. Rule 103 Material (Exculpatory Evidence)

- a) An indication of the amount and type of exculpatory material within the meaning of Rule 103 of the Rules in the custody, control or actual knowledge of the SPO to date, and a breakdown thereof (number of witness statements, transcripts, reports, other documents, audio/video material, photographs, objects), including the total number of pages and the length of any audio/video material, where applicable; and
- b) If the SPO possesses such material, whether redactions will be required prior to immediate disclosure.

6. Rule 107 Material (Protected Material)

- a) An indication whether the SPO has custody or control over material that it intends to tender into evidence which has been provided on a confidential basis and solely for the purpose of generating new evidence, including an indication of the estimated amount and type thereof, including the number of pages and the length of any audio/video material, where applicable;
- b) In case the SPO intends to disclose such material, whether the material falls under Rules 102(2) and/or 103 of the Rules;

- c) An indication whether and for which material the SPO intends to seek the consent of information providers and when receipt of such consent can be expected; whether the SPO has already taken steps to obtain the consent of the information providers to disclose such material or whether such steps are foreseen in the near future;
- d) An indication whether the SPO intends to apply to the Pre-Trial Judge to be relieved in whole or in part of its obligation under Rules 102 and/or 103 of the Rules to disclose the initial material;
- e) An indication whether, if such material is to be disclosed, redactions will be required; and
- f) An indication whether, if such material cannot be disclosed, other counterbalancing measures pursuant to Rule 108(2) of the Rules will be requested, including which type of material may be affected thereby.

7. Procedure for Disclosure

- a) Whether the Parties can apply, in addition to the generic categories set out in Rule 109(c) of the Rules, case-specific categorisation in Legal Workflow for material falling under Rule 102(1)(a) and (b) and Rule 104(1), (5) and (6) of the Rules at the time of disclosure of each batch of such material, in accordance with the following categories: (i) underlying offences: "count 1", "count 2", "count 3", "all"; (ii) alleged conduct of the Accused: "commission", "co-perpetration", "agreement to commit criminal offences", "assistance", "attempt", "all"; and (iii) Accused: "Januzi", "Bahtjari", "all";
- b) Whether the Parties wish to make any proposals as to further sub-categories to be added, in addition to those set out under point (a) above, should they consider this necessary;

- c) Whether the Parties can agree on a model consolidated disclosure chart that satisfies the requirements of Rule 109(c) of the Rules and includes the aforementioned case-specific categories to be discussed at the Status Conference; and

- d) Whether the Defence agrees to be provided with this consolidated disclosure chart at the time the SPO Pre-Trial Brief is submitted; by analogy, whether the SPO agrees to be provided with this consolidated chart at the time of filing of the Defence Pre-Trial Brief.