



SPECIALIST PROSECUTOR'S OFFICE
ZYRA E PROKURORIT TË SPECIALIZUAR
SPECIJALIZOVANO TUŽILAŠTVO

In: KSC-CC-2019-07
Before: **The Specialist Chamber of the Constitutional Court**
Judge Vidar Stensland, Presiding
Judge Roland Dekkers
Judge Antonio Balsamo

Registrar: Dr Fidelma Donlon
Filing Participant: Specialist Prosecutor
Date: 10 December 2019
Language: English
Classification: Public

Prosecution request for authorisation to respond to filing KSC-CC-2019-07/F00009

Specialist Prosecutor's Office

Jack Smith

Specialist Counsel for Mr

Driton Lajci

Mr Toby Cadman

1. On 9 December 2019, Mr Driton Lajci ('Applicant') filed a Reply¹ to the Response² of the Specialist Prosecutor's Office ('SPO').
2. The Rules³ do not make provision for submissions in the form of a 'reply' on the part of an Applicant, absent an invitation from the assigned panel of the Specialist Chamber of the Constitutional Court.⁴ The Panel⁵ should either (i) disregard the Reply, or (ii) authorise the SPO to respond thereto.
3. If the Panel does not intend to disregard the Reply, authorising the SPO to respond is warranted given that the Reply, *inter alia*: (i) makes submissions regarding admissibility for the first time, after the Applicant neglected to do so in the original referral;⁶ (ii) attempts to reframe the basis of the original referral;⁷ (iii) contains submissions which are factually and/or legally incorrect;⁸ and (iv) mischaracterises SPO submissions.⁹

Word count: 309



Jack Smith
Specialist Prosecutor

Tuesday, 10 December 2019
At The Hague, the Netherlands

¹ Defence Reply to the Prosecution Response to Mr. Driton Lajci's Referral to the Constitutional Court, KSC-CC-2019-07/F00009, 9 December 2019 ('Reply').

² Prosecution response to Mr Driton Lajci's Referral to the Constitutional Court Panel on the Legality of the Interview Procedure, KSC-CC-2019-07/F00008, 2 December 2019 ('Response').

³ Rules of Procedure for the Specialist Chamber of the Constitutional Court, KSC-BD-03/Rev1/2017 ('Rules').

⁴ Rules, Rule 15. *See, in particular*, Rule 15(2) (indicating that the Constitutional Court Panel may request additional information or hear additional submissions, as deemed necessary, in relation to a referral).

⁵ On 15 November 2019, the President of the Specialist Chambers issued a decision assigning a panel of the Specialist Chamber of the Constitutional Court to rule on the Applicant's referral ('Panel') (Decision to Assign Judges to a Constitutional Court Panel, KSC-CC-2019-07/F00002, 15 November 2019).

⁶ Reply, KSC-CC-2019-07/F00009, paras 6-21.

⁷ *See, for example*, Reply, KSC-CC-2019-07/F00009, paras 9, 29-30, 39, 45-46.

⁸ *See, for example*, Reply, KSC-CC-2019-07/F00009, paras 8, 12, 33-34, 39.

⁹ *See, for example*, Reply, KSC-CC-2019-07/F00009, paras 8, 13-15, 17-21, 29, 36, 38, 45-46.