



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 Nina Jørgensen

Registrar: Fidelma Donlon

Date: 30 July 2021

Original language: English

Classification: Public

Decision on Request for Variation of Time Limit

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 Alagenda

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 (“Law”) and Rule 169 of the Rules of Procedure and Evidence (“Rules”), is seised of a request filed on 28 July 2021 by Thaçi,² which seeks an extension of the time limit for appealing the Pre-Trial Judge’s “Decision on Review of Detention of Hashim Thaçi” (“Impugned Decision”).³

1. Thaçi requests that the deadline to appeal the Impugned Decision be extended to 16 August 2021.⁴ He submits that good cause exists for the requested extension, given the importance, complexity and novelty of the matters raised in the Impugned Decision.⁵ He contends in particular that the guarantees proposed by Third States and the scope of Rule 56(4) of the Rules have not been previously addressed by the Court of Appeals Panel.⁶ Thaçi further invokes the summer judicial recess and the extraordinary circumstances caused by the COVID-19 pandemic.⁷

2. The Panel notes that, pursuant to Rule 58(1) and (2) and Rule 170(1) of the Rules, Thaçi should normally file his appeal against the Impugned Decision by 4 August 2021. 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*.

¹ F00002, Decision Assigning a Court of Appeals Panel to Consider Request Regarding Time Limits, 29 July 2021.

² F00001, Thaçi Defence Request for an Extension of the Time Limit to Submit its Appeal against the Pre-Trial Judge’s Decision on Review of Detention of Hashim Thaçi, 28 July 2021 (“Request”).

³ F00417/RED, Public Redacted Version of Decision on Review of Detention of Hashim Thaçi, 23 July 2021 (original version filed on 23 July 2021).

⁴ Request, paras 4, 9.

⁵ Request, para. 7.

⁶ Ibid.

⁷ Request, para. 8.

3. While Parties have the possibility pursuant to Rule 9(5)(a) of the Rules to seek an extension of the time limit to file their appeals, the Panel recalls that the intervention of the Court of Appeals Panel is confined to the scope of its appellate review and that appeals should not be seen as an opportunity for the Parties to re-litigate issues brought before the lower panel.⁸ The Panel further recalls the context of the review of the necessity of continued pre-trial detention, which before the Specialist Chambers takes place in a periodic and frequent manner.⁹

4. Furthermore, decisions on requests for variation of time limits are discretionary,¹⁰ so the Panel's assessment should be made on a case-by-case basis. Parties should therefore not expect to have their requests for extension of time automatically granted on the sole ground that an allegedly novel issue is brought before the Court of Appeals Panel.¹¹ For these reasons, the Panel is not persuaded that, in this case, an extension of time is warranted on the basis of the alleged importance, complexity and novelty of the issues raised in the Impugned Decision.

5. Nevertheless, in the particular circumstances of the present case, and on an exceptional basis in light of Thaçi's submissions,¹² the Panel is of the view that additional time would assist Thaçi to prepare a meaningful appeal and considers the requested extension to be reasonable. It will also not impact the fairness of the proceedings since, by bringing this Request, Thaçi acknowledges that he will not be prejudiced by the extension of time. The Panel therefore finds that there is good cause to vary the time limit to appeal the Impugned Decision to 16 August 2021.

⁸ Article 46(2) of the Law. See also e.g. KSC-BC-2020-07, F00005, Decision on Hysni Gucati's Appeal on Matters Related to Arrest and Detention, 9 December 2020, para. 6.

⁹ See Rule 57(2) of the Rules.

¹⁰ This is confirmed by the language of Rule 9(5)(a) of the Rules, which states that the Panel "*may* [...] extend or reduce any time limit" (emphasis added).

¹¹ C.f. KSC-BC-2020-06, F00005, Decision on Requests for Variation of Time Limits, 28 July 2021, para. 5.

¹² Request, para. 8.

6. The Panel 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. In light of the imminence of the time limit for appealing the Impugned Decision and given that no prejudice will be caused to the other Parties, the Panel considers that it is in the interests of justice to dispose of the Request immediately.

7. Finally, the Panel notes that any response and reply to Thaçi's appeal of the Impugned Decision shall follow the time limits set out in Rule 170(1) of the Rules.

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

GRANTS the Request;

VARIES the time limit to appeal the Impugned Decision; and

ORDERS Thaçi to file his appeal against the Impugned Decision, if any, by 16 August 2021.



**Judge Michèle Picard,
Presiding Judge**

Dated this Friday, 30 July 2021

At The Hague, the Netherlands