



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA KOSOVA

In: KSC-BC-2020-06

Before: A Panel of the Court of Appeals Chamber
Judge Michèle Picard
Judge Emilio Gatti
Judge Kai Ambos

Registrar: Fidelma Donlon

Date: 31 May 2021

Original language: English

Classification: Public

Decision on Counsel's Motion for Clarification and Variation of Time Limit

Specialist Prosecutor's Office:

Jack Smith

Counsel for Hashim Thaçi:

Gregory Kehoe

Counsel for Denied Applicants:

Anni Pues

Counsel for Kadri Veseli:

Ben Emmerson

Counsel for Rexhep Selimi:

David Young

Counsel for Jakup Krasniqi:

Venkateswari Alagendra

THE PANEL OF THE COURT OF APPEALS CHAMBER of the Kosovo Specialist Chambers (“Panel” and “Specialist Chambers”, respectively),¹ acting pursuant to Article 33(1)(c) of the Law on Specialist Chambers and Specialist Prosecutor’s Office and Rule 169 of the Rules of Procedure and Evidence (“Rules”);

NOTING the Pre-Trial Judge’s First Decision on Victims’ Participation where he, *inter alia*, denied the applications of Victims 06/06, 08/06, 09/06, 10/06, 11/06, 13/06 and 14/06 as inadmissible;²

NOTING that Counsel to the Denied Applicants (“Counsel”) was assigned on 12 May 2021 to assist the denied applicants “as a group” with their appeal of the Decision;³

BEING SEISED of a motion filed on 28 May 2021 by Counsel on behalf of denied applicants Victims 08/06, 09/06, 10/06, 11/06, 13/06 and 14/06, in which Counsel seeks clarification on the applicable time limit to file any appeal against the Decision and seeks variation of the time limit for doing so to 7 June 2021;⁴

RECALLING that, pursuant to Rule 113(6) of the Rules, denied applicants may appeal as of a right the decision on victims’ participation within 14 days;

RECALLING that the Pre-Trial Judge specified that, pursuant to Rules 9(2) and 113(5) of the Rules, the time limit to file the appeals under Rule 113(6) of the Rules runs from the first working day after the notification to the applicant of the decision denying admission;⁵

RECALLING FURTHER that English is the working language in the case;⁶

¹ F00002, Decision Assigning a Court of Appeals Panel for the clarification of time limits, 29 May 2021.

² F00257/RED, Public Redacted Version of the First Decision on Victims’ Applications, 21 April 2021 (“Decision”), para. 85(f).

³ F00293, Notification of Assignment of Counsel to Denied Applicants, 12 May 2021, para. 2.

⁴ F00001, Motion for clarification and variation of time limit pursuant to Rule 9 (5) of the Rules of Procedure and Evidence, 28 May 2021 (“Motion”), paras 1, 17.

⁵ F00159, Framework Decision on Victims’ Applications, 4 January 2021, para. 55.

⁶ F00072, Decision on Working Language, 11 November 2020, para. 26(a).

CONSIDERING that, out of fairness for the applicants, the time limit pursuant to Rule 113(6) of the Rules should run from the first working day after the notification to the applicant of the Decision in a language he or she understands, which may differ from the working language in the case;

FINDING that, since Victims 08/06 and 13/06 were notified of the Decision on 14 May 2021 and Victims 09/06, 10/06 and 11/06 were notified of the Decision on 17 May 2021,⁷ the deadlines to file their respective appeals therefore both fall on 31 May 2021;

NOTING that, at the time of filing the Motion, Victim 14/06 did not appear to have yet been formally notified of the Decision;⁸

NOTING Counsel's submission that the Rules are ambiguous in that they do not specify how to determine the starting date for the time limit to file an appeal when victims within a group are notified at varying dates;⁹

NOTING FURTHER that Counsel submits that it would be neither suitable nor efficient to file individual appeals for each denied applicant, as the reasons for the denials as well as the main arguments of each appellant are expected to be the same;¹⁰

CONSIDERING that Rule 113(6) of the Rules does not state that appeals filed by denied applicants must be submitted jointly in a single filing even though it provides that a Counsel may be assigned to them "as a group";

CLARIFYING, therefore, that the time limit to file appeals pursuant to Rule 113(6) of the Rules starts running from each notification of the Decision to each individual denied applicant;

⁷ See Motion, paras 6-7.

⁸ See Motion, para. 7.

⁹ Motion, para. 11. See also Motion, para. 13.

¹⁰ Motion, para. 12.

RECALLING, however, that Rule 9(5)(a) of the Rules allows for the variation of any time limit prescribed by the Rules upon a showing of good cause;

CONSIDERING the technical difficulties encountered by Counsel, including the fact that, at the time of filing the Motion, Counsel still did not yet have the necessary level of access to Legal Workflow, that the appeal is the first of its kind before the Specialist Chambers and may therefore set important precedents, and that, at the time of filing the Motion, Victim 14/06 did not appear to have been notified yet of the Decision;¹¹

CONSIDERING that the requested variation of time would not impact the overall proceedings in the case, but may in fact be more expeditious in that Counsel intends to file a joint appeal on behalf of the group of denied applicants;¹²

FINDING that, in light of the foregoing, given these exceptional circumstances, there is good cause for varying the time limit for appealing the Decision;

RECALLING that, pursuant to Rule 9(6) of the Rules, a motion for variation of time may be disposed of without giving the Parties the opportunity to be heard;

CONSIDERING that, in light of the imminence of the time limit(s) for appealing the Decision and given that no prejudice will be caused to the Parties, it is in the interests of justice to dispose of the Motion immediately;

EMPHASISING that procedural time limits are to be respected as they are indispensable to the proper functioning of the Specialist Chambers and that Counsel should have filed any request for clarification or extension of time as soon as possible

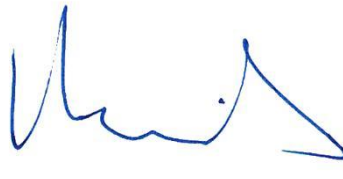
¹¹ See Motion, paras 4-5, 7, 11, 14-15.

¹² In relation to Victim 14/06 specifically, the requested variation of time would necessarily constitute a reduction in the time limit for filing his or her appeal against the Decision. As Victim 14/06 had not yet been formally notified of the Decision at the time the Motion was filed on 28 May 2021, the deadline for filing his or her appeal against the Decision would necessarily fall after the date which the Counsel requests as the deadline for a joint appeal, namely 7 June 2021. See Motion, paras 7, 11.

in order to avoid being unable to meet the initial time limit(s) should the Panel dismiss the Motion;

HEREBY GRANTS the Motion; and

ORDERS Counsel to file any appeal against the Decision by 7 June 2021.



**Judge Michèle Picard,
Presiding Judge**

Dated this Monday, 31 May 2021

At The Hague, the Netherlands