



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

In: KSC-BC-2023-10
Specialist Prosecutor v. Sabit Januzi, Ismet Bahtijari and Haxhi Shala

Before: Pre-Trial Judge
Judge Nicolas Guillou

Registrar: Dr Fidelma Donlon

Filing Participant: Specialist Prosecutor's Office

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Prosecution submissions for status conference

Specialist Prosecutor's Office

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I. INTRODUCTION

1. Pursuant to the Order,¹ the Specialist Prosecutor's Office ('SPO') hereby provides written submissions on the agenda items identified by the Pre-Trial Judge.

II. SUBMISSIONS

A. DISCLOSURE

2. With the exception of certain limited additional evidentiary material stemming from the SPO's ongoing investigation, the SPO can confirm that it has fully completed its disclosure pursuant to Rule 102(1)(b)² of the Rules.³

3. Regarding disclosure related to outstanding investigative steps, the SPO has already requested authorisation to disclose, pursuant to Rule 102(1)(b), the forensic image of a phone seized from Haxhi Shala, as well as extracts of records, including text messages and call log records, taken from the forensic image of this phone.⁴ The SPO is prepared to disclose these items to each of the Accused immediately once authorised.

4. Any further disclosures related to recently authorised investigative measures will be disclosed as they are identified and processed, subject to court authorisation.

5. With respect to Rule 102(3) material, the SPO can confirm that it has disclosed all materials requested by the Defence pursuant to Rule 102(3), with the exception of the one item for which the SPO has challenged materiality.⁵

6. At this time, subject to the results of the further investigative steps referenced below, the SPO does anticipate filing further requests for authorisation to present a

¹ Order Setting the Date for Status Conference and for Submissions, KSC-BC-2023-10/F00213, 14 March 2024 ('Order').

² See Order, KSC-BC-2023-10/F00213, para.14(1)(a).

³ 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 refer to the Rules, unless otherwise specified.

⁴ See Prosecution submission of Rule 109(c) chart and witness and exhibit lists and related request for Rule 102(1)(b) disclosure, KSC-BC-2023-10/F00164, 9 February 2024, paras 4-7.

⁵ See Order, KSC-BC-2023-10/F00213, para.14(1)(b).

supplemental notice pursuant to Rule 102(3). However, any newly received material will continue to be assessed for relevance in line with relevant obligations.

7. Consistent with its ongoing obligations, the SPO is continuing its review to identify any further material falling within Rule 103. If any new exculpatory material is identified, it will be immediately disclosed.

8. At this time, the SPO does not foresee submitting any additional requests for protective measures. However, should that become necessary, the SPO will file a request expeditiously.

9. The SPO does not anticipate making requests under Rule 107.

10. The SPO can indicate, subject to continuing forensic analysis, that it is on track to complete its pre-trial disclosure obligations by no later than Friday, 12 April 2024.

B. INVESTIGATION AND NEXT STEPS

11. The SPO has made substantial progress with its ongoing investigation but there remain certain steps outstanding,⁶ which the SPO will execute as expeditiously as possible. At this time, the SPO does not believe that such steps, including processing, can be completed by 28 March 2024.

C. POINTS OF AGREEMENT

12. On 5 February 2024, the SPO circulated to all accused via *inter partes* email a list of proposed agreed facts. Since the last status conference, no further communications have been received from the Defence on these proposals. The SPO stands ready to enter into such discussions, and can in any event communicate the results (if any) to the Panel by 28 March 2024.

⁶ See in particular Decision KSC-BC-2023-10/F00151, Decision KSC-BC-2023-10/F00155, and Decision KSC-BC-2023-10/F00183.

D. TRANSMISSION OF THE CASE FILE AND TRIAL READINESS

13. Noting the relatively straightforward nature of the case, the SPO does not oppose the transmission of the case file to the Trial Panel by 31 May 2024, pursuant to Rule 72 regarding expedited proceedings. The SPO could be ready for trial shortly thereafter.

Word count: 602



Kimberly P. West

Specialist Prosecutor

Tuesday, 19 March 2024

At The Hague, the Netherlands.