



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: 1 July 2022

Language: English

Classification: Public

**Decision on the Joint Defence Request for Variation of Time Limit for Leave to
Appeal Decision KSC-BC-2020-06/F00854 (Decision on Confidential Information
and Contact with Witnesses)**

Specialist Prosecutor
Jack Smith

Counsel for Victims
Simon Laws

Counsel for Hashim Thaçi
Gregory Kehoe

Counsel for Kadri Veseli
Ben Emmerson

Counsel for Rexhep Selimi
David Young

Counsel for Jakup Krasniqi
Venkateswari Alagenda

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 Rules 9(5)(a), 76, and 77(1) and (3) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), hereby renders this decision.

I. PROCEDURAL BACKGROUND AND SUBMISSIONS

1. On 3 December 2021, the Specialist Prosecutor's Office ("SPO") requested the Pre-Trial Judge to establish a protocol on the handling of confidential information and contact with witnesses.²

2. On 24 June 2022, the Pre-Trial Judge issued the "Decision on Framework for the Handling of Confidential Information during Investigations and Contact between a Party or Participant and Witnesses of the Opposing Party or of a Participant" ("Framework Decision").³

3. On 29 June 2022, the Defence for Messrs Hashim Thaçi, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi ("Defence") filed a joint request for an extension of the time limit to submit a request for certification to appeal the Framework Decision ("Request"),⁴ in which it submits that good cause exists for an extension of the time limit until Monday, 18 July 2022 in light of: (i) the substantial length of the Framework Decision; (ii) its novelty and the lack of prior case law from the Court of Appeals Chamber on contact with witnesses;

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

² KSC-BC-2020-06, F00594, Specialist Prosecutor, *Prosecution Submissions on Confidential Information and Contacts with Witnesses*, 3 December 2021, public, paras 1, 7.

³ KSC-BC-2020-06, F00854, Pre-Trial Judge, *Decision on Framework for the Handling of Confidential Information during Investigations and Contact between a Party or Participant and Witnesses of the Opposing Party or of a Participant*, 24 June 2022, public.

⁴ KSC-BC-2020-06, F00857, Specialist Counsel, *Joint Defence Request for Variation of Time Limit for Leave to Appeal Decision KSC-BC-2020-06/F00854 (Decision on Confidential Information and Contact with Witnesses)*, 29 June 2022, public, paras 1, 7.

and (iii) the complex procedural and constitutional issues involved impacting the Accused's rights.⁵

4. On 30 June 2022, the SPO responded that it does not oppose a reasonable variation of the time limit of the certification to appeal the Framework Decision, submitting that the requested extension of time is excessive and not justified by the Defence, but deferring to the Pre-Trial Judge as to the appropriate length of the extension.⁶

II. APPLICABLE LAW

5. 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.

6. Pursuant to Rule 76 of the Rules, unless otherwise provided in the Rules, any response to a motion shall be filed within ten (10) days of the motion and any reply to a response shall be filed within five (5) days of the response.

7. Pursuant to Rule 77(1) of the Rules, when a Party seeks to appeal a decision for which an appeal does not lie as of right, that Party shall request certification from the Panel that rendered the impugned decision within seven (7) days thereof.

8. Pursuant to Rule 77(3) of the Rules, when a Party requests certification to appeal a decision of a Panel, the Panel shall render a reasoned decision within seven (7) days of the last submission from the Parties or Victims' Counsel, where applicable.

⁵ Request, para. 5.

⁶ KSC-BC-2020-06, F00860, Specialist Prosecutor, *Prosecution Response to 'Joint Defence Request for Variation of Time Limit for Leave to Appeal Decision KSC-BC-2020-06/F00854'*, 30 June 2022, public, para. 1.

III. DISCUSSION

9. Having considered the reasons put forward by the Defence, in particular the length of the Framework Decision, and the novelty and complexity of the issues involved, while being mindful of the impending judicial recess, the Pre-Trial Judge finds that there is good cause in extending the relevant time limit established by the Rules to enable the Defence to submit a request for certification to appeal the Framework Decision. Accordingly, if the Defence chooses to seek certification to appeal, it is ordered to do so by Monday, 18 July 2022.

10. For the same reasons, the Pre-Trial Judge, *proprio motu*, grants an extension of time to the SPO to respond to the request(s) for certification to appeal, and to the Defence to reply to the SPO's response. Accordingly, if the SPO chooses to respond, it is ordered to do so by Monday, 1 August 2022, and if the Defence chooses to reply, it is ordered to do so by Monday, 15 August 2022. Finally, the Pre-Trial Judge varies the deadline for the issuance of the decision on the request(s) for certification to appeal to Friday, 26 August 2022.

IV. DISPOSITION

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

- (a) **GRANTS** the Request;
- (b) **VARIES** the Defence's deadline for filing request(s) for certification to appeal the Framework Decision to **Monday, 18 July 2022**;
- (c) **VARIES**, *proprio motu*, the SPO's deadline for filing any response to any Defence request(s) for certification to appeal to **Monday, 1 August 2022**;
- (d) **VARIES**, *proprio motu*, the deadline for any Defence replies to any SPO response to **Monday, 15 August 2022**; and

- (e) **VARIES** the deadline for the issuance of the decision on the request(s) for certification to appeal the Framework Decision to **Friday, 26 August 2022.**



Judge Nicolas Guillou
Pre-Trial Judge

Dated this Friday, 1 July 2022
At The Hague, the Netherlands.