

1 Monday, 21 June 2021
2 [Status Conference]
3 [Open session]
4 [The accused entered court via videolink]
5 --- Upon commencing at 11.00 a.m.

6 JUDGE GUILLOU: Good morning everyone in and outside the
7 courtroom.

8 Madam Court Officer, can you please call the case.

9 THE COURT OFFICER: Good morning, Your Honour. This is
10 KSC-BC-2020-04, The Specialist Prosecutor versus Pjeter Shala.

11 JUDGE GUILLOU: Thank you, Madam Court Officer.

12 Now I would kindly ask the parties to introduce themselves,
13 starting with the Specialist Prosecutor's Office.

14 Mr. Prosecutor or Madam Prosecutor, I don't know who will lead
15 today.

16 MR. O'DOWD: Thank you, Your Honour, and good morning, and good
17 morning to all present. Appearing today for the
18 Specialist Prosecutor are Vega Iodice, Associate Prosecutor;
19 Angel Langenberg, Case Manager; and I am Sean O'Dowd, Prosecutor.

20 JUDGE GUILLOU: Thank you, Mr. Prosecutor.

21 And now let me turn to the Defence.

22 Mr. Gilissen, please.

23 MR. GILISSEN: Thank you, Mr. President. Good morning --

24 JUDGE GUILLOU: Microphone, please.

25 MR. GILISSEN: I am sorry. I needed to take off my mask and I

1 forgot the microphone.

2 So good morning, Your Honour. Mr. President, I am proud to
3 introduce to you the members of the Defence team of Mr. Shala.
4 First, Ms. Leta Cariolou, lawyer of the bar of Cypress and the bar of
5 England and Wales; second, Ms. Tina Korosec, lawyer who joined us
6 from the European Court of Human Rights; third,
7 Ms. Dzeneta Petravica, who recently joined us as an intern. Now,
8 Mr. President, you are familiar with Mr. Hedi Aouini, my co-counsel
9 from the bar of Tunis, and myself, Mr. Jean-Louis Gilissen,
10 Specialist Counsel of Mr. Shala, from the bar of Liege.

11 As you can see, Your Honour, compared to the first conference,
12 we are happy to report that the gender balance has been
13 re-established; in fact, reversed.

14 So Mr. Shala is here with us via the videolink from the
15 detention centre of Scheveningen. Thank you very much.

16 JUDGE GUILLOU: Thank you very much, Mr. Gilissen. And
17 congratulations for the gender balance. I also note that the gender
18 balance is also on the other side, so I congratulate all the team
19 members. And I even see that the gender balance is also on the front
20 row. So the only one who is not gender balanced here is me on the
21 Bench, but it's a bit difficult because I'm alone today.

22 Let me now turn to the Registrar.

23 Madam Registrar.

24 THE REGISTRAR: Good morning, Your Honour. Fidelma Donlon,
25 Registrar. And joining me today is the Deputy Registrar,

1 Stephane Wohlfahrt. Thank you.

2 JUDGE GUILLOU: Thank you, Madam Registrar.

3 And I remind all the parties and participants, as usual, to
4 speak slowly and to wait several seconds before responding so our
5 interpreters have the time to translate everything into Albanian and
6 Serbian.

7 On 7 June I scheduled the second Status Conference in this case.
8 My goal today is to review the status of the case and to organise
9 exchanges between the parties to ensure an expeditious preparation
10 for trial.

11 In particular, I wish to discuss disclosure of evidentiary
12 material, the status of the Specialist Prosecutor's investigations,
13 the date of the SPO pre-trial brief and other related materials, the
14 position of the Defence regarding the status of its investigations,
15 its intention to give notice of an alibi or grounds for excluding
16 responsibility, and its intention to make requests concerning unique
17 investigative opportunities.

18 I would also like to discuss about the timeline for any
19 preliminary motions at the end of the Status Conference, and I intend
20 to issue an oral order on that matter.

21 And, finally, any other issues the parties wish to raise.

22 I thank the SPO and the Defence for their written submissions
23 ahead of the Status Conference, and, as usual, I would invite the
24 parties to present their views in a concise fashion about each item
25 in the agenda that I will address individually. I remind also

1 everybody in the courtroom to give prior notice should any submission
2 require the disclosure of confidential information so we can go into
3 closed or private session.

4 Let me start with the disclosure process. The SPO indicated in
5 its written submissions that it completed its Rule 102(1)(a)
6 disclosure on 19 May 2021. However, I note that the SPO indicates
7 that it subsequently disclosed an unredacted version of an item. I
8 thank the SPO in advance to indicate in its oral submissions when
9 this occurred.

10 I further note that two disclosure packages numbered 8 and 9
11 have been disclosed on 11 June 2021. I would like the SPO to
12 indicate whether these packages contain Rule 102(1)(a) material as
13 well, as mentioned by the Defence in its written submissions, in
14 which case we shall consider that the SPO only completed the
15 disclosure of its Rule 102(1)(a) material on 11 June. And, of
16 course, this has an impact on the deadline for the Defence to file
17 any preliminary motions.

18 The SPO also indicated that it is in the process of reviewing
19 Rule 102(1)(b) materials for disclosure and redactions. As a result
20 of this ongoing review, the SPO submitted its second protective
21 measure request on 11 June, which is pending before me.

22 The SPO indicated that the first batch of Rule 102(1)(b)
23 material not requiring protective measures will be disclosed to the
24 Defence immediately. I invite the SPO to indicate if this has been
25 done, partially or totally, with Batch 10, disclosed on Friday; and,

1 if not, when it intends to disclose this material.

2 The SPO also indicated that it's continuing to review
3 Rule 102(3) material that is within its custody, control, or actual
4 knowledge, and following application of any required redactions, it
5 shall immediately disclose any such material on a rolling basis.
6 Could the SPO indicate whether such material has already been
7 identified and whether it has an estimated timeline for such
8 disclosure to be completed.

9 And, finally, the SPO mentioned that it is continuing to engage
10 with providers to actively seek Rule 107 clearances in respect of a
11 limited amount of protected materials of potential relevance to this
12 case. I invite the SPO to give further information about the number
13 of evidentiary materials it concerns, the number of providers
14 consulted, and any indication on a timeline for these clearances.
15 And, more generally, I would like to hear from the Prosecutor on
16 whether there have been any difficulties in the ongoing disclosure
17 process or if they face any challenges with the current disclosure
18 calendar.

19 A lot of questions. I hope you will remember all of them,
20 Mr. Prosecutor. The floor is yours. And if not, I will remind you
21 the ones that are not answered. Don't worry.

22 MR. O'DOWD: Thank you, Your Honour. We're grateful for that.

23 Your Honour, disclosure is proceeding on schedule. To date, the
24 SPO has fully complied with all of its deadlines, and the SPO has not
25 experienced any difficulties related to the disclosure of evidentiary

1 material.

2 The SPO believes it remains on schedule to meet the disclosure
3 deadlines set forth in the Framework Decision. We note that we have
4 timely produced the indictment, the detailed outline, Rule 102(1)(a)
5 materials, and selected Rule 102(1)(b) materials as foreseen by the
6 rules with very limited standard redactions.

7 In the case of the document Your Honour mentioned that was
8 produced without redactions, that was produced on 11 June, but only a
9 very small number of redactions were lifted.

10 Your Honour, we have met and conferred with our colleagues from
11 the Defence team on several occasions as part of our efforts to get
12 them the materials they need and the materials they're entitled to.
13 From our perspective, these meetings have been very productive.
14 They've helped us understand which materials are of particular
15 priorities for our Defence colleagues, and in response we have tried
16 to target our disclosure efforts to identify these most important
17 documents while still proceeding in an organised and systematic
18 manner.

19 With respect to the 102(1)(a) materials that were disclosed on
20 11 June 2021, they did in fact contain some 102(1)(a) materials, but
21 it was only for materials that had previously been disclosed on 19
22 May, and we lifted a very limited number of redactions in that
23 subsequent disclosure. So our position is that the Rule 102(1)(a)
24 disclosure was completed on 19 June -- 19 May. Thank you.

25 Yes, thank you. We did, in fact, complete the Rule 102(1)(b)

1 disclosure on Friday, as anticipated.

2 With respect to Your Honour's question about the Rule 102(3)
3 material, we have begun the process of identifying that material.
4 That process will be completed on 30 July.

5 With respect to the Rule 107 materials, we are currently
6 engaging with providers on a very limited number of documents. I
7 believe that number is less than 20. We have not experienced any
8 difficulties that we need to raise with the Court at that time. At
9 this time, it is one provider only that is involved. We'll update
10 the Court if there are any additional updates on that time -- on that
11 matter.

12 My colleague has clarified that the disclosure we completed on
13 Friday was a second partial disclosure of 102(1)(b) materials. We
14 continue to move towards the 30 July deadline for the disclosure of
15 all 102(1)(b) materials.

16 I hope that answers your questions, Your Honour. I've tried to
17 hit them. Thank you, Your Honour.

18 JUDGE GUILLOU: Absolutely. Thank you very much.

19 So for 102(1)(a) material, what you mention is that it's not new
20 material but it's just material for which a couple of redactions have
21 been lifted; correct?

22 MR. O'DOWD: That's correct, Your Honour, a very small number of
23 redactions.

24 JUDGE GUILLOU: Thank you, Mr. Prosecutor.

25 Let me now turn to the Defence. I note that the Defence

1 indicated in its written submissions that the protective measures
2 requested by the SPO have an impact on the fairness of the
3 proceedings and its ability to prepare for trial. However, this is
4 not a matter that is meant to be discussed in detail at this
5 conference, but I invite the Defence to raise any such point in its
6 response to the SPO's second request for protective measures.

7 The Defence also noted the heavy redaction of material disclosed
8 to date and the fact that the identity of a number of witnesses that
9 will be called to testify has been withheld from the Defence,
10 preventing it from proper notice of the Prosecution's case.

11 I will now give the floor to the Defence to discuss any issues
12 or any difficulties with the ongoing disclosure process and the
13 points I just mentioned.

14 Mr. Gilissen, you have the floor.

15 MR. GILISSEN: Thank you, Your Honour.

16 Well, I should start with our relation with the SPO, in
17 particular, with the SPO team of Ms. Iodice and Mr. O'Dowd, because I
18 would like to underline the high quality level of professional
19 relations between our team and the team of the SPO. So far it's
20 really a high quality of contacts, and I thank them, really.

21 The process of disclosure under Rule 102(1)(a) took place and
22 was conducted smoothly, really smoothly, and with perfect goodwill.
23 I want to focus on that and to underline.

24 Our colleague has confirmed to us that the disclosure under this
25 rule has been completed. Additionally, our colleagues agreed to our

1 request to provide us with some video recordings related to the
2 accused himself. The kind of agreement -- this kind of agreement has
3 to be commended, in my opinion, because it provides the possibility
4 to everyone to work properly and avoid unnecessary litigation and
5 delays.

6 So we have made some other requests to the SPO, and we are
7 discussing with them regularly with a view of obtaining or
8 prioritising the disclosure of certain elements that we consider
9 necessary for understanding of previously disclosed material. So we
10 look forward to maintaining and continuing our good and constructive
11 cooperation with the SPO.

12 I think, Mr. President, Your Honour, I have nothing to add about
13 the problem of -- the first problem you indicate, all within the
14 written material. So I think it's a good thing. I thank you for
15 hearing.

16 JUDGE GUILLOU: Thank you very much, Mr. Gilissen.

17 Mr. Prosecutor, do you want to add anything on the compliments
18 addressed to you by the Defence, which is not that often in this
19 courtroom.

20 MR. O'DOWD: No, thank you, Your Honour. We're grateful for the
21 good collaboration with our colleagues on the Defence.

22 JUDGE GUILLOU: Thank you very much.

23 Maybe just one question, Mr. Gilissen. On the point that I
24 mentioned about the Rule 102(1)(a) last disclosure, do you consider
25 that you received the last disclosure on 19 May, as mentioned by the

1 Prosecution, or on 11 June? Because this is when the last documents
2 were disclosed with the least amount of redactions.

3 MR. GILISSEN: We received the latest documents on 11 June.
4 Thank you.

5 JUDGE GUILLOU: Thank you, Mr. Gilissen. This is noted.

6 Mr. Prosecutor, do you want to add anything?

7 MR. O'DOWD: Your Honour, the redactions that we lifted were
8 standard redactions, which are part of the agreed-upon redaction
9 protocol in the case, so we don't think that affects the applicable
10 deadlines in any way.

11 JUDGE GUILLOU: Thank you, Mr. Prosecutor.

12 Unless the Defence has anything to add? No, I don't think so.
13 We'll move to the second item in our agenda, which is the status of
14 the SPO's investigations.

15 In its submissions, the SPO indicated that it is yet to conclude
16 its remaining investigative steps. However, considering the limited
17 nature of such steps, it does not envisage that these additional
18 steps will impact the disclosure deadlines.

19 Mr. Prosecutor, can you indicate when do you plan to complete
20 the investigative steps you mention in your written submissions?

21 MR. O'DOWD: Your Honour, our current hope is that we'll
22 complete the investigative steps before the end of the disclosure
23 deadline on 30 July. If we're not able to do that, we'll promptly
24 inform the Court of that.

25 JUDGE GUILLOU: Thank you, Mr. Prosecutor. This is noted.

1 I turn to the Defence. Mr. Gilissen, do you want to add
2 anything on this point?

3 MR. GILISSEN: No, thank you very much, Your Honour. We took
4 notice and there are no comments. Thank you.

5 JUDGE GUILLOU: Thank you.

6 Let me now move to the SPO pre-trial brief and related material.

7 In its written submissions, the SPO indicated that in light of
8 the disclosure calendar set out in the Framework Decision, which is
9 scheduled to continue into October 2021, the SPO anticipates that it
10 will be able to file its pre-trial brief and related materials by
11 Friday, 19 November 2021.

12 Mr. Prosecutor, do you want to add anything to your written
13 submissions on this point, and can you confirm that this date is
14 indeed the date that could be ordered for you to file your pre-trial
15 brief?

16 MR. O'DOWD: Thank you, Your Honour. If it's acceptable to the
17 Court, we'll rest on our submissions.

18 JUDGE GUILLOU: Thank you, Mr. Prosecutor.

19 Mr. Gilissen, on this date for the SPO pre-trial brief.

20 MR. GILISSEN: Thank you. We do not have something to add or to
21 say. Thank you.

22 JUDGE GUILLOU: Thank you, counsel.

23 Having heard the parties, I will issue a first oral order on the
24 submissions of the SPO pre-trial brief.

25 I hereby order the SPO to submit its pre-trial brief, within the

1 meaning of Rule 95(4) (a) of the Rules, by Friday, 19 November 2021,
2 at the latest.

3 This concludes my first oral order.

4 For the next point on the agenda, I would like to turn to the
5 Defence first.

6 I note from the Defence's written submissions that it confirms
7 its intention to carry out investigations for the purpose of the
8 presentation of its case.

9 Mr. Gilissen, based on the information given by the Prosecutor
10 in the course of the Status Conference, are you in a position to
11 elaborate on the information provided in your written submissions on,
12 first, the status of your investigations; second, any intention to
13 give notice of an alibi or other grounds for excluding responsibility
14 and any associate disclosure; and third, any intention to make
15 requests concerning unique investigative opportunities?

16 Mr. Gilissen.

17 MR. GILISSEN: Thank you, Your Honour. I would like to explain
18 myself.

19 The next deadline for the SPO disclosure under Rule 102(1) (b) is
20 30 July 2021. We expect to receive important material which would
21 allow us to have a better understanding of the evidence and material
22 that will be used in the trial. So we are waiting for -- but I'm
23 sure things will go as planned and without any problem. We expect to
24 be in a better position to inform you, Your Honour, and provide
25 reliable information about our progress and intention in the next

1 Status Conferences.

2 So, Mr. President, as you know, the organisation of an
3 investigation on the ground, it's a very high difficult and delicate
4 business. You can trust me, really very difficult business. We are
5 able to say that we have identified a number of individuals capable
6 of supporting us and assisting us on the ground for our
7 investigation. We will apply every care - and I want to underline
8 "every care" - in our selection process in terms of the persons we
9 cooperate with and the action to undertake.

10 I am sure you're able, Your Honour, to understand it's difficult
11 to add something else at this stage.

12 So about the defence of alibi or grounds for excluding
13 responsibility, we are not now in a position to give any indication
14 or clear indication, and this is the same for the unique
15 investigating opportunity. I am just able to talk about the charge
16 under the Rule 109, but as my friend from the Office of the
17 Prosecutor team explained it, we confirm, Your Honour, that we
18 received a model or chart from the SPO colleagues. This document
19 will server as a basis for our discussion with the SPO. We will keep
20 you informed about the mutual progress in the next Status
21 Conferences.

22 I have to talk about our request, but after, I suppose. Thank
23 you very much.

24 JUDGE GUILLOU: Thank you very much, Mr. Gilissen.

25 One point about the issues you just mentioned. If you want to

1 raise any of these defence, whether it's a ground excluding
2 responsibility, or if you want to apply for a unique investigative
3 opportunity, please do so at the earliest opportunity and not at the
4 end of the pre-trial proceedings when the case is ready to be sent to
5 the Trial Panel.

6 These issues might take some time, especially for unique
7 investigative opportunities, and I would like to avoid unnecessary
8 delay for the case.

9 Mr. Prosecutor, do you want to add anything on this topic?

10 MR. O'DOWD: No, thank you, Your Honour. We have nothing to add
11 at this time.

12 JUDGE GUILLOU: Thank you, Mr. Prosecutor.

13 Next, I would like to ask the Defence and the SPO to give their
14 views on the procedural calendar for preliminary motions. At the
15 outset, I take this opportunity to remind the Defence that request
16 for an extension of time limit, whether it's for preliminary motions
17 or any other filings, actually, must be made in written filings, not
18 by e-mail.

19 I note that the Defence request an extension of time so that the
20 deadline for filing any preliminary motions be moved to 11 July 2021.
21 I note that if we have a very strict understanding of the rules, that
22 this would not even be a request to postpone the deadline, if we
23 consider that the last disclosure has been issued on 11 June.

24 But that said, I would like to ask the Defence whether it
25 requests to be authorised to file any preliminary motion at this date

1 or any time later. I am minded to give each party the time they need
2 to prepare, respond, and reply to the preliminary motion as long as
3 the calendar is reasonable and it does not delay the pre-trial
4 proceedings as a whole.

5 So I invite the Defence to indicate if they would like an
6 extension until July 11 or beyond, for example, just before recess.

7 Mr. Gilissen, on the calendar.

8 MR. GILISSEN: Thank you very much, Your Honour.

9 We did decide to file this request because we are working on a
10 double-basis of preliminary motions. We have the intention to file
11 the preliminary motion, the first one, challenging the jurisdiction
12 of the KSC under Rule 97(1), and another preliminary motion
13 challenging the form of the indictment under Rule 97(2).

14 So we introduced our request to Your Honour by e-mail, I'm sorry
15 for that, on 15 June, and we have duplicated our submission in our
16 filing of 17 June concerning the Status Conferences.

17 To summarise our position, Your Honour, we are seeking an
18 additional time to file our preliminary motion until 11 June 2021 for
19 the following reasons --

20 JUDGE GUILLOU: Mr. Gilissen, I guess 11 July.

21 MR. GILISSEN: I said June?

22 JUDGE GUILLOU: Yes. And you said 2001. I think you mean 2021.

23 MR. GILISSEN: Yes, it's more than an error. Thank you.

24 It is on the 5th -- the 25th on May 2021, that we received a
25 less redacted indictment which provide us and Mr. Shala, and I can

1 say Mr. Shala with a strong expression, with a better understanding
2 of the charges.

3 Second, on 11 June, upon our request, we received further
4 disclosure under Rule 102(1)(a) of the SPO. We admit this new
5 material is a video version of previously disclosed transcript of
6 interview of the accused, but it was really necessary to work
7 properly with Mr. Shala. There are also redacted versions of
8 previously disclosed material that weren't significantly redacted
9 before.

10 This element were really necessary to help the Defence and also
11 Mr. Shala, and I underline Mr. Shala, ascertain and verify certain
12 informations.

13 Third, we are operating, as Your Honour knows, under the basic
14 level of budget and financing of the Defence teams available under
15 the KSC regime. Unfortunately for us, this budget level has been
16 recently confirmed by the Registry for the pre-trial phase, so we
17 continue to do our best to carry out our mandate to defend Mr. Shala
18 in this proceeding and to make it diligently and efficiently.

19 We are operating on many fronts, both on the evidence -- on
20 evidence and on the law, but also in the setting up and management of
21 the team in Den Haag and, of course, for the investigation on the
22 ground. It takes a lot of time, a lot of energy, and it is a very
23 delicate question sometimes we have to face.

24 The Defence of Mr. Shala submits that the preliminary motions
25 are essential - essential - elements of the defence of Mr. Shala but

1 also an important component of this case, his case.

2 Mr. President, we need until 11 July 2021 to do this preliminary
3 motion properly. It's not a lux, Your Honour. In the next week
4 everybody has a well-deserved recess and recover and regroup,
5 everybody, and it's a perfect situation, except us. We hope to
6 benefit the part of this recess, of course. We are familiar too.
7 But we are conscious and we know and we decide that we need to work
8 during July and August, including, we hope, to go for the first time
9 on the ground during this moment.

10 We are accepting the disclosure under Rule 102(1)(b) on 30 July,
11 and early into September -- I think 3 September 2021 on the
12 Rule 202 -- sorry, 102(3). So we propose a date in September for the
13 next Status Conference. But, please, really, please take into
14 account all the deadlines and elements we anticipate to deal with
15 during this period.

16 So in September we also have to indicate the material we want to
17 access from the SPO list. The deadline to do so is 17 September
18 2021. So September will be a little bit busy.

19 Your Honour, thank you very much for hearing and your wise
20 understanding of our situation. Thank you.

21 JUDGE GUILLOU: Thank you, Mr. Gilissen. At the outset, I want
22 to mention that I want to give the Defence all the time it needs to
23 file and reply to the preliminarily motions. As you say, it is a
24 very important segment of the proceedings, and I intend to give both
25 parties the time they need to prepare their filing as best as they

1 can.

2 I understand from your submissions that you would like to be
3 able to file your preliminary motions on 11 July. I think, if I'm
4 not wrong, that 11 July - and I'm checking on my computer right now -
5 is actually a Sunday. So can I take from your submissions that you
6 would like to file your submissions on 12 July, which is a Monday,
7 which is not a holiday?

8 MR. GILISSEN: Could be better. Thank you.

9 JUDGE GUILLOU: Thank you, Mr. Gilissen.

10 And before I give the floor to the Prosecution, I inform the
11 parties that I do not intend to set any deadlines during recess,
12 apart from urgent matters and detention issues. This is a practice
13 across the board, all the cases. I think all the parties and
14 participants need some rest during the recess, so we will limit our
15 work to urgent matters. So all the deadlines that will end during
16 recess will be postponed until after the recess.

17 Mr. Prosecutor, so would the -- first, what is your views on the
18 date of 11 July for the Defence to file its preliminary motion? Do
19 you have any argument against? And, here, let's not go back to the
20 issue we discussed before. Just on this date, would your disclosure
21 under 102(1)(a) be or not finalised on 19 May or 11 June. That's my
22 first question.

23 And my second question: How long do you need to file your
24 response to the preliminary motions?

25 So please let me know what would be a good date for you to issue

1 your response. Mr. Prosecutor.

2 MR. O'DOWD: Thank you, Your Honour. As we've informed our
3 colleagues on the Defence side, we have no objection to their request
4 for an extension.

5 With respect to our response date, I think two weeks would
6 probably be sufficient to respond to their motions.

7 JUDGE GUILLOU: So would the deadline for the Defence be on
8 12 July, this leads us to 26 July, which is in recess. Do you want
9 me to put the end of recess for your deadline or middle of recess, so
10 you have the full two weeks?

11 MR. O'DOWD: Your Honour, probably better to err on the side of
12 safety and to seek to set the deadline at the end of recess, if
13 that's acceptable to the Court.

14 JUDGE GUILLOU: Thank you, Mr. Prosecutor.

15 Let me now turn to the Defence, because I'm also mindful of
16 recess for the Defence team. This is also why I think you are
17 entitled to have real working days to prepare your reply.

18 Would the deadline for the Prosecutor to file its response be
19 the end of recess, which would be Friday, August 13, how long would
20 you need to prepare your reply?

21 Mr. Aouini.

22 MR. AOUINI: Thank you, Your Honour. Good morning to everyone.

23 Regarding the timeline for a reply for the Defence, we think
24 that two full weeks would be sufficient for the Defence to lodge
25 their reply, so it might lead us to the 27th, maybe, of August then.

1 Thank you, Your Honour.

2 JUDGE GUILLOU: So let me make a proposal to all parties and
3 tell me what you think about it.

4 The proposal to have the Defence file its preliminary motions by
5 12 July; then, the SPO response by 13 August, which is a Friday; and
6 then the Defence reply by Monday, 30 August. Would this calendar
7 satisfy both parties?

8 I turn to the Defence first, Mr. Gilissen.

9 MR. GILISSEN: Yes, and I thank you. Thank you very much.

10 JUDGE GUILLOU: Mr. Prosecutor.

11 MR. O'DOWD: Yes, thank you, Your Honour.

12 JUDGE GUILLOU: Having heard the parties, I will issue a second
13 oral order on the time limit for submission of preliminary motions.

14 I hereby vary the timeline for submissions of any preliminary
15 motions and order the Defence for Mr. Shala to file its preliminary
16 motions by no later than 12 July 2021; the SPO to respond by no later
17 than Friday, 13 August 2021; and the Defence to reply by no later
18 than Monday, August 30, 2021.

19 This concludes my second oral order.

20 At this point, I would like to ask the parties whether they have
21 any other issues they would like to raise. I note that the Defence
22 raised the issue of the conditions of detention in its written
23 submissions, so I would like to hear the parties on any other issues,
24 including this one.

25 Mr. Prosecutor.

1 MR. O'DOWD: Your Honour, we have no other issues to raise at
2 this time. Thank you.

3 JUDGE GUILLOU: Thank you, Mr. Prosecutor.

4 I turn to the Defence, Mr. Gilissen.

5 MR. GILISSEN: Thank you very much, Your Honour. We don't have
6 anything to say.

7 For the condition of the detention, we have found some
8 solutions. It will be nice, I think so. If some other problems we
9 have to raise, we will try our best to manage with it and I hope to
10 not be obliged to come before Your Honour. Thank you.

11 JUDGE GUILLOU: Thank you, Mr. Gilissen. For detention matters,
12 I always invite the Defence team to link with the Registry first,
13 because I think practically all the time the Registrar has been able
14 to provide practical and efficient solutions for the Defence teams.

15 Madam Registrar, do you want to add anything on this matter or
16 on the evolution of the COVID regime?

17 THE REGISTRAR: Thank you, Your Honour.

18 In relation to any matters raised by the Defence regarding
19 conditions of detention, I think we are satisfied that solutions have
20 been found, and any requests made by Mr. Shala have been addressed by
21 the chief of detention and the principal office.

22 In relation to the restrictions in place due to the pandemic, I
23 am very glad to report that, in consultation with the medical
24 officer, we are working towards the lifting of some of those
25 restrictions and have filed recently the update that it is our

1 intention from 15 July to have in-person family visits in the
2 facility. And also, depending on developments with the Delta
3 variant, and also the actual state of play with Defence counsel and
4 with their vaccinations, we also hope to very soon once again have
5 in-person meetings in the same physical room with counsel.

6 But to note, family visits are fully facilitated on an ongoing
7 basis by Zoom, and counsel visits also in a room that provides the
8 necessary protection for counsel as well as the accused. But as
9 indicated in the filing, thankfully we see progress in the near
10 future.

11 Thank you, Your Honour.

12 JUDGE GUILLOU: Thank you, Madam Registrar. This is excellent
13 news and I thank you very much for all the efforts to facilitate the
14 communication between accused and their counsel and accused with
15 their families.

16 Mr. Gilissen, I see that you ask for the floor.

17 MR. GILISSEN: Yes, Mr. President. I am really sorry. I forgot
18 to thank Mrs. Registrar for her help. It was really helpful from
19 her. We have some solution because of her. Thank you.

20 JUDGE GUILLOU: Thank you, Mr. Gilissen. Delighted to hear
21 that.

22 I would like to ask the parties for their views on the next
23 Status Conference.

24 Mr. Gilissen, I think you indicated a preference for September.

25 Mr. Prosecutor, do you have any preference for the date? And if

1 I may, maybe just after you have filed the Rule 102(3) notice would
2 be a good date?

3 Mr. Prosecutor.

4 MR. O'DOWD: Thank you, Your Honour. Yes, that works for us.
5 We'll be available at the Court's convenience.

6 JUDGE GUILLOU: Thank you, Mr. Prosecutor.

7 Mr. Gilissen.

8 MR. GILISSEN: Yes, Mr. President. If it is possible, if it is
9 possible, in the second part of September could be nice. I have to
10 receive a medical intervention, a tiny one but a real one, at the
11 very beginning of September, so it could be better, excepting if you
12 want to see me with some problems, medical problems or health. Thank
13 you very much.

14 JUDGE GUILLOU: Thank you, Mr. Gilissen. Would it be possible
15 the week of September 12, or would this be too early? I say that
16 because the courtroom might not always be available after
17 mid-September, and I will try to -- would prefer to try to have the
18 Status Conference before. So the week -- it's actually the week of
19 13 September. Do you think it would be possible?

20 MR. GILISSEN: If it is possible to have one week more,
21 Your Honour, it will be better. I think so. Thank you.

22 JUDGE GUILLOU: Thank you, Mr. Gilissen. I will see what is
23 possible for the calendar.

24 Mr. Aouini, you wanted to add something?

25 MR. AOUINI: Yes. Sorry, Your Honour, just to add that we have

1 the deadline of 17 September to select or indicate the evidentiary
2 material we're interested in from the notice of the SPO. So from the
3 3rd to the 17th, we might be very busy with what we think and
4 anticipate might be a few thousands of documents from which we would
5 select. So, obviously, that should be taken into account, if
6 possible.

7 Thank you, Your Honour.

8 JUDGE GUILLOU: Thank you very much, Mr. Aouini.

9 I don't see any other parties or participants asking for the
10 floor. You will receive a Scheduling Order in due course that will,
11 as usual, include the agenda before the next Status Conference.

12 This concludes today's public hearing. I thank the parties and
13 the participants and the Registrar for their attendance, and, as
14 usual, I thank the stenographer, interpreters, AV technicians, and
15 security personnel for their assistance.

16 The hearing is adjourned.

17 --- Whereupon the Status Conference adjourned at 11.45 a.m.

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