



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEĆA KOSOVA

In: KSC-BC-2018-01/IA002

Before: **A Panel of the Court of Appeals Chamber**
Judge Michèle Picard
Judge Emilio Gatti
Judge Kai Ambos

Registrar: Fidelma Donlon

Date: 14 February 2023

Original language: English

Classification: Public

Public Redacted Version of Decision on Appeal Against “Decision on Second Application for an Order Directing the Specialist Prosecutor to Terminate the Investigation against Driton Lajçi”

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THE PANEL OF THE COURT OF APPEALS CHAMBER of the Kosovo Specialist Chambers (“Court of Appeals Panel”, “Appeals Panel” or “Panel” and “Specialist Chambers”, respectively)¹ acting pursuant to Article 33(1)(c) of the Law on Specialist Chambers and Specialist Prosecutor’s Office (“Law”) and Rule 169 of the Rules of Procedure and Evidence (“Rules”) is seised of an appeal filed on 8 November 2022 (“Appeal”) by Driton Lajçi (“Lajçi” or the “Applicant”),² against the “Decision on Second Application for an Order Directing the Specialist Prosecutor to Terminate the Investigation against Driton Lajçi” (“Impugned Decision”).³ The Specialist Prosecutor’s Office (“SPO”) responded on 21 November 2022 that the Appeal should be dismissed (“Response”).⁴ Lajçi replied on 23 November 2022 (“Reply”).⁵

I. PROCEDURAL BACKGROUND

1. On 23 July 2021, the Single Judge rejected Lajçi’s application for an order to the SPO to terminate its investigation against him.⁶

¹ IA002/F00001, Decision Assigning a Court of Appeals Panel, 1 November 2022 (confidential, reclassified as public on 10 February 2023).

² IA002/F00002, Appeal against Decision KSC-BC-2018-01/F00258 Regarding the Termination of the Investigation against Driton Lajçi, 8 November 2022 (reclassified as confidential on 9 November 2022) (“Appeal”). On 9 November 2022, the Panel, acting *proprio motu*, reclassified as confidential the Appeal that was filed publicly before it. See CRSPD18, Reclassification order regarding IA002-F00002, 9 November 2022 (confidential) (“Reclassification Order”).

³ F00258/RED, Public Redacted Version of Decision on Second Application for an Order Directing the Specialist Prosecutor to Terminate the Investigation against Driton Lajçi, 27 October 2022 (confidential version filed on 3 October 2022) (“Impugned Decision”).

⁴ IA002/F00003/RED, Public redacted version of ‘Prosecution response to Driton Lajçi’s second appeal seeking termination of the investigation’ dated 21 November 2022, 24 November 2022 (confidential version filed on 21 November 2022) (“Response”).

⁵ IA002/F00004/RED, PUBLIC REDACTED version of Reply to the SPO Response to the Appeal against Decision KSC-BC-2018-01/F00258 Regarding the Termination of the Investigation against Driton Lajçi, 23 November 2022 (confidential version filed on 23 November 2022) (“Reply”).

⁶ F00180/RED, Public Redacted Version of Decision on Application for an Order Directing the Specialist Prosecutor to Terminate the Investigation against Driton Lajçi, 23 July 2021 (confidential version filed on 23 July 2021) (“Decision on First Application”).

2. On 1 October 2021, the Court of Appeals Panel denied the appeal filed by Lajçi, upon certification,⁷ against the Decision on First Application.⁸
3. On 4 July 2022, Lajçi submitted a second application for an order directing the SPO to terminate the investigation against him.⁹ The SPO responded on 15 July 2022.¹⁰
4. On 3 October 2022, the Single Judge issued the Impugned Decision, rejecting the Second Application, finding that the investigation from 3 May 2019 to the date of the Impugned Decision did not contravene the “reasonable time” criterion under Rule 47 of the Rules.¹¹

⁷ F00184, Decision on Application for Leave to Appeal the Decision F00180, 24 August 2021.

⁸ IA001/F00005, Decision on Appeal Against “Decision on Application for an Order Directing the Specialist Prosecutor to Terminate the Investigation against Driton Lajçi”, 1 October 2021 (“First Appeal Decision”); IA001/F00002, Appeal against Decision KSC-BC-2018-01/F00180 Regarding the Termination of the Investigation against Driton Lajçi, 3 September 2021.

⁹ F00238, Second Application for an Order Directing the Specialist Prosecutor to Terminate the Investigation against Driton Lajçi, 4 July 2022 (“Second Application”). Lajçi filed a corrected version on 25 July 2022 with two confidential annexes providing the exchange of correspondence with the SPO. See F00238/COR, Corrected Version of Second Application for an Order Directing the Specialist Prosecutor to Terminate the Investigation against Driton Lajçi, 25 July 2022.

¹⁰ F00240/RED, Public Redacted Version of ‘Prosecution Response to the Second Application to Terminate the Investigation against Driton Lajçi with Strictly Confidential and Ex Parte Annex 1’, KSC-BC-2018-01/F00240, dated 15 July 2022, 12 October 2022 (confidential version filed on 15 July 2022). On 10 August 2022, the Single Judge issued a decision requesting further submissions from the SPO. On 24 and 26 August 2022 respectively, the SPO filed a report and further submissions. See F00249/CONF/RED, Confidential Redacted Version of Order to the Specialist Prosecutor for Further Submissions, 10 August 2022 (confidential) (strictly confidential and *ex parte* filed on 10 August 2022); F00252, Prosecution report and request for court orders, 24 August 2022 (strictly confidential and *ex parte*); F00253, Prosecution Response to ‘Order to the Specialist Prosecutor for Further Submissions’ F00249, 26 August 2022 (strictly confidential and *ex parte*).

¹¹ Impugned Decision, paras 31, 33(a).

5. On 10 October 2022, Lajçi applied for certification for leave to appeal the Impugned Decision.¹² The SPO responded on 21 October 2022,¹³ and Lajçi replied on 24 October 2022.¹⁴

6. On 31 October 2022, the Single Judge certified one issue for appeal (“Certified Issue”):

[Whether] the Single Judge erred by concluding that the conduct of the “relevant administrative and judicial authorities”, which had caused delay or hampered the investigation, was attributable to [Mr Lajçi] when considering the “reasonable time” under Article 6(1) [of the European Convention on Human Rights (“ECHR”)].¹⁵

II. STANDARD OF REVIEW

7. The Court of Appeals Panel adopts the standard of review for interlocutory appeals set out in its first decision and applied subsequently.¹⁶

¹² F00261/RED, Public Redacted Version of Application for Certification for Leave to Appeal the Decision on Second Application for an Order Directing the Specialist Prosecutor to Terminate the Investigation against Driton Lajçi (KSC-BC-2018-01/F00258), 13 November 2022 (confidential version filed on 10 October 2022) (“Certification Request”).

¹³ F00264/RED, Public Redacted Version of ‘Prosecution Response to Driton Lajçi’s Request for Leave to Appeal Decision on Second Application to Terminate Investigation (KSC-BC-2018-01/F00258)’, KSC-BC2018-01/F00264, dated 21 October 2022, 1 November 2022 (confidential version filed on 21 October 2022).

¹⁴ F00265/RED, Public Redacted Version of Reply to Prosecution Response to Defence Application for Certification for Leave to Appeal the Decision on Second Application for an Order Directing the Specialist Prosecutor to Terminate the Investigation against Driton Lajçi (KSC-BC-2018-01/F00258), 13 November 2022 (confidential version filed on 24 October 2022).

¹⁵ F00267/RED, Public Redacted Version of Decision on the Defence Application for Leave to Appeal Decision F00258, 15 November 2022 (confidential version filed on 31 October 2022) (“Certification Decision”), paras 9(2), 27, 33(a). The Single Judge declined to certify the first and third issues put forward by Lajçi; see Certification Decision, paras 22, 31, 33(b).

¹⁶ KSC-BC-2020-07, IA001/F00005, Decision on Hysni Gucati’s Appeal on Matters Related to Arrest and Detention, 9 December 2020, paras 4-14. See also e.g. First Appeal Decision, para. 3.

III. PRELIMINARY MATTERS

A. TIMELINESS OF THE RESPONSE

8. The Appeals Panel notes that Lajçi argues that the Response, filed on 21 November 2022, was filed out of time by the SPO.¹⁷ However, the Appeal, although filed on 8 November 2022, was distributed the day after, on 9 November 2022. Pursuant to Rule 9(4) of the Rules, the deadline to respond to the Appeal was Monday, 21 November 2022 since the last day of the time limit – 19 November 2022 – fell on a Saturday. The Appeals Panel therefore finds that the Response was timely filed and rejects Lajçi’s submissions in that regard.

B. PUBLIC FILINGS

9. The Panel notes that while both the Single Judge’s Impugned Decision and his Certification Decision were initially filed confidentially,¹⁸ Lajçi initially filed the Appeal publicly as he claimed that it contained no confidential information.¹⁹ The Appeal was subsequently reclassified as confidential pursuant to Rule 82(3) and (5) of the Rules upon the Appeals Panel’s instruction as it referred to potentially confidential information that had been redacted in the public redacted version of the Impugned Decision.²⁰ The Panel notes that Lajçi has not filed a public redacted version of the Appeal yet. Recalling that all submissions filed before the Specialist Chambers shall be public unless there are exceptional reasons for keeping them confidential, and that Parties shall file public redacted versions of all submissions filed before the Panel,²¹

¹⁷ Reply, paras 18, 30(a).

¹⁸ Public redacted versions of the Impugned Decision and of the Certification Decision were issued on 27 October 2022 and 15 November 2022, respectively.

¹⁹ See Appeal, paras 33-35.

²⁰ See Reclassification Order.

²¹ See e.g. KSC-BC-2020-06, IA008/F00004/RED, Public Redacted Version of Decision on Kadri Veseli’s Appeal Against Decision on Review of Detention, 1 October 2021 (confidential version filed on 1 October 2021), paras 8-9 (encouraging the parties to file public redacted versions of their filings as soon as possible, without waiting for an order to do so). See also KSC-CA-2022-01, F00103, Decision on Gucati Application for Reclassification or Public Redacted Versions of Court of Appeals Panel Decisions, 9 January 2023, para. 2.

the Panel orders Lajçi to file a public redacted version of the Appeal within ten days of receiving notification of the present Decision. When doing so, the Panel invites Lajçi to exercise caution and to follow the guidance provided by the redactions appended in the public redacted versions of the relevant decisions issued by the Single Judge and filings from the SPO.²²

C. ISSUES FALLING OUTSIDE THE SCOPE OF CERTIFIED ISSUE

10. The Court of Appeals Panel recalls that the scope of its review lies strictly within the confines of the issues certified by the lower panel and that it may thus decline to consider arguments of an appellant that go beyond the issues in relation to which certification has been granted.²³ The Panel also recalls the limited scope of the Certified Issue.²⁴

11. The Court of Appeals Panel notes that the Appeal contains arguments concerning whether the SPO should be considered [REDACTED],²⁵ and the judicial system's compliance with, *inter alia*, Article 6(1) of the ECHR.²⁶ The Panel recalls that the Single Judge expressly denied certification to appeal these two specific issues.²⁷

²² See KSC-BD-15, Registry Practice Direction, Files and Filings before the Kosovo Specialist Chambers, 17 May 2019, Article 38(2) (providing that participants shall ensure that all confidential information is removed from the public redacted version of the filing).

²³ See KSC-BC-2020-07, IA004/F00007, Decision on the Defence Appeals Against Decision on Preliminary Motions, 23 June 2021, para. 20. See also e.g. KSC-BC-2020-04, IA004/F00008/RED, Public Redacted Version of Decision on Pjetër Shala's Appeal against Decision on Motion Challenging the Form of the Indictment, 22 February 2022 (confidential version filed on 22 February 2022), para. 10.

²⁴ See above, para. 6. See also Certification Decision, paras 24-27.

²⁵ See Appeal, para. 11 (stating that the SPO and the Specialist Chambers "form part" of the State); Reply, para. 22 (stating that the fact that the SPO and the Specialist Chambers "are national institutions" "is a matter beyond any reasonable doubt in any event").

²⁶ See Appeal, para. 29 (stating that "it is the responsibility of the State, and its institutional framework, to organise its judicial system in such a way that it complies with its obligations to secure the rights and freedoms guaranteed in the applicable legal framework, including the Constitution and the ECHR"); Reply, paras 23 (stating that he "only restates the law as applicable to the States' obligations under the ECHR"), 27 (stating that "it is the responsibility of the state to organise its judicial system to meet the requirements of Article 6(1) [of the] ECHR").

²⁷ See Certification Decision, paras 19-22, 28-31. The Single Judge also found that it is not his function to rule upon the adequacy of the steps taken by the local authorities vis-à-vis their obligations under Article 6 of the ECHR. See Certification Decision, para. 29.

The Panel further observes that Lajçi also makes arguments on appeal concerning the weight the Single Judge ascribed to the different factors he considered,²⁸ while he did not seek leave to certify this specific issue.²⁹ The SPO submits that all these arguments should be summarily dismissed on the basis that they go beyond the scope of the issue certified for appeal.³⁰

12. The Appeals Panel finds that these arguments fall outside of the scope of the Certified Issue³¹ and therefore declines to consider these submissions and formally dismisses them.

IV. DISCUSSION

1. Submissions of the Parties

13. Lajçi submits that the Single Judge erred in holding him responsible for the delay caused by the “relevant administrative and judicial authorities” when considering the reasonable time standard under Article 6(1) of the ECHR, in relation to the length of the investigation against him.³² Lajçi argues that he cannot be held responsible for delays by [REDACTED] cannot be attributable to him.³³ In his view, the competent authorities clearly did not act with the necessary diligence and expeditiousness.³⁴

14. Lajçi contends that while the Single Judge recognised that delay had been caused by [REDACTED],³⁵ the Single Judge erred in placing undue weight on the fact

²⁸ See Appeal, paras 17 (stating that “the Single Judge incorrectly placed undue weight on these factors”), 26 (stating that “it cannot be correct that the long delay in the SPO investigation has largely been attributed to two factors, namely the complexity and [REDACTED]”); Reply, para. 20 (stating that “had the correct test been applied and appropriate weight assigned to these factors, the overall balancing exercise of the five factors would have resulted in the Appellant’s favour”).

²⁹ See Certification Request.

³⁰ See Response, paras 1, 6, 8-10.

³¹ Contra Reply, paras 22-24.

³² Appeal, paras 10, 27, 30-31. See also Reply, paras 20-21, 27-28.

³³ Appeal, paras 11, 20. See also Reply, paras 21-22, 27-28.

³⁴ Appeal, para. 19. See also Appeal, para. 18.

³⁵ Appeal, paras 12-15, referring to Impugned Decision, paras 24, 26-27.

that his conduct significantly contributed to the delay [REDACTED]; in failing to acknowledge that [REDACTED]; and in failing to consider his conduct separately from that of the relevant authorities.³⁶ Lajçi further argues that the Single Judge did not elaborate on what “partly” meant when finding that Lajçi’s actions *partly* contributed to the delay.³⁷

15. While Lajçi does not accept that he caused any delay,³⁸ he recalls that he is not required to “actively co-operate” with the judicial authorities and submits that he should *only* be held responsible for any alleged conduct, or delay, *actually* and *personally* attributable to him, either [REDACTED] or otherwise.³⁹ In that regard, Lajçi points out that, [REDACTED]: (i) he was [REDACTED]; (ii) the relevant time period to be considered should be restricted to when [REDACTED]; and (iii) [REDACTED], he cannot be held responsible for the conduct of the relevant administrative and judicial authorities, [REDACTED].⁴⁰ Lajçi therefore requests that the Appeals Panel overturn the finding of the Single Judge, hold that the SPO has failed to act diligently and expeditiously and that the investigation has exceeded a reasonable time and order the SPO to terminate the investigation.⁴¹

16. The SPO responds that the Appeal should be summarily dismissed for not meeting the formal requirements for appeal as Lajçi: (i) fails to concretely set out the alleged error and to indicate how such an error would have affected the Impugned Decision; and (ii) fails to adequately substantiate his arguments with references to the relevant authorities.⁴²

³⁶ Appeal, paras 16-17, 26. See also Appeal, paras 15, 18; Reply, paras 21, 26.

³⁷ Appeal, para. 26, referring to Decision on First Application, para. 30. See also Reply, para. 27.

³⁸ Appeal, paras 24, 26. See also Appeal, para. 25.

³⁹ Appeal, para. 20. See also Appeal, para. 11; Reply, para. 22.

⁴⁰ Appeal, paras 21-25.

⁴¹ Appeal, paras 27, 32; Reply, para. 30. See also Appeal, paras 28-31.

⁴² Response, paras 1, 6-7, 11-12.

17. On the merits, the SPO submits that the Appeal is based on a fundamental misunderstanding of the Impugned Decision since the Single Judge did not attribute [REDACTED] to Lajçi personally but did consider [REDACTED] separately, before addressing Lajçi's conduct, and since he established that [REDACTED] "need not be attributable to Mr Lajçi personally".⁴³ The SPO further submits that the Appeal concerns "only a marginal aspect of one factor in a multi-factor test" and that Lajçi fails to identify an error that would materially affect the outcome of the Impugned Decision.⁴⁴

18. In his Reply, Lajçi challenges the SPO's assertion that the Appeal should be summarily dismissed and submits that the Certified Issue clearly states where the Single Judge erred.⁴⁵ He asserts that, had the Single Judge correctly assessed the factors of the conduct of the relevant and judicial administrative authorities and Lajçi's conduct, this would have had a significant impact on the balancing exercise of the five factors relevant to the reasonableness of the delay and would have resulted in his favour.⁴⁶

19. Lajçi further replies that the Appeal is not based on a fundamental misrepresentation.⁴⁷ In his view, the Single Judge's statement that [REDACTED] is an "indirect inference that [he] need not be actually and personally responsible for the conduct to be still attributable to him by virtue of [REDACTED]"⁴⁸ Lajçi also contends that the Single Judge's holding that the delay has been caused by [REDACTED] should have been resolved in his favour, not to his detriment.⁴⁹

⁴³ Response, paras 13-15, referring to Impugned Decision, paras 26-27. See also Response, para. 1.

⁴⁴ Response, paras 1, 15.

⁴⁵ Reply, para. 21.

⁴⁶ Reply, paras 20-21. Lajçi also contends that there is no need for authorities to be cited in relation to "well-established principles and their applicability" to these as well as other court proceedings. See Reply, para. 25.

⁴⁷ Reply, paras 26-28.

⁴⁸ Reply, para. 27. See also Reply, para. 21.

⁴⁹ Reply, paras 26-28. See also Appeal, paras 11, 31.

2. Assessment of the Court of Appeals Panel

20. At the outset, the Panel recalls that under Rule 47 of the Rules, a suspect may request the SPO to terminate the investigation if the SPO failed to bring an indictment within “a reasonable time after the person became a suspect and was notified thereof”. As established by the jurisprudence of the European Court of Human Rights (“ECtHR”), the reasonableness of the length of proceedings is to be determined in light of the circumstances of the case, which calls for an overall assessment, having regard to the following factors: (i) the complexity of the investigation; (ii) the applicant’s conduct; and that of the relevant administrative and judicial authorities; and (iii) what is at stake for the applicant in the dispute.⁵⁰

21. Turning to Lajçi’s appellate submissions, the Panel first observes that the wording of the Certified Issue – namely that the Single Judge erred in concluding that the conduct of the relevant administrative and judicial authorities was attributable to Lajçi – is a verbatim reproduction of the second issue which Lajçi sought certification of.⁵¹ However, the Appeals Panel is of the view that the Certified Issue does not reflect fully the findings made in the Impugned Decision. Notably, while it is true that the Single Judge “considered the possibility that Lajçi’s conduct may have contributed to the delay in the investigation [REDACTED]”,⁵² the Single Judge did not find that the conduct of the relevant administrative and judicial authorities was attributable to Lajçi. Rather, the Single Judge considered whether Lajçi may have contributed to the delay in the investigation but only as part of his distinct assessment of Lajçi’s specific conduct, and not as part of his assessment of the conduct of the relevant authorities.

⁵⁰ See e.g. ECtHR, *Frydlender v. France*, no. 30979/96, Judgment, 27 June 2000, para. 43; ECtHR, *Chiarello v. Germany*, no. 497/17, Judgment, 4 November 2019, para. 45. See Impugned Decision, para. 19; First Appeal Decision, para. 22; Decision on First Application, para. 28. See also El Zeidy, M., and Schabas, W., in Ambos, K. (ed.), *Rome Statute of the International Criminal Court: Article-by-Article Commentary* (Fourth Edition), C. H. Beck, Hart, Nomos 2022, Article 17, mn. 80.

⁵¹ See Certification Decision, para. 9(2). See also Certification Request, para. 13(ii).

⁵² Certification Decision, para. 24, referring to Impugned Decision, para. 27. It is on this basis that the Single Judge found that the Certified Issue emanates from the Impugned Decision.

In fact, and contrary to Lajçi's claim, the Single Judge first assessed separately the conduct of the relevant authorities⁵³ and then turned to assess Lajçi's own conduct [REDACTED].⁵⁴ As a result, the Appeals Panel finds that the crux of Lajçi arguments is based on a misrepresentation of the Impugned Decision. Therefore, the Panel dismisses Lajçi's arguments to the extent that they allege that the Single Judge attributed to him the responsibility of [REDACTED] conduct and conflated both conducts, and as such the Certified Issue as presented by Lajçi.⁵⁵

22. Nevertheless, the Panel will assess whether the Single Judge erred in his evaluation of Lajçi's conduct, namely in considering the possibility that Lajçi's conduct may have contributed to the delay in the investigation [REDACTED].⁵⁶ The Panel notes that the present case bears the particularity that the applicant [REDACTED].⁵⁷ As such, to the extent that [REDACTED],⁵⁸ the Panel finds that Lajçi's actions [REDACTED] bear some relevance to the assessment of whether his general conduct compounded the delay of the investigation. In that regard, the Panel notes, contrary to Lajçi's claim, that the Single Judge only considered Lajçi's conduct [REDACTED].⁵⁹ The Panel sees no error in the Single Judge holding that his previous finding that Lajçi's conduct compounded the delay of the investigation "continues to

⁵³ In doing so, the Single Judge considered the conduct of *both* (i) the SPO and the Specialist Chambers (referring notably to [REDACTED]) and (ii) [REDACTED] (referring to [REDACTED]). See Impugned Decision, para. 26. See also Certification Decision, para. 21.

⁵⁴ Compare Impugned Decision, para. 26 (which concerns the conduct of the relevant administrative and judicial authorities) *with* Impugned Decision, para. 27 (which concerns the conduct of Lajçi).

⁵⁵ See Appeal, paras 16, 20; Reply, paras 21, 26-27. The Panel further dismisses Lajçi's unsupported assertion that the Single Judge failed to base his finding on "any legal rule or principle, or parliamentary convention" "such as the concept of ministerial responsibility". See Reply, paras 21, 27.

⁵⁶ Certification Decision, para. 24, referring to Impugned Decision, para. 27.

⁵⁷ [REDACTED]. See Decision on First Application, para. 30.

⁵⁸ See Decision on First Application, para. 30 (finding that Lajçi contributed to this situation in part, [REDACTED]). See also F00175/RED, Public redacted version of Prosecution Response to the Application to Terminate the Investigation against Driton Lajçi, 25 June 2021 (confidential version filed on 25 June 2021), paras 3, 20.

⁵⁹ See Impugned Decision, para. 27. Contra Appeal, paras 24-25.

stand”⁶⁰ in light of the fact that [REDACTED] “remain only partially addressed to date”.⁶¹

23. The Panel further notes that when the Single Judge reached his conclusion with regard to Lajçi’s conduct, he was mindful of the fact that Lajçi is not required to “contribute actively” to the investigation against him when considering his conduct.⁶² While the applicant is indeed not required to cooperate actively with the judicial authorities or cannot be blamed for making full use of the legal remedies available,⁶³ his or her conduct constitutes an “objective fact” to take into account in determining whether the length of the proceedings exceeds what is reasonable.⁶⁴ It is not disputed that Lajçi can only be held responsible for actions that can be personally attributed to him. The Panel finds that Lajçi fails to point to any part of the Impugned Decision that would suggest that the Single Judge did otherwise. Therefore, the Panel is satisfied that the Single Judge properly considered Lajçi’s conduct [REDACTED], in addition, and separately, to the one of the relevant authorities, and finds that Lajçi fails to show any error in the Single Judge’s assessment.⁶⁵

24. Finally, the Panel notes that the authority cited by Lajçi does not support his contention that the delays caused by [REDACTED] would have to be resolved “in his favour”.⁶⁶ The Single Judge was not required to hold these factors “against” or “for”

⁶⁰ Impugned Decision, para. 27, referring to Decision on First Application, para. 30.

⁶¹ Impugned Decision, para. 27.

⁶² Impugned Decision, para. 27. Contra Appeal, para. 19.

⁶³ See e.g. ECtHR, *Eckle v. Germany*, no. 8130/78, Judgment, 15 July 1982 (“*Eckle v. Germany* Judgment”), para. 82.

⁶⁴ See e.g. *Eckle v. Germany*, para. 82 (finding that the applicants resorting to actions likely to delay matters was not attributable to the respondent State and had to be taken into account); ECtHR, *I.A. v. France*, no. 1/1998/904/1116, Judgment, 23 September 1998, para. 121 (finding that the applicant substantially contributed to the protractedness of the investigation).

⁶⁵ In light of the Single Judge’s finding that [REDACTED] “need not be attributable to Mr Lajçi personally”, the Panel considers that the Single Judge’s conclusion with regard to the conduct of these authorities and the fact that [REDACTED] has significantly delayed the investigation stands regardless of any contribution from Lajçi [REDACTED]. See Impugned Decision, para. 26.

⁶⁶ See ECtHR, *Abdoella v. The Netherlands*, no. 12728/87, Judgment, 25 November 1992, para. 24, cited at Reply, para. 27.

Lajçi but only to consider all the factors established by the ECtHR jurisprudence and to determine whether, in light of these factors, the length of proceedings remained reasonable.⁶⁷

25. Based on the complexity of the investigation, the [REDACTED] by the relevant authorities, the conduct of Lajçi [REDACTED], and what was at stake for Lajçi,⁶⁸ the Panel agrees with the Single Judge's conclusion that the investigation against Lajçi does not contravene the "reasonable time" criterion under Rule 47 of the Rules.⁶⁹

26. In light of the above, the Panel dismisses the Appeal.

⁶⁷ See above, para. 20. Contra Appeal, paras 11, 31; Reply, paras 26-28.

⁶⁸ See Impugned Decision, paras 23, 26-27, 30-31. The Single Judge also considered that while Lajçi faces potential arrest and imprisonment, he has not been detained during the investigation and has failed to demonstrate that he suffers any particular prejudice resulting from the ongoing investigation. See Impugned Decision, para. 30.

⁶⁹ See Impugned Decision, para. 31.

V. DISPOSITION

27. For these reasons, the Court of Appeals Panel:

DENIES the Appeal; and

ORDERS Lajçi to submit a public redacted version of his Appeal within ten days of receiving notification of the present Decision.



**Judge Michèle Picard,
Presiding Judge**

Dated this Tuesday, 14 February 2023

At The Hague, the Netherlands