

Case No.: KSC-BC-2020-04
Before: A Panel of the Court of Appeals Chamber
Judge Michèle Picard
Judge Emilio Gatti
Judge Nina Jørgensen
Registrar: Dr Fidelma Donlon
Date: 2 December 2021
Filing Party: Defence Counsel
Original Language: English
Classification: Confidential

THE SPECIALIST PROSECUTOR
v.
PJETËR SHALA

Defence Request for an Extension of Time to Appeal
the 'Decision on Motion Challenging the Form of the Indictment'

Specialist Prosecutor's Office:
Jack Smith

Specialist Counsel for the Accused:
Jean-Louis Gilissen
Hedi Aouini

I. INTRODUCTION

1. Pursuant to Rule 9(5)(a) of the Rules of Procedure and Evidence before the Kosovo Specialist Chambers ('Rules'), the Defence for Mr Pjetër Shala respectfully requests the Appeals Chamber to grant the Defence a seven-day extension of time to file its Appeal against the 'Decision on Motion Challenging the Form of the Indictment', which is currently due on 10 December 2021.¹
2. The Defence files this Motion confidentially due to the multiple references to confidential filings it contains and notifies the Appeals Chamber of its intention to file a public redacted version of the Motion in due course.

II. SUBMISSIONS

3. On 26 October 2021, the Defence sought certification to appeal four issues arising from the Impugned Decision.² On 10 November 2021, the Specialist Prosecutor's Office ('SPO') responded to the Request for Certification.³ On 29 November 2021, the Pre-Trial Judge certified two issues for appeal.⁴
4. Pursuant to Rule 170(2) of the Rules, where certification has been granted pursuant to Rule 77(3) of the Rules, an appeal may be filed within ten days of the certification. Rule 9(5)(a) provides that a Panel can extend any time limit prescribed by the Rules upon showing of good cause.
5. There is good cause to grant the seven-day extension requested. The novelty and complexity of the certified issues require careful and proper consideration

¹ KSC-BC-2020-04, F00089, Decision on Motion Challenging the Form of the Indictment, 18 October 2021 ('Impugned Decision'). All further references to filings in this Motion concern Case No. KSC-BC-2020-04 unless otherwise indicated.

² F00094, Defence Application for Leave to Appeal the Decision on Motion Challenging the Form of the Indictment, 26 October 2021 (confidential) ('Request for Certification').

³ F00103, Specialist Prosecutor, Prosecution Response to the Defence Application for Leave to Appeal the Decision on Motion Challenging the Form of the Indictment, 10 November 2021 (confidential).

⁴ F00116, Decision on Application for Leave to Appeal "Decision on Motion Challenging the Form of the Indictment", 29 November 2021, para. 31(a)(b).

given particularly that they concern fundamental rights of the Accused. The Defence needs to prepare its appeal while facing multiple competing and important procedural obligations.

6. Specifically, the Defence must file by 9 December 2021 its reply to the SPO response to the appeal against the Decision on the Motion Challenging the Establishment and Jurisdiction of the Specialist Chambers.⁵ An Appeals Chamber Panel has acknowledged the significance and complexity of the issues raised in this appeal.⁶
7. In addition, the Defence must file its reply to any response by the SPO to the appeal against the Pre-Trial Judge's most recent decision on review of the detention of the Accused by 7 December 2021.⁷
8. Furthermore, the Defence is reviewing important exculpatory material that was recently disclosed by the SPO and is considering a number of related courses of action that require immediate attention.
9. The requested extension will not delay the proceedings and will allow the Defence to provide a focussed and comprehensive appeal, which will facilitate its assessment by the Panel. The Defence submits that the SPO will not be prejudiced and, in any event, the Defence does not object to granting the SPO the same number of additional days to file its response.

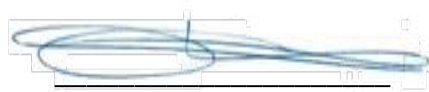
⁵ IA002/F00007, Decision on the Parties' Requests for Variation of Time Limits, 17 November 2021, paras. 4, 5; F00088, Decision on Motion Challenging the Establishment and Jurisdiction of the Specialist Chambers, 18 October 2021.

⁶ IA002/F00007, Decision on the Parties' Requests for Variation of Time Limits, 17 November 2021, paras. 4, 5.

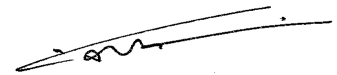
⁷ IA003/F00001, Defence Appeal against the Decision on Review of Detention of Pjetër Shala of 10 November 2021, 22 November 2021 (confidential).

III. RELIEF REQUESTED

10. For the above reasons, the Defence respectfully requests that the Appeals Chamber vary the deadline for filing the Defence Appeal against the Impugned Decision to 17 December 2021.



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Specialist Defence Counsel



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Word Count: 634