



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEĆA 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: 31 January 2022

Language: English

Classification: Public

**Public Redacted Version of Decision on Specialist Prosecutor's Request for
Extension of Time**

Specialist Prosecutor

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Counsel for Kadri Veseli

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THE PRE-TRIAL JUDGE,¹ pursuant to Article 39(1) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office and Rule 9 of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), hereby renders this decision.

I. PROCEDURAL BACKGROUND

1. On 29 October 2021, the deadline for the disclosure of outstanding Rule 102(1)(b) material and the translation of such material was extended to 31 January 2022.²
2. On 27 January 2022, the Specialist Prosecutor's Officer ("SPO") requested an extension of time to disclose a limited number of Rule 102(1)(b) items ("Request").³ That same day the Pre-Trial Judge ordered expedited responses and a reply to the Request.⁴
3. On 28 January 2022, the Defence for Jakup Krasniqi ("Krasniqi Defence") and the Defence for Kadri Veseli ("Veseli Defence") (collectively, the "Defence") filed responses to the Request (respectively, "Krasniqi Response" and "Veseli Response").⁵
4. On 31 January 2022, the SPO replied to the Krasniqi Response and the Veseli Response ("Reply").⁶

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

² KSC-BC-2020-06, Transcript of Hearing, 29 October 2021, public, p. 753, lines 21-25 to p. 754, lines 1-3.

³ KSC-BC-2020-06, F00657, Specialist Prosecutor, *Prosecution Request for Extension of Time*, 27 January 2022, confidential. A public redacted version was filed the same day, F00657/RED.

⁴ KSC-BC-2020-06, F00659, Pre-Trial Judge, *Order Varying Time Limit*, 27 January 2022, public.

⁵ KSC-BC-2020-06, F00661, Specialist Counsel, *Krasniqi Defence Response to Prosecution Request for Extension of Time*, 28 January 2022, public; F00662, Specialist Counsel, *Veseli Defence Response to Prosecution Request for Extension of Time (KSC-BC-2020-06/F00657)*, 28 January 2022, confidential.

⁶ KSC-BC-2020-06, F00664, Specialist Prosecutor, *Prosecution Reply Regarding the Request for Extension of Time*, 31 January 2022, confidential. A public redacted version was filed the same day, F00664/RED.

II. APPLICABLE LAW

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

III. SUBMISSIONS

6. The SPO requests an extension of time to disclose a limited number of Rule 102(1)(b) material, namely certain audio-visual records and two exhibits (“Rule 102(1)(b) Material Subject to Third Party Approval”).⁷ The SPO maintains that good cause for the requested variation exists considering that disclosure of these items is dependent on third party entities with whom the SPO has been diligently engaging.⁸ The SPO further maintains that minimal, if any, prejudice arises in the circumstances.⁹

7. The Krasniqi Defence does not oppose the Request as long as the Pre-Trial Judge sets a practical time limit for the SPO to disclose the material concerned.¹⁰

8. The Veseli Defence opposes the Request as: (i) it was not brought in a timely fashion considering the deadline for disclosure of Rule 102(1)(b) material was fixed three months ago;¹¹ (ii) good cause has not been shown in light of the fact that the SPO waited more than four months following the confirmation of the Indictment to obtain a decision to order the records sought adding further delays to the proceedings;¹² and (iii) the extent of the redactions made to the associated interviews prevents a meaningful response to the Request.¹³

⁷ Request, para. 1.

⁸ Request, paras 1-3.

⁹ Request, paras 1, 4.

¹⁰ Krasniqi Response, paras 3-4.

¹¹ Veseli Response, paras 2-3.

¹² Veseli Response, paras 2, 5.

¹³ Veseli Response, paras 2, 7.

9. In the Reply, the SPO maintains that it has presented good cause for the requested extension of time and exercised reasonable diligence in the circumstances.¹⁴ As regards a time limit for any extension, the SPO suggests that such a deadline be revisited during a status conference in March 2022.¹⁵

IV. DISCUSSION

10. As concerns the audio-visual records and the two exhibits, the Pre-Trial Judge considers that provision of this material is dependent upon third party entities. The SPO has undertaken the necessary consultations and made requests for the provision of such material.¹⁶ In this regard, the Pre-Trial Judge notes that the requisite [REDACTED] for the audio-visual material have already been obtained, but it only recently became known that [REDACTED] are impacting the provision of these items.¹⁷ In relation to the associated exhibits, the SPO has initiated the clearance requests, but has yet to secure such clearances.¹⁸ In these circumstances, there is no indication that the SPO acted anything but diligently. The Pre-Trial Judge accordingly finds that good cause has been demonstrated, warranting the requested extension of time.

11. In addition, the Pre-Trial Judge considers that the requested extension of time relates to a minimal amount of Rule 102(1)(b) material and the [REDACTED] and interviews associated with the material in question have already been disclosed.¹⁹ Accordingly, the Pre-Trial Judge finds that an extension of time to disclose the Rule 102(1)(b) Material Subject to Third Party Approval will have limited impact on the progress of proceedings, particularly as the disclosure process in relation

¹⁴ Reply, paras 2-3.

¹⁵ Reply, para. 4.

¹⁶ Request, paras 2-3.

¹⁷ Request, para. 2.

¹⁸ Request, para. 3.

¹⁹ Request, para. 4.

to Rule 102(3) material remains ongoing. Nevertheless, to ensure that proceedings progress expeditiously, the Pre-Trial Judge considers that a deadline should be imposed for the disclosure of such material and that an unlimited extension of time should not be granted. The SPO shall therefore diligently continue its consultations with the relevant third party entities in order to achieve disclosure of the audio-visual material and two associated exhibits by Thursday, 31 March 2022.

12. Finally, as concerns the redactions made to the associated interviews, the Pre-Trial Judge considers that the content of these interviews will have little, if any, bearing on whether an extension of time is warranted for the disclosure of two associated exhibits that require security clearances from third party entities. With respect to the procedural issue at hand, namely whether good cause has been shown for the requested extension of time, the Defence has responded sufficiently.

V. DISPOSITION

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

- a. **GRANTS** the Request; and
- b. **ORDERS** the SPO to disclose by **Thursday, 31 March 2022**, the Rule 102(1)(b) Material Subject to Third Party Approval.



Judge Nicolas Guillou
Pre-Trial Judge

Dated this Monday, 31 January 2022

At the Hague, the Netherlands.