



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: 14 October 2021

Original language: English

Classification: Public

Decision on Selimi's Request for Variation of Word 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 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 Rexhep Selimi (“Request” and “Selimi”, respectively) seeking an extension of the word limit for his upcoming reply to the response of the Specialist Prosecutor’s Office (“Response” and “SPO”, respectively) to his appeal against the Pre-Trial Judge’s Decision on preliminary motions challenging the Specialist Chambers’ jurisdiction (“Appeal” and “Impugned Decision”, respectively).² Selimi requests an extension of 5,000 words to submit a reply, which shall not therefore exceed 8,000 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 reply to 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 3,000 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 F00023, Defence Request for Extension of Word Limit, 13 October 2021 (“Request”); F00022, Prosecution response on JCE to Selimi Defence appeal against the ‘Decision on Motions challenging the jurisdiction of the Specialist Chambers’, 30 September 2021 (“Response”); F00011, Selimi Defence Appeal against the “Decision on Motions Challenging the Jurisdiction of the Specialist Chambers”, 27 August 2021 (“Appeal”); F00412, Decision on Motions Challenging the Jurisdiction of the Specialist Chambers, 22 July 2021 (“Impugned Decision”).

³ Request, paras 1, 6.

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 Defence Requests for Variation of Word Limits”), para. 1; F00017, Decision on Request for Variation of Word Limits, 24 September 2021 (“Decision on SPO Request for Variation of Word Limits”), para. 1.

2. Selimi argues that, in light of the significance and complexity of certain issues raised by the SPO in the Response and the general importance of the jurisdictional challenge, good cause exists for an extension of the word limit for his reply.⁶ He further submits that extensions of the word limits have been previously granted in relation to filings concerning the appeals against the Impugned Decision and that the same reasons also justify extending the word limit in relation to the reply.⁷

3. As to the timeliness of the Request, the Panel notes that Selimi makes no submission in that regard. The Panel notes that the deadline set for the filing of the replies is 18 October 2021,⁸ less than one week after the filing of the Request on 13 October 2021, while the Response was filed on 30 September 2021, and distributed the day after, almost two weeks before the Request. Although the Panel finds that the Request can in principle be considered to have been submitted sufficiently in advance for the purpose of Article 36(1) of the Practice Direction, it urges Selimi – and the Parties in general – to anticipate further in advance any similar future requests.

4. The Panel is mindful of the length of the Impugned Decision (comprising a total of 98 pages) and that extensions of word limits have previously been granted by the Panel in relation to the Defence appeals and the SPO responses thereto.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 make appellate submissions concerning the Impugned Decision and found that the Panel could benefit from receiving more detailed submissions than would normally be permitted, justifying a departure from the time and word limits specified in the

⁶ Request, para. 4.

⁷ Request, para. 5.

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 reply to the Response to 18 October 2021).

⁹ Decision on Defence Requests for Variation of Word Limits, para. 7; Decision on SPO Request for Variation of Word Limits, para. 7.

Rules and Practice Direction, respectively.¹⁰ 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.¹¹ Although Selimi's submissions to demonstrate good cause for an extension of the word limit for his reply are general in nature and lack specific justification, the Panel nevertheless finds, in light of the reasons recalled above, that good cause exists constituting exceptional circumstances to extend the word limit specified in the Practice Direction for Selimi's reply.

5. However, the Panel notes that Selimi's request for 5,000 additional words for his reply would amount to nearly tripling the word limit specified in the Practice Direction, namely increasing from 3,000 to 8,000 words. The Panel recalls in that regard 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 appellate submissions do not necessarily serve the cause of an efficient administration of justice.¹² The Panel also recalls that a reply must be limited to arguments contained in the response and should not contain new allegations of error.¹³ The Panel further observes that Selimi, despite having sought and been granted an extension of the word limit for his Appeal,¹⁴ did not make use of the 13,000 words he obtained for his Appeal, and instead only used 8,479 words.¹⁵

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

¹¹ Decision on Requests for Variation of Time Limits, para. 5; Decision on Defence Requests for Variation of Word Limits, para. 5; Decision on SPO Request for Variation of Word Limits, para. 5.

¹² Decision on Defence Requests for Variation of Word Limits, para. 5; Decision on SPO Request for Variation of Word Limits, para. 5.

¹³ See e.g. ICTY, *Prosecutor v. Bralo*, IT-95-17-A, Decision on Prosecution's Motion to Strike and on Appellant's Motion for Leave to File Response to Prosecution Oral Arguments, 5 March 2007, para. 13; ICTR, *Nahimana et al. v. Prosecutor*, ICTR-99-52-A, Decision on Appellant Jean-Bosco Barayagwiza's Motion for Leave to Present Additional Evidence Pursuant to Rule 115, 5 May 2006, para. 8.

¹⁴ See F00007, Krasniqi, Selimi and Thaçi Defence Request for Extension of Word Limit, 16 August 2021; Decision on Defence Requests for Variation of Word Limits, para. 7.

¹⁵ See Appeal, p. 27.

6. As a result, the Panel finds that Selimi's request for 5,000 additional words for his reply is neither warranted nor necessary in the present circumstances. In light of the extensions of the word limits already granted for the Appeal and Response,¹⁶ the Panel considers an extension of 1,400 words, for a maximum of 4,400 words, to be reasonable and proportionate in the present circumstances, and hereby varies the word limit of Selimi's reply accordingly.

7. 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 replying to the Response,¹⁷ 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 Request immediately. The Panel further considers that it is also in the interests of justice that the extension of word limit granted in the present Decision applies to the replies of all of the Accused in the case.

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

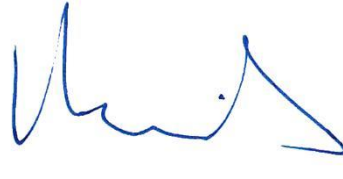
GRANTS the Request in part;

AUTHORISES Selimi to file his reply, not exceeding 4,400 words, no later than 18 October 2021; and

¹⁶ Decision on Defence Requests for Variation of Word Limits, para. 7; Decision on SPO Request for Variation of Word Limits, para. 7.

¹⁷ See above, para. 3.

AUTHORISES the same variation of the word limits for the other Accused's replies, if any.



**Judge Michèle Picard,
Presiding Judge**

Dated this day, Thursday, 14 October 2021

At The Hague, the Netherlands