



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:** 19 August 2021

**Original language:** English

**Classification:** Public

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**Decision on Requests for Variation of Word Limits**

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**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),<sup>1</sup> 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 a request filed by Veseli seeking an extension of the word limit for his upcoming appeal against the Pre-Trial Judge’s Decision on preliminary motions challenging the Specialist Chambers’ jurisdiction (“Veseli Request” and “Impugned Decision”, respectively).<sup>2</sup> Veseli requests an extension of 4,000 words to submit his appeal, which shall not therefore exceed 13,000 words.<sup>3</sup> The Panel is simultaneously seised of a joint request filed by Krasniqi, Selimi and Thaçi, seeking a similar extension of the word limit for their upcoming appeals against the Impugned Decision (“Krasniqi, Selimi and Thaçi Request”)<sup>4</sup> (collectively, the “Defence” and the “Requests”).

1. The Panel notes that Article 46(3) of the Practice Direction on Files and Filings before the Kosovo Specialist Chambers (“Practice Direction”)<sup>5</sup> stipulates that an interlocutory appeal against a decision on a preliminary motion submitted pursuant to Rule 97(3) of the Rules shall not exceed 9,000 words. In addition, Article 36(1) of the Practice Direction stipulates that participants to proceedings may seek, sufficiently in advance, an extension of the word limit upon showing that good cause exists constituting exceptional circumstances.<sup>6</sup>

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<sup>1</sup> F00008, Decision Assigning a Court of Appeals Panel to Consider Requests Regarding Word Limit, 17 August 2021.

<sup>2</sup> F00006, Veseli Defence Request for Word Limit Variation, 16 August 2021 (“Veseli Request”); F00412, Decision on Motions Challenging the Jurisdiction of the Specialist Chambers, 22 July 2021 (“Impugned Decision”).

<sup>3</sup> Veseli Request, para. 2.

<sup>4</sup> F00007, Krasniqi, Selimi and Thaçi Defence Request for Word Limit Variation, 16 August 2021 (“Krasniqi, Selimi and Thaçi Request”).

<sup>5</sup> KSC-BD-15, Registry Practice Direction, Files and Filings before the Kosovo Specialist Chambers, 17 May 2019 (“Practice Direction”).

<sup>6</sup> See e.g. F00285, Decision on Defence Requests for Extension of the Reply Word Limit, 7 May 2021 (“Decision on Reply Word Limit”), para. 6.

2. Veseli submits that the Panel extended the deadline to appeal the Impugned Decision to 27 August 2021 and that his request is filed in a timely manner, “with approximately half of the allotted time to appeal remaining”.<sup>7</sup> Although Krasniqi, Selimi and Thaçi do not address the timing of their submissions, the Panel is satisfied that the Requests, filed on 16 August 2021, are submitted sufficiently in advance of the deadline.

3. Veseli further argues that, in light of the number, complexity and novelty of the issues to be addressed, good cause is shown for his request to be granted.<sup>8</sup> He further submits that exceptional circumstances are demonstrated by the fact that the Impugned Decision deals with important legal issues and that the decision to be issued by the Panel will establish a precedent which will be relied upon in future cases.<sup>9</sup> Krasniqi, Selimi and Thaçi highlight the significance and complexity of the issues addressed in the Impugned Decision, notably with regard to the concept of joint criminal enterprise, and underline the need to conduct significant analysis on these issues, as they have not previously been addressed by the Panel.<sup>10</sup>

4. The Panel is mindful of the length of the Impugned Decision (comprising a total of 98 pages). The Panel is further mindful that extensions of word limits have previously been granted by the Pre-Trial Judge in relation to filings concerning the preliminary motions on jurisdiction.<sup>11</sup> The Panel already acknowledged in a prior decision that the significance and complexity of the issues raised in the Impugned Decision, as well their novelty before the Court of Appeals Panel, constituted good

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<sup>7</sup> Veseli Request, para. 7.

<sup>8</sup> Veseli Request, para. 8.

<sup>9</sup> Veseli Request, para. 6.

<sup>10</sup> Krasniqi, Selimi and Thaçi Request, paras 10-11.

<sup>11</sup> F00190/CONF/RED, Confidential Redacted Version of Decision on Specialist Prosecutor’s Second Request for Protective Measures and Renewed Request for Protective Measures and Procedural Matters, 5 February 2021 (confidential, original version filed on 5 February 2021), paras 141-142, 144(m); F00250, Decision on Prosecution Request for Extension of the Word Limit, 16 April 2021, paras 6-7; Decision on Reply Word Limit, paras 7-8. See also Krasniqi, Selimi and Thaçi Request, para. 12.

cause to, in that instance, vary the time limit to appeal the Impugned Decision to 27 August 2021.<sup>12</sup>

5. The Panel considers that the quality and effectiveness of appeal submissions do not depend on their length but on the clarity and cogency of the presented arguments and that, therefore, excessively lengthy appeals do not necessarily serve the cause of an efficient administration of justice.<sup>13</sup> The Panel finds, however, that due to the significance of appeals against decisions on preliminary motions on jurisdiction to the Specialist Chambers, the Panel could benefit from receiving more detailed submissions than would normally be permitted, justifying a departure from the word limit specified in the Practice Direction.<sup>14</sup> In this regard, the Panel recalls its earlier finding that it is in the interests of justice to ensure that parties before the Specialist Chambers can file meaningful appellate submissions on the matters raised in the Impugned Decision.<sup>15</sup> The Panel therefore finds that good cause exists constituting exceptional circumstances and that an extension of the word limit is justified. The Panel further finds the request of 4,000 additional words, for a total of a maximum of 13,000 words, to be reasonable in the present circumstances.

6. The Panel notes that, according to the Defence's submissions, the Specialist Prosecutor's Office ("SPO") does not oppose the Requests.<sup>16</sup> The Panel recalls that, pursuant to Article 36(2) of the Practice Direction, a motion for variation of a word limit may be disposed of without giving the opposing party the opportunity to be heard. In light of the upcoming time limit for appealing the Impugned Decision and

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<sup>12</sup> F00005, Decision on Requests for Variation of Time Limits, 28 July 2021 ("Decision on Requests for Variation of Time Limits"), para. 5.

<sup>13</sup> See e.g. IRMCT, *Prosecutor v. Karadžić*, MICT-13-55-A, Decision on a Motion for an Extension of a Word Limit, 8 September 2016, p. 2; ICTY, *Prosecutor v. Hartmann*, IT-02-54-R77.5-A, Decision on Motions to Strike and Requests to Exceed Word Limit, 6 November 2009, para. 23.

<sup>14</sup> See e.g. STL, *Prosecutor v. Ayyash et al.*, STL-11-01-PT/TC, Decision on Extension of Word Limits for the Filing of Preliminary Motions Challenging Jurisdiction, 8 May 2012, para. 13.

<sup>15</sup> Decision on Requests for Variation of Time Limits, para. 5.

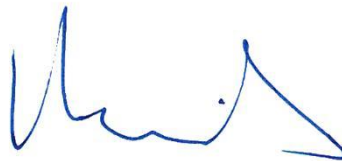
<sup>16</sup> Veseli Request, paras 3, 7. Veseli indicates that the Defence sought the SPO's approval for the requested word extension on 14 August 2021 and the SPO's response thereto was received on 15 August 2021. See also Krasniqi, Selimi and Thaçi Request, para. 12.

of the indication from the Defence that the SPO does not oppose the Requests,<sup>17</sup> the Panel is satisfied that no prejudice will be caused to the opposing party. The Panel therefore considers that it is in the interests of justice to dispose of the Requests immediately.

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

**GRANTS** the Requests; and

**AUTHORISES** each Accused to file an appeal not exceeding 13,000 words, no later than 27 August 2021.



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**Judge Michèle Picard,  
Presiding Judge**

Dated this day, Thursday, 19 August 2021

At The Hague, the Netherlands

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<sup>17</sup> Ibid. Veseli further indicates that, should the SPO wish to have a similar proportional word limit variation in response, he gives his advance consent to such an extension; see Veseli Request, para. 9.