



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA KOSOVA

In: KSC-CA-2024-03

Before: A Panel of the Court of Appeals Chamber
Judge Michèle Picard
Judge Kai Ambos
Judge Nina Jørgensen

Registrar: Fidelma Donlon

Date: 8 August 2024

Original language: English

Classification: Public

**Decision on Defence Further Request for Variation of Time Limit to File
Notice of Appeal**

Specialist Prosecutor's Office:
Kimberly P. West

Counsel for Pjetër Shala:
Jean-Louis Gilissen

Counsel for Victims:
Simon Laws

THE PANEL OF THE COURT OF APPEALS CHAMBER of the Kosovo Specialist Chambers (“Court of Appeals Panel”, “Appeals Panel” or “Panel” and “Specialist Chambers”, respectively),¹ acting pursuant to Article 33(1)(c) of the Law on Specialist Chambers and Specialist Prosecutor’s Office (“Law”) and Rule 172 of the Rules of Procedure and Evidence (“Rules”), is seised of a motion filed by Mr Pjetër Shala (“Shala” or “Accused” or “Defence”).²

1. The Accused requests a further extension of the time limit for filing his notice of appeal against the Trial Judgment issued in case KSC-BC-2020-04 of 11 days, namely by 13 September 2024.³ Shala submits that the extension sought will not negatively impact the overall expeditiousness of the proceedings nor cause any prejudice to the Specialist Prosecutor’s Office (“SPO”).⁴ In his view, there is good cause for the limited extension requested as it would allow the Accused to have access to the preliminary version of the Albanian translation of the Trial Judgment for approximately one week before his notice of appeal is due.⁵ Shala adds that in the absence of such translation, the Accused is unable to provide informed instructions for the notice of appeal.⁶

¹ F00002, Decision Assigning a Court of Appeals Panel, 22 July 2024.

² F00008, Defence Request for a Further Limited Extension of the Time Limit for Filing the Notice of Appeal, 7 August 2024 (“Motion”).

³ Motion, paras 1, 7, 12. See KSC-BC-2020-04, F00847, Trial Judgment and Sentence, 16 July 2024 (confidential) (“Trial Judgment”).

⁴ Motion, para. 10. Shala indicates that the SPO submitted that it did not oppose an extension of time not exceeding 30 days from the initial date on which the notice of appeal was due. See Motion, paras 4, 10, referring to F00003, Prosecution response to ‘Application for Variation of the Time Limit for Filing the Defence Notice of Appeal’, 23 July 2024, paras 1, 8.

⁵ Motion, paras 8-10.

⁶ Motion, paras 8-10.

2. The Panel recalls that on 24 July 2024, it already granted in part Shala's request for an extension of time to file his notice of appeal against the Trial Judgment and extended the deadline to do so from 15 August 2024 to 2 September 2024.⁷

3. The Panel considers that although not expressly framed in this way, the Motion amounts to a request for reconsideration of the First Decision on Variation of Time as Shala repeats arguments that were already brought before the Appeals Panel and rejected.⁸ The Appeals Panel recalls that according to Rule 79(1) of the Rules, a Panel may, upon request from a Party, where a clear error of reasoning has been demonstrated or where reconsideration is necessary to avoid injustice, reconsider its own decisions. Furthermore, reconsideration should only be granted in exceptional circumstances.⁹

4. The Appeals Panel notes that the fact that the unrevised Albanian translation of the Trial Judgment is expected by early September 2024 is information which was available to the Accused at the time he filed the First Motion and which was taken into consideration by the Appeals Panel when issuing the First Decision on Variation of Time.¹⁰ The Panel finds that Shala does not allege nor demonstrate any clear error of reasoning by the Panel that would warrant a reconsideration of the First Decision on Variation of Time.

⁷ F00001, Application for Variation of the Time Limit for Filing the Defence Notice of Appeal, 19 July 2024 ("First Motion"); F00006, Decision on Defence Motion for Variation of Time Limit to File Notice of Appeal, 24 July 2024 ("First Decision on Variation of Time"), paras 10, 13.

⁸ Compare Motion, paras 8-10 with First Motion, paras 5-8.

⁹ See e.g. KSC-CA-2022-01, F00082/RED, Public Redacted Version of Decision on Defence Applications for Reconsideration of "Decision on Defence Requests to Amend the Notices of Appeal Pursuant to Rule 176(3) of the Rules", 3 November 2022 (confidential version filed on 3 November 2022), para. 13.

¹⁰ See First Decision on Variation of Time, fn. 4. See also First Motion, para. 11. At the time of issuing the decision, the Registry had indicated that a preliminary translation of the Trial Judgment should be available "in early September 2024". In the meantime, the Registry specified that such translation was expected "by 6 September 2024". See F00007, Registrar's Update on Translation of Judgment, 2 August 2024, para. 1.

5. As already stated in the First Decision on Variation of Time, and in line with consistent case law, the Appeals Panel reiterates that the unavailability of the Albanian translation does not constitute good cause for an extension of the time limit to file a notice of appeal, given that Defence Counsel can work in English, the language in which the Trial Judgment was pronounced and given that the determination and formulation of potential grounds of appeal falls primarily within the purview of Defence Counsel.¹¹

6. As found in the First Decision on Variation of Time, and while the Panel recognises the importance of the Accused's right to receive the Trial Judgment in a language he understands, the Panel considers that the fairness of the proceedings at this stage will not be negatively impacted by the unavailability of the Albanian translation of the Trial Judgment.¹² In light of the above, the Panel finds that Shala has failed to demonstrate good cause for a further extension of 11 days to file his notice of appeal beyond the extension already granted by the Appeals Panel. Accordingly, the Panel denies his request.

7. Finally, the Panel recalls that, pursuant to Rule 9(6) of the Rules, a motion for variation of time limits may be disposed of without giving the opposing Party or Victims' Counsel the opportunity to be heard. Given that no prejudice will be caused to the SPO, the Panel considers that it is in the interests of justice to dispose of the Motion immediately.

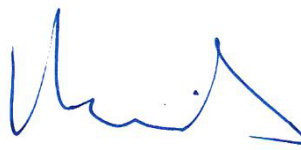
¹¹ See First Decision on Variation of Time, para. 4 and authorities cited therein.

¹² See First Decision on Variation of Time, para. 6.

8. For these reasons, the Court of Appeals Panel:

DENIES the Motion; and

CONFIRMS that the Defence and the SPO should file their notices of appeal, if any, by 2 September 2024.



**Judge Michèle Picard,
Presiding Judge**

Dated this Thursday, 8 August 2024

At The Hague, the Netherlands