

In: KSC-CC-2024-26
Before: **President of the Specialist Chambers**
Judge Ekaterina Trendafilova

Registrar: Dr Fidelma Donlon

Filing Participants: Counsel for Victims
Specialist Prosecutor's Office

Date: 20 September 2024

Language: English

Classification: Public

Joint request for extension of time

Counsel for Victims

Anni Pues

Specialist Prosecutor's Office

Kimberly P. West

1. Pursuant to Rule 6(4) of the Rules,¹ Victims' Counsel and the Specialist Prosecutor's Office ('SPO') jointly request that the Specialist Chamber of the Constitutional Court grant an extension of the time limit – to 11 November 2024 – to make referral(s) under Article 49 of the Law² following the Supreme Court Decision.³ There is good cause for the requested extension, in particular, to synchronise the briefing schedule for referrals pertaining to the Supreme Court Decision and the subsequent, related Sentence Decision.⁴

2. The Supreme Court Decision was final in respect of certain findings concerning the criminal law applicable to sentencing.⁵ However, the Supreme Court Panel also returned the Appeal Judgment⁶ to the Appeals Panel for a new determination of the convicted person's sentence.⁷ On 10 September 2024, the Appeals Panel issued the Sentence Decision applying the principles from the Supreme Court Decision. Accordingly, while the deadline for any referral relating to the Supreme Court Decision is 1 October 2024, any referral relating to the Sentence Decision is due by 11 November 2024.⁸

3. In the circumstances and considering that the Supreme Court Decision and Sentence Decision are related, a synchronised briefing schedule for both will facilitate fair and expeditious proceedings, and assist effective case management. In this respect, the requested extension would: (i) provide Victims' Counsel and the SPO

¹ Rules of Procedure for the Specialist Chamber of the Constitutional Court, KSC-BD-03/Rev3/2020, 2 June 2020, Part II ('Rules'). All references to 'Rule' or 'Rules' are to the Rules, unless otherwise indicated.

² Law No.05/L-053 on Specialist Chambers and Specialist Prosecutor's Office ('Law'). All references to 'Article' or 'Articles' are to the Law, unless otherwise indicated.

³ Decision on Salih Mustafa's Request for Protection of Legality, KSC-SC-2024-02/F00018, dated 29 July 2024, notified 30 July 2024 ('Supreme Court Decision').

⁴ Decision on New Determination of Salih Mustafa's Sentence, KSC-CA-2023-02/F00045, 10 September 2024 ('Sentence Decision').

⁵ Supreme Court Decision, KSC-SC-2024-02/F00018, paras 99-108. *See also* para.111.

⁶ Appeal Judgment, KSC-CA-2023-02/F00038, 14 December 2023, Confidential ('Appeal Judgment').

⁷ Supreme Court Decision, KSC-SC-2024-02/F00018, paras 110-111, 112(e).

⁸ Rules 6(2), 20(1)(b), (2). Consistent with the Rules, these deadlines are two months from the first working day following notification of the Supreme Court Decision and Sentence Decision, respectively.

adequate opportunity to fully consider available and appropriate remedies, including any Article 49 referral(s);⁹ (ii) ensure that Victims' Counsel and the SPO have the opportunity to, as appropriate, analyse and address these rulings – one of which was notified ten days ago – holistically; and (iii) avoid potentially incomplete and fragmented submissions concerning the rulings and their impact.

4. No prejudice would arise from granting the requested extension, noting that the two decisions in question relate to the same proceedings. Hearing any related referrals on a synchronised schedule is likely to ultimately result in greater efficiency and better facilitate their consideration.

Word Count: 481



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Friday, 20 September 2024

At The Hague, the Netherlands.

⁹ This request is without prejudice to the Chamber's consideration of the admissibility and merits of any application(s) or referral(s) ultimately made.