



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEĆA KOSOVA

In: KSC-BC-2020-06

Before: **A Panel of the Court of Appeals Chamber**
Judge Michèle Picard
Judge Emilio Gatti
Judge Nina Jørgensen

Registrar: Fidelma Donlon

Date: 28 July 2021

Original language: English

Classification: Public

Decision on Requests for Variation of Time Limits

Specialist Prosecutor's Office:

Jack Smith

Counsel for Hashim Thaçi:

Gregory Kehoe

Counsel for Victims:

Simon Laws

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 (“Court of Appeals Panel” or “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”), is seised of: (i) a joint request filed on 23 July 2021 by Selimi, Krasniqi and Thaçi;² (ii) a request filed on 26 July 2021 by Veseli³ (collectively, “the Defence”); and (iii) a request filed on 26 July 2021 by the Specialist Prosecutor’s Office (“SPO”),⁴ all seeking variation of the time limit to file their appeals against the Pre-Trial Judge’s Decision on preliminary motions challenging the Specialist Chambers’ jurisdiction (“Impugned Decision”)⁵ (collectively, “the Requests”). The SPO also conditionally requests the variation of the time limit to respond to any Defence appeals.⁶

1. Selimi, Krasniqi and Thaçi request that the deadline to appeal the Impugned Decision be extended to 27 August 2021.⁷ They submit that good cause exists for the requested extension, given the importance, complexity and novelty of the matters raised in the Impugned Decision, which have not been previously addressed by the Court of Appeals Panel.⁸ Selimi, Krasniqi and Thaçi further invoke the summer judicial recess and the extraordinary circumstances caused by the COVID-19 pandemic.⁹

¹ F00004, Decision Assigning a Court of Appeals Panel to Consider Requests Regarding Time Limits, 27 July 2021.

² F00001, Selimi, Krasniqi and Thaçi Defence Request for an Extension of Time to Submit their Appeals against the Pre-Trial Judge’s Decision on Preliminary Motions, 23 July 2021 (“Joint Request”).

³ F00002, Veseli Defence Request for Variation of Time Limit to Appeal Decision KSC-BC-2020-06/F00412 (Decision on Motions Challenging the Jurisdiction of the Specialist Chambers), 26 July 2021 (“Veseli Request”).

⁴ F00003, Prosecution request for extension of time limits, 26 July 2021 (“SPO Request”).

⁵ F00412, Decision on Motions Challenging the Jurisdiction of the Specialist Chambers, 22 July 2021 (“Impugned Decision”).

⁶ SPO Request, para. 1.

⁷ Joint Request, paras 5, 8.

⁸ Joint Request, para. 6.

⁹ Joint Request, para. 7.

2. Veseli requests that the time limit be varied so that his appeal of the Impugned Decision may be filed within ten days of the notification of the Pre-Trial Judge's upcoming decision on constitutional challenges, and in any event no earlier than 27 August 2021.¹⁰ Veseli submits that, because the issues raised in his various preliminary motions are interconnected and/or constitutional in nature, being apprised of the Pre-Trial Judge's upcoming decision on constitutional challenges would assist him in filing a "comprehensive and properly-informed" appeal of the Impugned Decision.¹¹

3. The SPO requests an extension of the time limit to appeal the Impugned Decision until ten days after notification of the decision on constitutional challenges or 27 August 2021, whichever is later.¹² In the event that the extensions sought by the Defence are granted, the SPO also requests a commensurate extension of time – to 30 September 2021 – to respond to any appeals.¹³ The SPO submits that good cause exists for the requested extensions, stressing that the Impugned Decision addresses complex and important matters not previously considered by the Court of Appeals Chamber.¹⁴ The SPO also contends that, because certain constitutional challenges remain pending before the Pre-Trial Judge, the Parties should have the opportunity to consider all potentially relevant decisions before deciding whether, and how, to appeal.¹⁵ The SPO finally notes the judicial recess and the existence of other deadlines during it.¹⁶

4. The Panel notes that, pursuant to Rules 97(3) and 170(1) of the Rules, the Parties should normally file any appeal against the Impugned Decision by 2 August 2021, any response within ten days of the appeal, and any reply within five days of the response.

¹⁰ Veseli Request, paras 8, [10]. See also Veseli Request, para. 3.

¹¹ Veseli Request, paras 6-7.

¹² SPO Request, para. 1.

¹³ Ibid.

¹⁴ SPO Request, para. 2.

¹⁵ Ibid.

¹⁶ Ibid.

The Panel recalls, 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 or *proprio motu*.

5. The Panel acknowledges the significance and complexity of the issues raised in the Impugned Decision, and their novelty before the Court of Appeals Panel. The Panel finds that additional time would assist the Parties to prepare meaningful appellate submissions on these matters. Therefore, the Panel is satisfied that, in the circumstances of this case, good cause exists, pursuant to Rule 9(5)(a) of the Rules, to vary the time limit to appeal the Impugned Decision to 27 August 2021, and to vary the time limit to file responses to the appeals to 30 September 2021.¹⁷ The Panel considers that these extensions of time are sufficient and finds that a potentially longer extension of time linked to the distribution of the Pre-Trial Judge's separate decision regarding constitutional challenges is not warranted. In light of the extensions of time granted, the Panel also *proprio motu* extends the time limit for the Parties to file their replies, if any, to 18 October 2021.

6. The Panel considers that it is in the interests of justice and effective case management to maintain a synchronised briefing schedule on appeal. Therefore, all extensions of time granted in the present Decision shall apply for all Parties. In addition, the Panel considers that the requested variations of time will not impact the overall expeditiousness of the proceedings in the case.¹⁸

¹⁷ See e.g. ICC, *Prosecutor v. Ruto and Sang*, ICC-01/09-01/11-1346, Decision on the request of the Prosecutor for an extension of the time limit for her consolidated response to the documents in support of the appeals, 5 June 2014, para. 9, and the jurisprudence cited in fns 18-19 thereto; ICC, *Prosecutor v. Bemba*, ICC-01/05-01/08-3431, Decision on Mr Jean-Pierre Bemba Gombo's request for an extension of time for the filing of his document in support of the appeal, 1 September 2016, paras 11-12, and the jurisprudence cited in fns 15-17 thereto; ICC, *Prosecutor v. Ruto and Sang*, ICC-01/09-01/11-1971, Decision on the requests for time and page extension, 18 September 2015, paras 6-7.

¹⁸ The Pre-Trial Judge has also varied the time limit for requesting certification to appeal his decision on preliminary motions alleging defects in the form of the indictment to 27 August 2021. See F00413/RED, Public Redacted Version of Decision on Defence Motions Alleging Defects in the Form of the Indictment, 22 July 2021, paras 178-179.

7. The Panel further recalls that, pursuant to Rule 9(6) of the Rules, a motion for variation of time limits may be disposed of without giving the Parties the opportunity to be heard. Given that no prejudice will be caused to the Parties, the Panel considers that it is in the interests of justice to dispose of the Requests immediately.¹⁹

8. For these reasons, the Court of Appeals Panel:

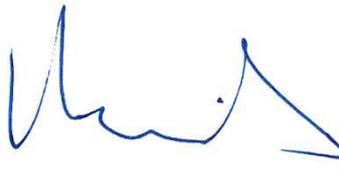
GRANTS the Joint Request;

GRANTS the Veseli Request and the SPO Request in part;

VARIES the time limit to appeal the Impugned Decision; and **ORDERS** the Parties to file their respective appeals against the Impugned Decision, if any, by 27 August 2021;

ORDERS the Parties to file their respective responses, if any, by 30 September 2021; and

ORDERS the Parties to file their respective replies, if any, by 18 October 2021.



**Judge Michèle Picard,
Presiding Judge**

Dated this Wednesday, 28 July 2021

At The Hague, the Netherlands

¹⁹ The Panel further notes that the SPO does not oppose the extensions sought by the Defence and that Veseli does not oppose a similar variation of the time limit sought by the SPO. See SPO Request, para. 1; Veseli Request, para. 9.