



KOSOVO SPECIALIST CHAMBERS  
DHOMAT E SPECIALIZUARA TË KOSOVËS  
SPECIJALIZOVANA VEÇA KOSOVA

**In:** KSC-BC-2020-06

**The Prosecutor v. Hashim Thaçi, Kadri Veseli, Rexhep Selimi,  
and Jakup Krasniqi**

**Before:** Pre-Trial Judge

Judge Nicolas Guillou

**Registrar:** Dr Fidelma Donlon

**Date:** 24 September 2021

**Language:** English

**Classification:** Public

---

**Decision on Prosecution Request for Extension of Time Limit**

---

**Specialist Prosecutor**  
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 PRE-TRIAL JUDGE**,<sup>1</sup> pursuant to Article 39(13) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rules 9, 95(2)(b) and 102(3) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), hereby renders this order.

## I. PROCEDURAL BACKGROUND

1. On 23 November 2020, the Pre-Trial Judge ordered that, *inter alia*, the Specialist Prosecutor's Office ("SPO") provide a detailed notice of the evidence falling under Rule 102(3) of the Rules by Friday, 30 April 2021.<sup>2</sup>
2. On 24 March 2021<sup>3</sup> and 24 June 2021,<sup>4</sup> the Pre-Trial Judge extended the SPO's deadline for filing the Rule 102(3) Notice ("Notice").
3. On 31 July 2021, the SPO filed the Notice.<sup>5</sup>
4. On 8 and 14 September 2021, the Pre-Trial Judge further amended deadlines in relation to the disclosure of Rule 102(3) material and reiterated that the SPO shall disclose or provide access to the selected material or submit a request for protective measures within three weeks of the Defence indication(s) and raise disputes as to the materiality of the requested Rule 102(3) material within ten days of the Defence indication(s).<sup>6</sup>

---

<sup>1</sup> KSC-BC-2020-06, F00001, President, *Decision Assigning a Pre-Trial Judge*, 23 April 2020, public.

<sup>2</sup> KSC-BC-2020-06, F00099, Pre-Trial Judge, *Framework Decision on Disclosure and Related Matters* ("Framework Decision on Disclosure"), 23 November 2020, public, para. 99(f).

<sup>3</sup> KSC-BC-2020-06, Transcript of Hearing, 24 March 2021, public, p. 390, line 17 to p. 391, line 10.

<sup>4</sup> KSC-BC-2020-06, F00370, Pre-Trial Judge, *Decision on Prosecution Request for Extension of Time Limit to Provide its Rule 102(3) Notice*, 24 June 2021, public; Transcript of Hearing, 14 September 2021, public, p. 625, line 24 to p. 625 lines 1-21.

<sup>5</sup> KSC-BC-2020-06, F00421, Specialist Prosecutor, *Prosecution Rule 102(3) Notice*, 30 July 2021, public, with Annex 1, confidential, and Annex 2, strictly confidential and *ex parte*.

<sup>6</sup> KSC-BC-2020-06, F00460, Pre-Trial Judge, *Decision on the Defence Request for an Amended Rule 102(3) Notice*, 8 September 2021, public, para. 27.

5. On 23 September 2021, the SPO requested extensions of time in relation to any materiality challenge and related deadlines for disclosure and/or any protective measures (“Request”).<sup>7</sup>

## II. SUBMISSIONS

6. The SPO requests: (i) in relation to any materiality challenge, a one-week extension to 1 October 2021; and (ii) to similarly extend the related deadline for disclosure and/or protective measures requests by one week.<sup>8</sup> The SPO submits that good cause for the extension is shown by the fact that the extension of time relates to the disclosure of 3466 items requested by the Defence for Hashim Thaçi on 14 September 2021 (“Thaçi Request for Rule 102(3) Material”) and will facilitate ongoing *inter partes* discussions aimed at avoiding unnecessary litigation related to the disclosure of such material.<sup>9</sup>

## III. APPLICABLE LAW

7. Pursuant to Rule 9(5)(a) of the Rules, the Panel may, *proprio motu* or upon a showing of good cause, extend or reduce any time limit prescribed by the Rules or set by the Panel.

8. Pursuant to Rule 9(6) of the Rules, where no prejudice is caused to the opposing Party, a motion for variation of time may be disposed of without giving the opposing Party the opportunity to be heard.

9. Rule 95(2)(b) provides that the Pre-Trial Judge shall set time limits for disclosure in accordance with Chapter 7.

---

<sup>7</sup> KSC-BC-2020-06, F00485, Specialist Prosecutor, *Prosecution Request for Extension of Time Limit* (“Request”), 23 September 2021, public.

<sup>8</sup> Request, para. 2.

<sup>9</sup> Request, para. 3.

10. Pursuant to Rule 102(3) of the Rules, the Specialist Prosecutor shall, pursuant to Article 21(6) of the Law, provide a detailed notice to the Defence of any material and evidence in his or her possession. Such material shall be disclosed without delay. The Specialist Prosecutor shall immediately seize the Panel where grounds to dispute the materiality of the information exists.

#### IV. DISCUSSION

11. In relation to the requested extension of time, the Pre-Trial Judge considers the volume and length of the items at issue in relation to the Thaçi Request for Rule 102(3) Material<sup>10</sup> as well as other concurrent Rule 102(3) deadlines the SPO is processing.<sup>11</sup> The Pre-Trial Judge further considers that the requested extension will facilitate *inter partes* discussions that may limit or avoid unnecessary litigation regarding the materiality of certain Rule 102(3) material.<sup>12</sup> While notice as to the SPO's inability to meet the requisite deadline could have been provided earlier, the Pre-Trial Judge considers that such a delay was occasioned by good faith efforts to meet the stipulated deadline.<sup>13</sup> Furthermore, the Pre-Trial Judge emphasises the importance of disclosure and related protective measures requests being carried out attentively to avoid any issues arising from a harried drive to meet deadlines.<sup>14</sup>

12. Finally, as disclosure of Rule 102(3) material remains ongoing and the requested extension of time will facilitate *inter partes* discussions, thereby potentially avoiding unnecessary materiality disputes, the Pre-Trial Judge does not consider that any prejudice towards the Defence will arise through the extension of the SPO's deadline for raising any materiality challenges and related deadlines for disclosure and/or any protective measures.

---

<sup>10</sup> Request, para. 2.

<sup>11</sup> Request, footnote 3.

<sup>12</sup> Request, para. 2.

<sup>13</sup> Request, para. 4.

<sup>14</sup> Request, para. 3.

13. The Pre-Trial Judge accordingly finds that good cause has been shown, warranting the requested extensions of time.

V. DISPOSITION

14. For the above-mentioned reasons, the Pre-Trial Judge hereby:

- a) **GRANTS** the Request;
- b) **EXTENDS** the SPO's deadline for filing any materiality challenge in relation to the Thaçi Request for Rule 102(3) Material to **Friday, 1 October 2021**; and
- c) **EXTENDS** the SPO's deadline for disclosure and/or requests for protective measures in relation to the Thaçi Request for Rule 102(3) Material to **Tuesday, 12 October 2021**.



---

**Judge Nicolas Guillou**  
**Pre-Trial Judge**

Dated this Friday, 24 September 2021  
At The Hague, the Netherlands