



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA KOSOVA

File number: KSC-CC-2022-15

Before: **The Specialist Chamber of the Constitutional Court**

Judge Vidar Stensland, Presiding

Judge Roumen Nenkov

Judge Romina Incutti

Registrar: Fidelma Donlon

Date: 1 April 2022

Language: English

File name: Referral by Hashim Thaçi to the Constitutional Court Panel Concerning the Fundamental Rights to an Independent and Impartial Tribunal Established by Law and to a Reasoned Opinion

Classification: Public

Decision on the Time Limit for the Submissions by the Applicant

Applicant

Hashim Thaçi

Specialist Prosecutor

Jack Smith

1. On 28 February 2022, Mr Hashim Thaçi (the “Applicant”) lodged with the Specialist Chamber of the Constitutional Court a referral, dated 28 February 2022 (the “Referral”),¹ under Article 113(7) of the Constitution of the Republic of Kosovo and Article 49(3) of the Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office. In the Referral, the Applicant raises several constitutional complaints in relation to the criminal proceedings against him, taking place before the Specialist Chambers. The Applicant is represented by Mr Gregory W. Kehoe.

2. On 15 March 2022, the Constitutional Court Panel² invited the SPO and the Applicant to file written submissions, should they wish so to do, in relation to the Referral, addressing specific questions put by the Panel. The Panel directed the SPO to file written submissions, if any, by 29 March 2022, and the Applicant – by 5 April 2022. The Panel also directed that the SPO’s written submissions do not exceed 20 pages and the Applicant’s submissions – 15 pages.³

3. On 30 March 2022, the SPO filed its written submissions.⁴ The same day, the Applicant requested the Panel to extend the time limit for the filing of his written submissions to 12 April 2022. The Applicant submits that: (i) the SPO filed its submissions out of time; (ii) the SPO’s submissions are lengthy and cite extensively to different case law; (iii) the SPO’s submissions do not follow the structure of the questions asked by the Panel; (iv) the Applicant must formulate fuller arguments as the Constitutional Chamber’s jurisprudence on the respective issues is, as yet, limited; (v) the Referral is an important procedural step, after an extensive litigation of the

¹ KSC-CC-2022-15, F00001, Referral to the Constitutional Court Panel on the violation of Mr Thaçi’s fundamental rights to an independent and impartial tribunal established by law, and to a reasoned opinion, public, 28 February 2022.

² With regard to assignment of the Constitutional Court Panel under Article 33(3) of the Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office, see KSC-CC-2022-15, F00002, Decision to assign judges to a Constitutional Court Panel, public, 1 March 2022.

³ KSC-CC-2022-15, F00004, Decision on further submissions, public, 15 March 2022.

⁴ KSC-CC-2022-15, F00005/COR, Corrected version of ‘Prosecution response to decision on further submissions in relation to Thaçi referral (KSC-CC-2022-15/F00004)’, public, 29 March 2022 (filed 30 March 2022; original also filed 30 March 2022), with Annex 1, public.

respective issues before lower Chambers; (vi) the Applicant has a dual responsibility, namely, to respond to the Panel's questions and to the SPO's submissions.⁵

4. On 31 March 2022, the SPO requested the Panel to reject the Applicant's request for the extension of time. The SPO submits that: (i) it filed the written submissions on time, but in a different case file KSC-BC-2020-06; (ii) the Applicant had two months to formulate the Referral and address the admissibility requirements; (iii) the Applicant has been in possession of the Panel's questions since 15 March 2022 and could have researched the respective issues; (iv) the SPO's submissions are strictly confined to the questions put by the Panel, indicated clearly in the subtitle of each section of the submissions.⁶

5. In relation to the Applicant's request to extend the time limit, the Panel recalls that, pursuant to Rule 6(4)(a) of the Rules of Procedure for the Specialist Chamber of the Constitutional Court, the Panel may, on a showing of good cause by a participant in the proceedings, extend a time limit set by the Panel.

6. Insofar as the Applicant submits that he needs more time to prepare the submissions as the Constitutional Chamber's jurisprudence is, as yet, limited, and the SPO submissions are lengthy, the Panel notes that, indeed, the Applicant was informed of the specific questions on 15 March 2022, and had the time to research them. Furthermore, the SPO's submissions themselves do not exceed the 20-page limit, set by the Panel. At the same time, the SPO filed its submissions one day late. In this regard, the Panel notes that the submissions must be filed in the case before the Chamber, and not in some other file. The Panel also finds it relevant that, indeed, the SPO's submissions cite to a considerable case law. In the list of authorities, the SPO

⁵ KSC-CC-2022-15, F00006, Taçi request for a variation of the time to submit written submissions, public, 30 March 2022.

⁶ KSC-CC-2022-15, F00007, Prosecution response to Taçi request for extension of time, public, 31 March 2022.

has specified 33 rulings of the Kosovo Constitutional Court and 15 rulings of the European Court of Human Rights.⁷

7. In that light, the Panel finds it appropriate to grant the Applicant's request for the extension of time in part, and extend the time limit for the Applicant to file his written submissions to 8 April 2022.

FOR THESE REASONS,

The Constitutional Court Panel

1. *Grants in part* the Applicant's request for the extension of time; and *extends* the time limit for the Applicant to file his written submissions on the questions put by the Panel and to comment on the SPO's written submissions to **8 April 2022**;
2. *Recalls* that the Applicant's written submissions shall not exceed 15 pages; and that the Panel will disregard any unsolicited submissions.



Vidar Stensland
Presiding Judge

Done in English on Friday, 1 April 2022
At The Hague, the Netherlands

⁷ KSC-CC-2022-15, F00005/COR/A01, Annex 1 to Prosecution response to decision on further submissions in relation to Taçi referral (KSC-CC-2022-15/F00004), List of authorities, public (filed 30 March 2022).