



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: 24 September 2021

Original language: English

Classification: Public

Decision on Request for Variation of Word 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 a request filed by the Specialist Prosecutor’s Office (“Request” and “SPO”, respectively) seeking an extension of the word limits for its upcoming responses to four Defence appeals against the Pre-Trial Judge’s Decision on preliminary motions challenging the Specialist Chambers’ jurisdiction (“Defence Appeals” and “Impugned Decision”, respectively).² The SPO requests an extension of 4,000 words to submit a response to each of the Defence Appeals (together, the “Responses”), which shall not therefore exceed 13,000 words.³

1. The Panel notes that Article 46(3) of the Practice Direction on Files and Filings before the Kosovo Specialist Chambers (“Practice Direction”)⁴ stipulates that a response to 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.⁵

¹ F00015, Decision Assigning a Court of Appeals Panel, 30 August 2021.

² F00016, Prosecution request for extension of word limits, 22 September 2021 (“Request”); F00010, Veseli Defence Appeal against Decision on Motions Challenging the Jurisdiction of the Specialist Chambers, 27 August 2021; F00011, Selimi Defence Appeal against the “Decision on Motions Challenging the Jurisdiction of the Specialist Chambers”, 27 August 2021; F00012, Taçi Defence Appeal against Decision on Motions Challenging the Jurisdiction of the Specialist Chambers, 27 August 2021; F00013, Krasniqi Defence Appeal Against Decision on Motions Challenging the Jurisdiction of the Specialist Chambers, 27 August 2021 (collectively, “Defence Appeals”); F00412, Decision on Motions Challenging the Jurisdiction of the Specialist Chambers, 22 July 2021 (“Impugned Decision”).

³ Request, para. 1.

⁴ KSC-BD-15, Registry Practice Direction, Files and Filings before the Kosovo Specialist Chambers, 17 May 2019 (“Practice Direction”).

⁵ See e.g. F00009, Decision on Requests for Variation of Word Limits, 19 August 2021 (“Decision on Requests for Variation of Word Limits”), para. 1.

2. The SPO argues that, in light of the 29 separate grounds of appeal raised in the Defence Appeals, the significance, complexity and novelty of the issues addressed in the 98-page Impugned Decision, and the fact that each of the Accused were granted an equivalent extension of up to 13,000 words to file their respective appeals, to which the SPO has to respond, good cause is shown for its Request to be granted.⁶ The SPO further submits that its Request is being made a week in advance of the applicable deadline and that no prejudice would arise to other Parties in ruling upon it without receiving further submissions.⁷

3. As to the timeliness of the Request, the Panel is satisfied that the Request, filed on 22 September 2021 by the SPO, is submitted sufficiently in advance for the purpose of Article 36(1) of the Practice Direction.⁸

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 Panel in relation to the Defence Appeals.⁹ The Panel already acknowledged in prior decisions 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 cause to vary both the time limits and word limits to appeal the Impugned Decision.¹⁰

5. While the Panel stresses that the quality and effectiveness of appeal submissions do not depend on their length but on the clarity and cogency of the presented arguments, it could similarly benefit from receiving more detailed submissions from the SPO than would normally be permitted, due to the significance

⁶ Request, para. 2.

⁷ Request, para. 3.

⁸ See F00005, Decision on Requests for Variation of Time Limits, 28 July 2021 (“Decision on Requests for Variation of Time Limits”), para. 8 (varying the time limit to respond to the Defence Appeals to 30 September 2021). See also Request, para. 3.

⁹ Decision on Requests for Variation of Word Limits, para. 7.

¹⁰ Decision on Requests for Variation of Time Limits, para. 5; Decision on Requests for Variation of Word Limits, paras 4-5.

of appeals against decisions on preliminary motions on the jurisdiction of the Specialist Chambers.¹¹ 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.¹² The Panel therefore finds that good cause exists constituting exceptional circumstances and that an extension of the word limits specified in the Practice Direction is justified. The Panel further finds the request of 4,000 additional words for each of the Responses, for a maximum of 13,000 words for each of the Responses, to be reasonable in the present circumstances, in particular as an equivalent extension of the word limits has been granted for the Defence Appeals.¹³

6. 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 parties the opportunity to be heard. In light of the upcoming deadline for responding to the Defence Appeals,¹⁴ and the SPO's submission that two of the Accused have indicated that they would not oppose the SPO's request, the Panel is satisfied that no prejudice will be caused to the opposing parties.¹⁵ The Panel therefore considers that it is in the interests of justice to dispose of the Request immediately.

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

GRANTS the Request; and

¹¹ Decision on Requests for Variation of Word Limits, para. 5.


¹² Decision on Requests for Variation of Word Limits, para. 5; Decision on Requests for Variation of Time Limits, para. 5.

¹³ Decision on Requests for Variation of Word Limits, para. 7.

¹⁴ See above, para. 3.

¹⁵ The Panel notes the SPO submission that both the *Veseli* and the *Krasniqi* Defence teams have confirmed *inter partes* to the SPO that they would not oppose the extensions sought by the SPO. See Request, para. 3. See also Decision on Requests for Variation of Word Limits, para. 6 and fn. 16 (noting that Veseli gave the SPO his advance consent to an analogous word limit variation).

AUTHORISES the SPO to file the Responses, not exceeding 13,000 words each,
no later than 30 September 2021.



**Judge Michèle Picard,
Presiding Judge**

Dated this day, Friday, 24 September 2021

At The Hague, the Netherlands