



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA KOSOVA

In: **KSC-BC-2023-10**
The Specialist Prosecutor v. Sabit Januzi and Ismet Bahtijari

Before: **Pre-Trial Judge**
Judge Nicolas Guillou

Registrar: Dr Fidelma Donlon

Date: 8 December 2023

Language: English

Classification: **Public**

Order Setting the Date for the Third Status Conference and for Submissions

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THE PRE-TRIAL JUDGE,¹ pursuant to Article 39(1) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office ("Law"), and Rule 96(1) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules") hereby renders this order.

I. PROCEDURAL BACKGROUND

1. On 12 October 2023, following the initial appearances of Sabit Januzi and Ismet Bahtijari ("Mr Januzi", "Mr Bahtijari", and together, "Accused") on 9 October 2023,² the first status conference in the case took place ("First Status Conference").³

2. On 24 October 2023, the Pre-Trial Judge issued the decision: (i) on the framework for the disclosure of evidence and related matters; as well as (ii) on the framework for the handling of confidential information during investigations and contact between a Party or participant and witnesses of the opposing Party or of a participant ("Framework Disclosure Decision").⁴

3. On 3 November 2023, the second status conference took place ("Second Status Conference").⁵ During the Second Status Conference, the Pre-Trial Judge, *inter alia*, (i) adopted a case-specific subcategorization to be applied in Legal

¹ KSC-BC-2023-10, F00001, President, *Decision Assigning a Pre-Trial Judge*, 11 September 2023, public.

² KSC-BC-2023-10, [Transcript of Hearing](#), 9 October 2023, public, pp. 1-16; [Transcript of Hearing](#), 9 October 2023, public, pp. 17-32. See also F00017, Pre-Trial Judge, [Decision Setting the Date for the Initial Appearances of Sabit Januzi and Ismet Bahtijari and Related Matters](#), 6 October 2023, public, para. 21(a)-(b).

³ KSC-BC-2023-10, F00022, Pre-Trial Judge, *Order Setting the Date for the First Status Conference and for Submissions*, 9 October 2023, public; [Transcript of Hearing](#), 12 October 2023, public, pp. 33-71.

⁴ KSC-BC-2023-10, F00076, Pre-Trial Judge, *Framework Decision on Disclosure of Evidence and Related Matters*, 24 October 2023, confidential, with Annex 1, public. A public redacted version of the decision was filed on the same day, [F00076/RED](#).

⁵ KSC-BC-2023-10, F00081, Pre-Trial Judge, *Order Setting the Date for the Second Status Conference and for Submissions* ("Second Status Conference Order"), 27 October 2023, public; [Transcript of Hearing](#), 3 November 2023 ("Second Status Conference Transcript"), public, pp. 72-92.

Workflow;⁶ (ii) ordered the Specialist Prosecutor's Office ("SPO") to file its pre-trial brief by 2 February 2024;⁷ and (iii) varied the time limits prescribed by the Rules and ordered the Defence for Mr Januzi and the Defence for Mr Bahtijari to reply to the SPO's response to any preliminary motions by 9 January 2024.⁸

II. APPLICABLE LAW

4. Pursuant to Rule 96(1) of the Rules, following the first status conference after the initial appearance of the Accused, the Pre-Trial Judge shall convene subsequent status conferences as deemed necessary in order to, *inter alia*: (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 the opportunity to raise issues in relation thereto.

5. 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.⁹

⁶ Second Status Conference Transcript, p. 80, line 5 to p. 80, line 11.

⁷ Second Status Conference Transcript, p. 82, line 10 to p. 82, line 15.

⁸ Second Status Conference Transcript, p. 91, lines 11-15.

⁹ See Second Status Conference Order, para. 4 and references therein.

III. DISCUSSION

6. The Pre-Trial Judge recalls that, pursuant to the Framework Disclosure Decision, the SPO is due to complete disclosure under Rule 102(1)(b) of the Rules, by 15 December 2023,¹⁰ and provide the Defence with detailed notice under Rule 102(3) of the Rules, by 26 January 2024.¹¹ The Pre-Trial Judge also notes that disclosure of exculpatory material under Rule 103 of the Rules took place on 16 November 2023¹² and disclosure of Rule 102(1)(b) material took place on 6 December 2023.¹³ The Pre-Trial Judge further recalls that, in line with the SPO's submissions and his oral order of 3 November 2023, the SPO will file its pre-trial brief by 2 February 2024.¹⁴

7. In accordance with Rule 96(1) of the Rules and to ensure expeditious preparation for trial, the Pre-Trial Judge convenes a third status conference on **Thursday, 14 December 2023, at 11:30 hours.**

8. The Pre-Trial Judge will ask the Parties to provide updates, if any, on the outstanding issues addressed at the Second Status Conference and the written and oral submissions in relation to those issues.¹⁵ Specifically, and additionally, the Pre-Trial Judge will request updates on the following issues, in the sequence set out below:

(1) Disclosure

- (a) What progress has been made in the disclosure of evidentiary material by the SPO, and, in particular:

¹⁰ Framework Disclosure Decision, para. 122(d).

¹¹ Framework Disclosure Decision, para. 122(e).

¹² KSC-BC-2023-10, Disclosure Batch 4. *See also* Framework Disclosure Decision, para. 122(j)-(k).

¹³ KSC-BC-2023-10, Disclosure Batch 5. *See also* Framework Disclosure Decision, para. 122(d).

¹⁴ KSC-BC-2023-10, F00084, Specialist Prosecutor, *Prosecution Submissions for Second Status Conference* ("SPO Submissions"), 31 October 2023, public, para. 8; Second Status Conference Transcript, p. 82, line 10 to p. 82, line 15

¹⁵ *See* SPO Submissions.

- i. with respect to Rule 102(1)(b) material, whether disclosure under this rule will be completed within the deadline set forth in the Framework Disclosure Decision, i.e. by 15 December 2023;
 - ii. with respect to Rule 102(3) material, whether the SPO will submit by 26 January 2024 the detailed notice of evidence falling under Rule 102(3) of the Rules; relatedly, whether and how much of the Rule 102(3) material will require redactions;
 - iii. with respect to Rule 103 material, whether the SPO will disclose additional exculpatory evidence which is in the SPO's custody, control or actual knowledge falling under Rule 103 of the Rules; relatedly, whether and how much of the Rule 103 material will require redactions, if any; and
 - iv. whether the SPO anticipates requests under Rule 107 of the Rules; and
- (b) Whether in light of the current stage of the SPO disclosure of evidentiary material, the SPO is facing or foresees any difficulties in meeting the disclosure calendar set in the Framework Disclosure Decision for the remainder of the disclosure process.

(2) Translations

- (a) Whether the SPO is facing any issues regarding the translation of evidentiary material.

(3) SPO Investigations and Next Steps

- (a) Whether the SPO will complete its outstanding investigative steps by the end of December 2023.¹⁶

¹⁶ See SPO Submissions, para. 7.

(4) Defence Investigations and Next Steps

- (a) Based on the SPO's updates regarding the preceding matters and the ongoing disclosure of evidence process (scheduled to continue into early 2024), whether the Defence is – or when it expects to be – in a position to provide more information on:
- i. the status of its investigations;
 - ii. any intention to give notice of an alibi or grounds for excluding responsibility pursuant to Rule 95(5) of the Rules and any associated disclosure pursuant to Rule 104(1) and (2) of the Rules;
 - iii. whether the Defence envisages filing a pre-trial brief and related material under Rule 95(5) of the Rules and, if so, whether the Defence will be able to file it by Friday, 1 March 2024; and
 - iv. any intention to make requests concerning unique investigative opportunities, pursuant to Rule 99(1) of the Rules.

(5) Points of Agreement on Matters of Law and Fact

- (a) Have the Parties entered into discussions regarding the possibility of submitting points of agreement on law and/or facts pursuant to Rules 95(3) and 156 of the Rules; and
- (b) When do the Parties expect to be able to identify a list of issues subject to dispute and one with issues not subject to dispute.

(6) Anticipated transmission of the case file pursuant to Rule 72(1) of the Rules:

- (a) Subject to outstanding disclosure by the SPO, and noting that the Defence for Mr Januzi, and the Defence for Mr Bahtijari have not

lodged any preliminary motions by 30 November 2023, the Parties' views on the transmission of the case file to the Trial Panel by **Friday, 15 March 2024**, pursuant to Rule 72 of the Rules regarding expedited proceedings; and

(b) When would the Parties expect to be ready for trial.

9. The Pre-Trial Judge orders the SPO, the Defence for Mr Januzi, and the Defence for Mr Bahtijari, to file written submissions on any of the aforementioned matters, including the topics discussed during the Second Status Conference, any other matter not covered in the agenda for the second and third status conference, or any difficulty related to the disclosure of evidentiary material, by no later than **Tuesday, 12 December 2023, at 12:00 hours (SPO), and Wednesday, 13 December 2023, at 12:00 hours (Defence for the Accused)**.

IV. DISPOSITION

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

- a. **DECIDES** to convene a status conference in the presence of the SPO, the Defence for Mr Bahtijari, and the Defence for Mr Januzi, in line with paragraph 7 above, on **Thursday, 14 December 2023, at 11:30 hours**; and
- b. **ORDERS** the SPO and the Defence for the Accused to provide written submissions on the issues listed in paragraph 8 above, by **Tuesday, 12 December 2023, at 12:00 hours and Wednesday, 13 December 2023, at 12:00 hours**, respectively.



Judge Nicolas Guillou
Pre-Trial Judge

Dated this Friday, 8 December 2023
At The Hague, the Netherlands.