

In: KSC-BC-2023-12

Specialist Prosecutor v. Hashim Thaçi, Bashkim Smakaj, Isni Kilaj, Fadil Fazliu and Hajredin Kuçi

Before: The President of the Specialist Chambers
Judge Ekaterina Trendafilova

Registrar: Dr Fidelma Donlon

Filing Participant: Specialist Counsel for Hashim Thaçi

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Language: English

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Thaçi Defence Request for Variation of Time Limit for the Filing of Appeals

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I. INTRODUCTION

1. Pursuant to Rule 9(5)(a) of the Rules,¹ the Defence for Mr Hashim Thaçi (“Defence” and “Mr Thaçi”, respectively) hereby requests a variation of the time limits for it to submit appeals against the Pre-Trial Judge’s “Decision on the Thaçi Defence Request for Leave to Appeal the “Decision on Preliminary Motions for Adjournment and Severance of the Proceedings” (“Severance and Adjournment Decision”)² and her “Decision on the Thaçi Defence Preliminary Motion on Jurisdiction” (“Jurisdiction Decision”; collectively, “Impugned Decisions”).³

2. Pursuant to Rule 170(2), the Defence’s deadlines to file its appeals of the Impugned Decisions both fall on **4 August 2025** (“Deadlines”). The Defence requests the extension of the Deadlines so it may file its appeals of the Impugned Decisions by **22 August 2025** (“Requested Extension”). As outlined below, the Defence submits that there exists good cause for such an extension and that an extension would not prejudice the Specialist Prosecutor’s Office (“SPO”).

II. PROCEDURAL BACKGROUND

3. On 7 May 2025, the Defence filed the “Thaçi Defence Preliminary Motion Requesting Severance of the Indictment and Adjournment of Proceedings concerning Mr Thaçi” (“Severance and Adjournment Motion”).⁴

¹ Rules of Procedure and Evidence before the Kosovo Specialist Chambers, KSC-BD-03/Rev3, 2 June 2020 (“Rules”). All references to “Rule” or “Rules” herein are to the Rules unless otherwise specified.

² KSC-BC-2023-12/F00390, Pre-Trial Judge, Decision on the Thaçi Defence Request for Leave to Appeal the “Decision on Preliminary Motions for Adjournment and Severance of the Proceedings”, 23 July 2025, confidential (public redacted version notified the same day) (“Adjournment and Severance Decision”).

³ KSC-BC-2023-12/F00391, Pre-Trial Judge, Decision on the Thaçi Defence Request for Certification to Appeal the “Decision on the Thaçi Defence Preliminary Motion on Jurisdiction”, 23 July 2023, public (“Jurisdiction Decision”).

⁴ KSC-BC-2023-12/F00285, [Thaçi Defence Preliminary Motion Requesting Severance of the Indictment and Adjournment of Proceedings Concerning Mr Thaçi](#), 7 May 2025, public, with Annex 1, public. *See also* KSC-BC-2023-12/F00286, Defence for Bashkim Smakaj, Defence for Isni Kilaj, Defence for Fadil Fazliu and Defence for Hajredin Kuçi, [Joint Defence Preliminary Motion Pursuant to Rule 97 of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers](#), 7 May 2025, public.

4. On 8 May 2025, the Defence filed the “Thaçi Defence Preliminary Motion on Jurisdiction” (“Jurisdiction Motion”).⁵

5. On 19 June 2025, the Pre-Trial Judge issued the Jurisdiction Decision in which she rejected the Jurisdiction Motion.

6. On 30 June 2025, the Pre-Trial Judge issued the Severance and Adjournment Decision in which she *inter alia* rejected the Severance and Adjournment Motion.

7. On the same day, the Defence filed an application before the Pre-Trial Judge requesting leave to appeal the Jurisdiction Decision.⁶

8. On 8 July 2025, the Defence filed an application before the Pre-Trial Judge requesting leave to appeal the Severance and Adjournment Decision.⁷

9. On 23 July 2025, in two separate decisions, the Pre-Trial Judge granted the Defence leave to appeal both the Jurisdiction Decision and the Severance and Adjournment Decision.⁸

III. APPLICABLE LAW

10. Pursuant to Article 45 of the Law on the Specialist Chambers and Specialist Prosecutor’s Office (“Law”),⁹ the Court of Appeals Panel shall hear interlocutory

⁵ KSC-BC-2023-12/F00290, Thaçi Defence Preliminary Motion on Jurisdiction, 8 May 2025, confidential and *ex parte*, with Annex 1, confidential and *ex parte* (public redacted versions of the main filing and the annex filed on 12 May 2025).

⁶ KSC-BC-2023-12/F00355, Thaçi Defence Request for Certification to Appeal “Decision on the Thaçi Defence Preliminary Motion on Jurisdiction”, 30 June 2025, confidential and *ex parte*, with Annex 1, confidential and *ex parte* (public redacted versions of the main filing and the Annex filed on 4 July 2025).

⁷ KSC-BC-2023-12/F00367, Thaçi Defence Request for Certification to Appeal “Decision on Preliminary Motions for Adjournment and Severance of the Proceedings”, 8 July 2025, confidential (public redacted version was on 16 July 2025).

⁸ KSC-BC-2023-12/F00390, Pre-Trial Judge, Decision on the Thaçi Defence Request for Leave to Appeal the “Decision on Preliminary Motions for Adjournment and Severance of the Proceedings”, 23 July 2025, confidential (public redacted version notified the same day) (“Severance and Adjournment Certification Decision”); KSC-BC-2023-12/F00390, Pre-Trial Judge, Decision on the Thaçi Defence Request for Certification to Appeal the “Decision on the Thaçi Defence Preliminary Motion on Jurisdiction”, 23 July 2025, public (“Jurisdiction Certification Decision”).

⁹ Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office, 3 August 2015.

appeals from a party *inter alia* where leave has been granted by the panel that issued the impugned decision.

11. Pursuant to Rule 170(2), where leave to appeal has been granted, the Appellant may file an appeal within ten (10) days of the certification.

12. Pursuant to Rule 9(5)(a) of the Rules, a panel may, *proprio motu* or upon a showing of good cause, extend or reduce any time limit prescribed by the Rules or set by the panel.

IV. SUBMISSIONS

13. The Defence submits that there exists good cause for the Requested Extension on the basis that (i) the appeals raise significant, complex and novel issues; (ii) the Deadlines compete with one another; (iii) the Deadlines presently fall during the summer judicial recess; (iii) members of the Defence are also involved in the preparation of Mr Thaçi's defence in Case 06, which is due to begin on 25 August 2025; and the SPO has communicated that it does not oppose the Requested Extension.¹⁰

14. *Firstly*, two of the issues certified for appeal by the Pre-Trial Judge concern the application of the *res judicata* principle before the KSC, a matter which the Court of Appeals Panel has yet to pronounce itself upon.¹¹ Two issues also address important matters relating to the *ultra vires* assignment of judges and the remedies available to accused for remedying such assignments which breach the Law.¹² The latter two issues

¹⁰ The Defence notes that as regards the showing of good cause, the Pre-Trial Judge previously considered favourably similar reasons to vary the time limit for the preliminary motions which are the subject of the Impugned Decisions, *i.e.*: "(i) that the Thaçi Defence is currently involved mid-trial in a complex war crimes case (Case 06); (ii) the importance of preliminary motions and the desirability for comprehensive submissions; (iii) the volume of evidence disclosed under Rule 102(1)(a) of the Rules; (iv) the partly concurrence of the Rule 97(2) Deadline with winter judicial recess; and (v) the fact that, at the Status Conference, all Parties had seemingly agreed to a possible suspension of the time limits during court recess, including that pertaining to preliminary motions." KSC-BC-2023-12/F00135, Pre-Trial Judge, [Decision on Thaçi Defence Request for Variation of the Time Limit for Preliminary Motions](#), 24 January 2025, public ("Case 12 Decision on Variation of Time Limit"), para. 18.

¹¹ Severance and Adjournment Certification Decision, paras 19-21; Jurisdiction Certification Decision, paras 27-29.

¹² Jurisdiction Certification Decision, paras 31-33.

similarly have never yet been considered by the Court of Appeals Panel. Additionally, all the certified issues across the two appeals implicate fundamental rights of the accused under Article 21 of the Law, the Constitution of Kosovo, and/or the European Convention on Human Rights.¹³ Accordingly, the Requested Extension would assist the Defence in preparing a meaningful appeal that addresses these significant, complex, and novel issues in appropriate depth for their first consideration by the Court of Appeals Panel.¹⁴

15. The Defence recognises that it has made submissions concerning some of the certified issues in its direct appeal of the jurisdiction decision ("Direct Appeal"),¹⁵ the admissibility of which remains before the Court of Appeals Panel. However, much of the Direct Appeal was dedicated to grounds of appeal concerning (i) whether the Jurisdiction Decision fell under Rule 97(1)(a) and related questions of admissibility;¹⁶ and (ii) the scopes of the powers of the Case 06 Trial Panel, Single Judge, and SPO.¹⁷ Neither of these are issues certified for appeal.¹⁸ Accordingly, the appeals of the Impugned Decisions are distinct in scope from the Direct Appeal, enabling the Defence to furnish the Court of Appeals Panel with more detailed submissions on the certified issues.

¹³ Severance and Adjournment Certification Decision, para. 20; Jurisdiction Certification Decision, paras 28, 32.

¹⁴ See, e.g., *Specialist Prosecutor v. Thaçi et al.* ("Case 06"), KSC-BC-2020-06/IA010/F00003, Court of Appeals Panel, [Decision on Request for Variation of Time Limit](#), 30 July 2021, para. 5; *Specialist Prosecutor v. Shala*, KSC-BC-2020-04/IA002/F00002, Court of Appeals Panel, [Decision on Shala's Request for Variation of Time Limit](#), 28 October 2021 ("Shala Decision"), para. 3; *Case 06*, KSC-BC-2020-06/IA030/F00003, Court of Appeals Panel, [Decision on Selimi's and Krasniqi's Request for Variation of Time Limit](#), 22 December 2023 ("Selimi and Krasniqi Decision"), paras 3, 4.

¹⁵ KSC-BC-2023-12/IA005/F00001, Thaçi Defence, Appeal against Decision on the Thaçi Defence Preliminary Motion on Jurisdiction, 2 July 2025, confidential and *ex parte*, with Annexes 1-3, public (public redacted version and corrected version thereof filed on 4 July 2025 and 7 July 2025, respectively) ("Direct Appeal").

¹⁶ Direct Appeal, paras 11-19.

¹⁷ Direct Appeal, paras 36-51.

¹⁸ Leave to appeal the former was not sought as its effects were confined to Mr Thaçi's right to appeal. Leave to appeal the latter was denied. See Jurisdiction Certification Decision, paras 23-26.

16. *Secondly*, as the Impugned Decisions were issued on the same day, the Deadlines fall on the same day and thus compete with one another. The Court of Appeals Panel has previously considered competing deadlines as offering good cause for the variation of time limits.¹⁹

17. *Thirdly*, Defence recalls that the Court of Appeals Panel has found that the falling of a deadline during a judicial recess constitutes good cause for its extension in light of limited staff availability during recesses.²⁰ As the Deadlines fall during the summer judicial recess²¹ where both the Defence and the SPO have more limited staff availability, the Defence submits that there is good cause for the Requested Extension, which would lead to appeals filed a reasonably short time after the conclusion of the recess.

18. *Fourthly*, several members of the Defence are actively involved in the preparation of Mr Thaçi's defence in Case 6,²² which is currently set to begin on 25 August 2025.²³

19. Lastly, the SPO has confirmed in *inter partes* communication to the Defence that it does not oppose a reasonable extension until 22 August 2025.²⁴ Therefore, the Requested Extension, will not prejudice the SPO.²⁵ The Defence adds that the

¹⁹ See, e.g., [Shala Decision](#), para. 3; *Specialist Prosecutor v. Shala*, KSC-BC-2020-04/IA002/F00007, Court of Appeals Panel, [Decision on the Parties' Requests for Variation of Time Limits](#), 17 November 2021, para. 4; [Selimi and Krasniqi Decision](#), para. 4.

²⁰ See, e.g., [Selimi and Krasniqi Decision](#), para. 3; *Specialist Prosecutor v. Mustafa*, KSC-CA-2023-02/F00004, Court of Appeals Panel, [Decision on Defence Motion for Variation of Time Limit to File Notice of Appeal](#), 9 January 2023, para. 6. See also [Case 12 Decision on Variation of Time Limit](#), para. 18; *Case 06*, KSC-BC-2020-06/F01164, Pre-Trial Judge, [Order Varying Time Limit for Defence Responses](#), 15 December 2022, para. 5.

²¹ See KSCPR-2024/F00002, President, [Judicial Recess Periods for 2025](#), 14 October 2024, p. 1.

²² [Case 12 Decision on Variation of Time Limit](#), para. 18.

²³ See *Case 06*, KSC-BC-2020-06/F03302, Trial Panel II, [Decision on Joint Defence Request for a Variation of the Schedule](#), 2 July 2025, para. 18.

²⁴ Email from the SPO to Specialist Counsel for Mr Thaçi, 24 July 2025, 9:43.

²⁵ See [Shala Decision](#), para. 4; *Specialist Prosecutor v. Shala*, KSC-BC-2020-04/F00052, Pre-Trial Judge, [Decision on Request to Vary a Time Limit](#), 5 July 2021, para. 6.

Requested Extension is not disproportionate to the complexity of the issues certified for appeal or unreasonable in light of the circumstances of the case.

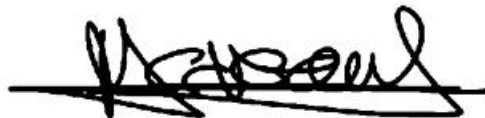
V. CONCLUSION

20. For the above reasons, the Defence requests that the President:

VARY, pursuant to Rule 9(5)(a), the time limits for the filing of the Defence appeals of the Impugned Decisions under Rule 170(2) so as they may be filed by **22 August 2025**.

[Word count: 1,946 words]

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Sophie Menegon', written over a horizontal line.

Sophie Menegon

Counsel for Hashim Thaçi

25 July 2025

Paris, France