



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: 30 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,¹ 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 AND SUBMISSIONS

1. On 23 November 2020, the Pre-Trial Judge ordered, *inter alia*, the Specialist Prosecutor's Office ("SPO") to provide a detailed notice of the evidence falling under Rule 102(3) of the Rules ("Notice") by Friday, 30 April 2021.²
2. On 24 March 2021³ and 24 June 2021,⁴ the Pre-Trial Judge extended the SPO's deadline for filing the Notice.
3. On 31 July 2021, the SPO filed the Notice.⁵
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).⁶

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

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

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

⁴ 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.

⁵ 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*.

⁶ 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; Transcript of Hearing, 14 September 2021, public, p. 625, line 24, to p. 626, lines 1-21.

5. On 21 and 24 September 2021, the Defence for Hashim Thaçi and the Defence for Rexhep Selimi (collectively, the “Defence”) requested disclosure of material from the Notice (respectively, “Thaçi Request” and “Selimi Request”).⁷

6. On 29 September 2021, the SPO requested that the Pre-Trial Judge grant: (i) in relation to any materiality challenge, a two-week extension to 15 October 2021 for the Thaçi Request and 20 October 2021 for the Selimi Request and (ii) to similarly extend the related deadline for disclosure and/or any protective measures for each request by two weeks (“SPO Request”).⁸ The SPO requests these extensions of their Rule 102(3) deadlines given the volume of material requested (nearly 600 items in total) and the fact that other Rule 102(3) deadlines are running concurrently which also pertain to a large volume of material.⁹

II. 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.

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

⁷ KSC-BC-2020-06, F00497, Specialist Prosecutor, *Prosecution Request for Extension of Time Limit* (“Request”), 29 September 2021, public, para. 2.

⁸ Request, para. 5.

⁹ Request, para. 3.

Specialist Prosecutor shall immediately seize the Panel where grounds to dispute the materiality of the information exists.

III. DISCUSSION

11. In relation to the requested extension of time, the Pre-Trial Judge considers that additional time will be needed for the SPO to process the volume of items identified in the Thaçi Request and the Selimi Request and to carefully prepare relevant protective measures motions. The Pre-Trial Judge also considers that an extension of time would facilitate *inter partes* communications aimed at avoiding unnecessary litigation in relation to the Thaçi Request and the Selimi Request.¹⁰

12. Furthermore, 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.

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

IV. DISPOSITION

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

¹⁰ Request, para. 3.

- a) **GRANTS** the SPO Request;
- b) **EXTENDS** the SPO's deadline for filing any materiality challenge in relation to the Thaçi Request to **Friday, 15 October 2021**;
- c) **EXTENDS** the SPO's deadline for filing any materiality challenge in relation to the Selimi Request to **Wednesday, 20 October 2021**; and
- d) **EXTENDS** the SPO's deadline for disclosure and/or requests for protective measures in relation to the Thaçi Request and the Selimi Request to **Tuesday, 26 October 2021**, and **Friday, 29 October 2021**, respectively.



Judge Nicolas Guillou
Pre-Trial Judge

Dated this Thursday, 30 September 2021
At The Hague, the Netherlands