



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA KOSOVA

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

Before: **Trial Panel I**
Judge Mappie Veldt-Foglia, Presiding Judge
Judge Roland Dekkers
Judge Gilbert Bitti
Judge Vladimir Mikula, Reserve Judge

Registrar: Fidelma Donlon

Date: 15 November 2022

Language: English

Classification: Confidential

Decision on Defence Request for Variation of Time Limit (F00349)

Specialist Prosecutor

Jack Smith

Counsel for the Accused

Jean-Louis Gilissen

Victims' Counsel

Simon Laws

TRIAL PANEL I (Panel) hereby renders this decision on the Defence Request for Variation of Time Limit (F00349).

I. PROCEDURAL BACKGROUND

1. On 4 November 2022, the Specialist Prosecutor's Office (SPO) filed a request seeking that: (i) the Accused's communications with persons outside the Specialist Chambers' Detention Facilities (SC Detention Facilities) be actively monitored; (ii) the Accused's communications be limited to a list of pre-approved individuals; and (iii) the Accused be ordered not to share confidential material and information with anyone outside his defence team (SPO Request).¹ The SPO also requested that the Panel invite the Registry to make submissions on the feasibility of these measures.²
2. On 10 November 2022, the Panel issued an order instructing the Registry to file by 24 November 2022 (16h00) submissions detailing: (i) the feasibility of the measures requested by the SPO; (ii) the resources and time needed to implement such measures, should they be ordered; (iii) any additional or alternative measures she considers available, subject to the Panel's decision, to address the risks identified by the SPO; and (iv) any other issues she considers appropriate to raise in relation to the SPO Request (Registry Report and Order respectively).³
3. On 14 November 2022, the Defence requested a variation of the time limit for its response to the SPO Request until 5 December 2022 (Defence Request).⁴

¹ KSC-BC-2020-04, F00336, Specialist Prosecutor, *Prosecution request for restrictions of the Accused's communications*, 4 November 2022, confidential, paras 1, 12-14.

² SPO Request, para. 13.

³ KSC-BC-2020-04, F00344, Trial Panel I, *Order for submissions on the "Prosecution request for restrictions of the Accused's communications" (KSC-BC-2020-04/F00336)*, 10 November 2022, confidential, para. 5.

⁴ KSC-BC-2020-04, F00349, Defence, *Defence Request for Variation of the Time Limit for its Response to the Prosecution Request for Restrictions of the Accused's Communications*, 14 November 2022, confidential, paras 1, 10.

II. APPLICABLE LAW

4. The Panel notes Articles 40(2) and (6) 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).

III. DISCUSSION

5. At the outset, the Panel finds that the Defence Request has been submitted sufficiently in advance of the deadline for its response to the SPO Request, namely 16 November 2022, as required by Rule 76 of the Rules.

6. The Panel further finds that the Defence has shown good cause, as required by Rule 9(5)(a) of the Rules, considering that the Defence has convincingly explained that to respond to the SPO Request: (i) it requires further information that it has requested from the Registry on the Accused's records of communications and visits; and (ii) it wishes to also address, in its response, the Registry Report due pursuant to the Order on 24 November 2022.⁵

7. The Panel further observes that the SPO is entitled to respond to the Registry Report, and is mindful that it may further assist the Defence to have the SPO response to the Registry Report before filing its response to the SPO Request. The Panel accordingly, *proprio motu*, orders the SPO to file a response to the Registry Report, if it so wishes, by **Monday, 28 November 2022 (16h00)**. Victims' Counsel may respond, if he so wishes, to both the SPO Request and the Registry Report by the same date.

8. While the Defence requests a variation of the time to allow it to file a response to the SPO Request by 5 December 2022, the Panel considers that a resolution of the litigation around the SPO Request is desirable as soon as possible for the expediency

⁵ Defence Request, paras 7-9.

of proceedings and that a variation of time until 5 December 2022 is not justified. The Panel accordingly orders the Defence to file a consolidated response to the SPO Request, the Registry Report, the SPO response to the Registry Report, if any, and Victims' Counsel response to the Registry Report, if any,⁶ by **Friday, 2 December 2022 (16h00)**. For the same reasons, the SPO and Victims' Counsel may reply, if it so wishes, to the Defence response by **Wednesday, 7 December 2022 (16h00)**.

9. Lastly, the Panel considers, in accordance with Rule 9(6) of the Rules, that no prejudice is caused to the SPO or Victims' Counsel by disposing of the Defence Request without giving them the opportunity to respond.

IV. DISPOSITION

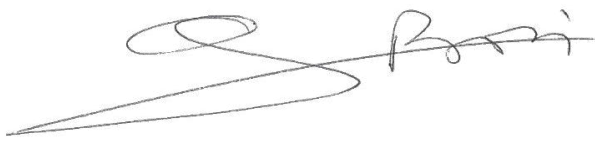
10. For the above-mentioned reasons, the Panel hereby:

- a. **GRANTS**, in part, the Defence Request for Variation of Time;
- b. **ORDERS** the SPO and Victims' Counsel to file a response to the Registry Report and Victims' Counsel to file a response to the SPO Request, if it so wishes, by **Monday, 28 November 2022 (16h00)**;
- c. **ORDERS** the Defence to file, if it so wishes, its consolidated response to the SPO Request, Registry Report, and SPO and Victims' Counsel responses to the Registry Report, if any, by **Friday, 2 December 2022 (16h00)**; and
- d. **ORDERS** the SPO and Victims' Counsel to file a reply to the Defence response, if it so wishes, by **Wednesday, 7 December 2022 (16h00)**.

⁶ See para. 7 above.



Judge Mappie Veldt-Foglia
Presiding Judge



Judge Gilbert Bitti



Judge Roland Dekkers

Dated this Tuesday, 15 November 2022

At The Hague, the Netherlands.