

In: KSC-BC-2018-01

The Prosecutor v. Driton Lajçi

Before: Single Judge

Registrar: Dr Fidelma Donlon

Filing Participant: Specialist Counsel for Driton Lajçi

Date: 3 October 2022

Language: English

Classification: Public

**Application to the Single Judge for Further Order following the Order to the
Specialist Prosecutor for Further Submissions**

Specialist Prosecutor

Jack Smith

Specialist Counsel

Toby Cadman

I. INTRODUCTION

1. On 2 June 2022, the Applicant wrote to the Specialist Prosecutor's Office ("SPO") submitting its second request seeking the immediate termination of the investigation against the Applicant for having exceeded a reasonable time.¹
2. The request was rejected by the Specialist Prosecutor. Mr. Jack Smith, in a letter dated 9 June 2022,² asserting, without further elaboration, that:

"[The] findings of the Single Judge, based upon standards upheld by the Court of Appeals, remain to be true. The ongoing investigation continues to be of significant complexity. The SPO has undertaken additional investigative actions which have been protracted due to provision of incomplete information. The SPO anticipates further investigative steps. Mr Lajçi is not currently detained. Considering all these factors, the length of the investigations continues to be reasonable."

3. The above paragraph constitutes the totality of the information received concerning the SPO's investigations conducted since the Appeals Panel

¹ See KSC-BC-2018-01, F00238, Confidential Annex A.

² See KSC-BC-2018-01, F00238, Confidential Annex B.

decision of 1 October 2021³. In fact, there has been no further contact with the Applicant since his suspect interview held on 17 October 2019.

4. On 4 July 2022, the Applicant filed a second application inviting the Single Judge to order the termination of the investigation against him.⁴
5. On 15 July 2022, the SPO filed its response, confidentially and *ex parte*.⁵
6. On 10 August 2022, the Single Judge ordered the SPO to submit the material, as specified in paragraph 5, at the latest by Friday, 26 August 2022, noting in paragraph 5 that:

5. [...] in order to assess the progress in the investigation, as part of the overall determination of whether or not its length may be considered reasonable pursuant to Rule 47 of the Rules, he needs to be fully appraised of the [REDACTED]. The Single Judge therefore requests the SPO to provide [REDACTED] at the latest by Friday, 26 August 2022 as a supplementary submission to the

³ KSC-BC-2018-01/IA001/F00005, Decision on Appeal Against “Decision on Application for an Order Directing the Specialist Prosecutor to Terminate the Investigation against Driton Lajçi”, Public.

⁴ KSC-BC-2018-01, F00238, *Second Application for an Order Directing the Specialist Prosecutor to Terminate the Investigation against Driton Lajçi*, 4 July 2022, Public. A corrected version with attached confidential annexes was filed on 25 July 2022 (F00238/COR).

⁵ KSC-BC-2018-01, F00240, Specialist Prosecutor, *Prosecution Response to the Second Application to Terminate the Investigation against Driton Lajçi*, 15 July 2022, confidential, with Annex 1, strictly confidential and *ex parte*.

Response. As this is part of the ongoing investigation that shall remain confidential from the Defence, the SPO may submit the material strictly confidential and *ex parte*.⁶

II. APPLICABLE LAW

7. Pursuant to Rule 48(2) of the Rules, a Panel may, upon request by a Party or *proprio motu*, issue, *inter alia*, such decisions or orders as may be necessary for the purposes of the investigation or for the preparation and conduct of the proceedings.

III. SUBMISSIONS

8. It is not known by the Applicant whether the SPO have complied with the Single Judge's Order of 10 August 2022 by the stipulated deadline of 26 August 2022, as ordered.

⁶ KSC-BC-2018-01/F00249/CONF/RED, Confidential Redacted Version of Order to the Specialist Prosecutor for Further Submissions, 10 August 2022, para 5.

9. It is noted that a further six weeks have passed since the Single Judge's Order of 10 August 2022 and no further progress has been reported in the Applicant's case.
10. In the event that further information has now been provided to the Single Judge, confidentially and *ex parte*, it remains the position that the Applicant is now entitled to be provided with an update on the status of the investigation against him and the Single Judge is invited to pass any such order as is necessary for an expedited conclusion.
11. Alternatively, in the event that the SPO has not complied with the Single Judge's Order of 10 August 2022, the Applicant invites the Single Judge to order the termination of the investigation against him.

Word Count: 729 words



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