



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEĆA KOSOVA

In: KSC-BC-2020-04
The Prosecutor v. Pjetër Shala

Before: Pre-Trial Judge
Judge Nicolas Guillou

Registrar: Dr Fidelma Donlon

Date: 9 September 2022

Language: English

Classification: Public

Decision on Defence Request for Variation of Time Limit

Specialist Prosecutor

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Counsel for the Accused

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THE PRE-TRIAL JUDGE,¹ pursuant to Article 39(13) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rules 9(5)(a), 9(6) and 76 of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), hereby renders this decision.

I. PROCEDURAL BACKGROUND AND SUBMISSIONS

1. On 21 July 2022, the Pre-Trial Judge ordered the Specialist Prosecutor's Office ("SPO") to file additional submissions and clarifications related to protective measures of witnesses in this case by 2 September 2022, and the Defence to file its response by 9 September 2022.²

2. On 2 September 2022, the SPO filed its submissions ("SPO Submissions").³ A confidential redacted version thereof was filed only on 5 September 2022.

3. On 8 September 2022, the Defence requested, in view of competing deadlines, a ten-day extension of time to respond to the SPO Submissions ("Request") from the day of notification of the confidential SPO Submissions, i.e. until 15 September 2022 ("Request").⁴ The Defence submits that the SPO made available the SPO Submissions on 5 September 2022, thus effectively shortening its time to submit a response.⁵ The Defence further submits that good cause exists as the variation of time would allow it to perform its duties without unnecessarily delaying the proceedings.⁶

¹ KSC-BC-2020-04, F00001, President, *Decision Assigning a Pre-Trial Judge*, 14 February 2020, public.

² KSC-BC-2020-04, F00235, Pre-Trial Judge, *Decision on the Specialist Prosecutor's Third Request for Protective Measures for Rule 102(3) Materials Requested by the Defence*, 21 July 2022, strictly confidential and *ex parte*, para. 55(c). A confidential redacted version was filed on the same day.

³ KSC-BC-2020-04, F00261, Specialist Prosecutor, *Prosecution Submissions Concerning Items Subject to Rule 81(1)(a) Protective Measures*, 2 September 2022, strictly confidential and *ex parte*, with Annexes 1-3, strictly confidential and *ex parte*. A confidential redacted version was filed on 5 September 2022.

⁴ KSC-BC-2020-04, F00268, Specialist Counsel, *Defence Request for Variation of Time Limit for Its Response to F00162*, 8 September 2022, public.

⁵ Request, paras 3-4.

⁶ Request, para. 4.

II. APPLICABLE LAW

4. Pursuant to Article 39(13) of the Law, the Pre-Trial Judge may issue any orders as may be necessary for the preparation of a fair and expeditious trial.
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 9(6) of the Rules, where no prejudice is caused to the opposing Party, a motion for variation of time may be disposed of without giving the opposing Party the opportunity to be heard.
7. Pursuant to Rule 76 of the Rules, a response 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. Applications for extension of time shall be filed sufficiently in advance and enable the Panel to rule on the application before the expiry of the relevant time limit.

III. DISCUSSION

8. The Pre-Trial Judge finds that the Request has been submitted sufficiently in advance, as required by Rule 76, third sentence, of the Rules.
9. As regards the showing of good cause, the Pre-Trial Judge notes that the delay in filing the confidential redacted version of the SPO Submissions effectively reduced the Defence's time to respond from seven days to four days and that the Defence is facing a number of competing deadlines.
10. As to the requested variation of time, the Pre-Trial Judge recalls that the transmission of the case file to a Trial Panel is currently set for Wednesday,

21 September 2022.⁷ The initial time limits for the SPO Submissions and the Defence's response were fixed with a view to achieving case efficiency and respecting this deadline. In light of the imminent transfer of the case file to trial, and given that the SPO Submissions and the Defence response will have to be included in the Handover Document to the relevant Trial Panel, the Pre-Trial Judge considers that the requested variation of time is too long. He finds instead that the Defence shall file its response by no later than Tuesday, 13 September 2022.

11. In light of the above, the Pre-Trial Judge considers that the Defence has demonstrated good cause for the Request and extends the deadline for the Defence's response to Tuesday, **13 September 2022**. The SPO may, if it so wishes, file a reply by no later than Friday, **16 September 2022**.

12. The Pre-Trial Judge considers that no prejudice has been caused in disposing the Request without receiving a response by the SPO.

⁷ KSC-BC-2020-04, F00234, Pre-Trial Judge, *Decision on Specialist Prosecutor's Rule 102(2) and Related Requests*, 20 July 2022, confidential, para. 46(f). A public redacted version was submitted on the same day.

IV. DISPOSITION

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

- (a) **GRANTS** the Request in part and **EXTENDS** the Defence deadline for filing its response to the SPO Submissions to **Tuesday, 13 September 2022**; and
- (b) **ORDERS** the SPO to file a reply, if any, by **Friday, 16 September 2022**;



Judge Nicolas Guillou
Pre-Trial Judge

Dated this Friday, 9 September 2022

At The Hague, the Netherlands.