

In: KSC-BC-2023-12
Specialist Prosecutor v. Hashim Thaçi, Bashkim Smakaj, Isni Kilaj, Fadil Fazliu and Hajredin Kuçi

Before: **Single Trial Judge**
Judge Christopher Gosnell

Registrar: Dr Fidelma Donlon

Filing Participants: Specialist Counsel for Isni Kilaj, Hashim Thaçi, Bashkim Smakaj, Fadil Fazliu and Hajredin Kuçi

Date: 19 December 2025

Language: English

Classification: Public

**Public Redacted Version of
“Joint Defence Request for Suspension of
Deadlines during the Winter Judicial Recess”**

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I. INTRODUCTION

1. Pursuant to Rule 9(5) of the Rules of Procedure and Evidence before the Kosovo Specialist Chambers ('Rules'), the Defence teams for Messrs Kilaj, Thaçi, Smakaj, Fazliu and Kuçi ('Defence') hereby respectfully request that any time limits running during the winter judicial recess¹ be suspended until 12 January 2026, upon the resumption of judicial activity.

II. CLASSIFICATION

2. Pursuant to paragraph 15 of the Order Regarding (Re)classification of Filings,² and Rules 82(3) and (4), these submissions are classified as confidential because they refer to confidential filings. A public redacted version will be filed simultaneously.

III. SUBMISSIONS

3. The Defence has received notification of a considerable number of submissions filed by the Specialist Prosecutor's Office ('SPO') a short time before the start of the winter recess.³ Pursuant to Rules 9 and 76 of the Rules, the time limit to submit responses to the Filings would be calculated by reference to start dates on 18 and 19 December 2025,⁴ less than two working days before the start of the winter recess, with the deadline being on 29 December 2025, which falls well into the recess and includes two court holidays.

¹ The last working day before the winter recess is Friday, 19 December 2025 and the first working day after the winter recess is Monday, 12 January 2026, *see* Judicial Recess Periods for 2025, KSCPR-2024, 14 October 2024

² Order Regarding (Re)classification of Filings, KSC-BC-2023-12/F00111, 14 January 2025, confidential

³ Prosecution motion for admission of a prior statement of an Accused, KSC-BC-2023-12/F00626, 17 December 2025, public; Prosecution motion for judicial notice of facts of common knowledge, KSC-BC-2023-12/F00629, 17 December 2025, public; [REDACTED], KSC-BC-2023-12/F00632, 17 December 2025, confidential; [REDACTED], KSC-BC-2023-12/F00635, 18 December 2025, confidential ('Filings'). *See also* [REDACTED], KSC-BC-2023-12/F00620, 15 December 2025, confidential

⁴ The Defence notes that although KSC-BC-2023-12/F00632 is dated 17 December 2025, it was notified on 18 December 2025; therefore the time limit runs from 19 December 2025 pursuant to Rule 9(2) of the Rules

4. It is submitted that good cause exists for the requested suspension, based on the significant time required to analyse the numerous and simultaneously notified Filings, as well as the impact of the winter recess on the Defence's available resources.

5. The Court of Appeals Panel has previously considered competing deadlines as good cause to vary time limits.⁵ Further, in the present case, the Filings concern significant and often complex procedural, legal and evidentiary matters such as: (i) [REDACTED], and material relating to an interview under caution of an Accused person; (ii) a request to take judicial notice of 91 proposed facts, filings and witness interviews/transcripts as facts of common knowledge; and (iii) [REDACTED]. The Filings address significant legal issues, notably relating to the admission of [REDACTED], the admission of prior witness statements via judicial notice under Rule 157 instead of Rules 153-155, the rights of suspects, including the privilege against self-incrimination, and the use of previous statements of an Accused person which could impact the fair trial rights of that Accused as well as those of his co-Accused. Careful factual and legal analysis will be required in order for the Defence to provide meaningful and effective responses.

6. The relief sought in this request is consistent with the established practice at international courts and tribunals to suspend time limits during judicial recess periods,⁶ including in the present case,⁷ in acknowledgement of the fact that legal

⁵ *Specialist Prosecutor v. Shala*, Decision on Shala's Request for Variation of Time Limit, KSC-BC-2020-04/IA002/F00002, 28 October 2021, para. 3; Decision on the Parties' Requests for Variation of Time Limits, KSC-BC-2020-04/IA002/F00007, 17 November 2021, para. 4

⁶ See e.g. *Specialist Prosecutor v. Thaçi et al.*, Order Varying Time Limit for Defence Responses, KSC-BC-2020-06/F01164, 15 December 2022; ICC, *Prosecutor v. Al Hassan*, Annex 14 to the Report on further implementation of the "Registry's Quarterly Report on Email Decisions for the months of July until September 2021", ICC-01/12-01/18-1865-Anx14-Red, 6 June 2022; *Prosecutor v. Katanga and Ngudjolo*, ICC-01/04-01/07-T-173-Red-ENG WT 15-07-2010 1-82 VR T, 15 July 2010, p. 77, lines 11-13. See also *Specialist Prosecutor v. Mustafa*, Public redacted version of Second decision on the appointment of expert(s), KSC-BC-2020-05/F00140/RED, 25 June 2021, para. 11

⁷ See Transcript of Status Conference of 17 December 2024, KSC-BC-2023-12, p. 189, line 3 to p. 190, line 12; p. 196, line 19 to p. 197, line 10; Decision on Thaçi Defence Request for Variation of the Time Limit for Preliminary Motions, KSC-BC-2023-12/F00135, 24 January 2025, para. 18

teams require scheduled breaks.⁸ Such suspensions take into account the demanding workload borne by legal teams throughout judicial proceedings. They provide an important safeguard against burnout, thereby serving to promote judicial economy and the overall efficiency of the proceedings. Further, the Court of Appeals Panel has expressly recognised that when most of the time limit period for the filing of a response falls during a judicial recess, this militates in favour of a finding of good cause, notably in light of the reduced availability of staff availability during that period.⁹ The requested suspension would therefore permit the Defence to operate at full capacity when work is resumed after the winter recess, to prepare focused and complete responses on these important matters.

7. The requested suspension is reasonable and proportionate. Granting the request would not unduly affect the expeditiousness of the proceedings.¹⁰ The present request is also timely as the Defence filed this request shortly after being notified of the Filings, well ahead of the expiry of the time limits prescribed in Rule 76 of the Rules.

8. Further, following helpful *inter partes* consultations, the SPO has confirmed that it does not oppose this request.

⁸ ICC, *Prosecutor v. Bemba*, ICC-01/05-01/08-T-43-Red2-ENG WT, 3 December 2012, p. 31, lines 13-24; *Prosecutor v. Katanga and Ngudjolo*, ICC-01/04-01/07-T-286-Red-ENG CT WT 06-07-2011 1-84 PV T, 6 July 2011, p. 5, lines 1-8

⁹ *Specialist Prosecutor v. Shala*, Decision on Defence Motion for Variation of Time Limit to File Notice of Appeal, KSC-CA-2024-03/F00006, 24 July 2024, para. 9; *Specialist Prosecutor v. Mustafa*, Decision on Defence Motion for Variation of Time Limit to File Notice of Appeal, KSC-CA-2023-02/F00004, 9 January 2023, para. 6 and references therein; ICC, *Prosecutor v. Banda*, Decision on Mr Banda's request for extension of time for the filing of a document in support of the appeal, ICC-02/05-03/09-624, 24 December 2014, para. 6; ICTY, *Prosecutor v. Lukić & Lukić*, Decision on Milan Lukić's Motion Seeking Extension of Time to File Appeal Brief and Motion for Stay of Proceedings, IT-98-32/1-A, 30 October 2009, para. 12

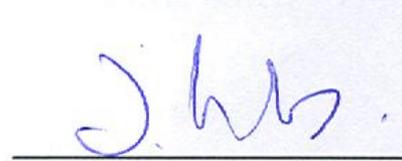
¹⁰ The requested suspension of the deadlines would only generate a limited delay since Defence responses would be filed within a short time after the conclusion of the recess: responses to F00620, F00626 and F00629 would be due on 19 January 2026; responses to F00632 and F00635 would be due on 20 January 2026

IV. RELIEF

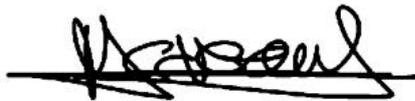
9. For the foregoing reasons, it is respectfully submitted that the Single Trial Judge grant this request and order the suspension of the deadlines for the duration of the judicial winter recess.



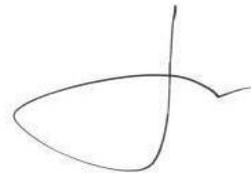
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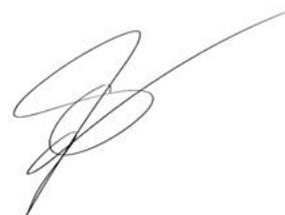
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Word count: 1,252 words