

**In:** KSC-BC-2020-06  
**Specialist Prosecutor v. Hashim Thaçi, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi**

**Before:** Trial Panel II  
Judge Charles L. Smith III, Presiding  
Judge Christoph Barthe  
Judge Guénaél Mettraux  
Judge Fergal Gaynor, Reserve Judge

**Registrar:** Dr. Fidelma Donlon

**Filing Participant:** Defence Counsel for Jakup Krasniqi

**Date:** 23 November 2023

**Language:** English

**Classification:** Public

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**Urgent Krasniqi Defence Request for Extension of Word Limit**

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**Specialist Prosecutor**

Kimberly P. West

**Counsel for Victims**

Simon Laws KC

**Counsel for Hashim Thaçi**

Gregory Kehoe

**Counsel for Kadri Veseli**

Ben Emmerson KC

**Counsel for Rexhep Selimi**

Geoffrey Roberts

**Counsel for Jakup Krasniqi**

Venkateswari Alagendra

## I. INTRODUCTION

1. Pursuant to Article 36(1) of the Registry's Practice Direction on Files and Filings before the Kosovo Specialist Chambers ("Practice Direction"), the Defence for Jakup Krasniqi ("Defence") hereby requests a variation of the word limit to 5,500 words to submit its Request for Certification to Appeal the Decision on Prosecution Motion for Admission of Accused's Statements.<sup>1</sup>

## II. PROCEDURAL HISTORY

2. On 8 March 2023, the Specialist Prosecutor's Office filed its motion requesting the Trial Panel to admit the Accused's previous statements and their associated exhibits ("SPO Motion").<sup>2</sup>

3. On 24 April 2023, the Defence filed its Response to the SPO Motion.<sup>3</sup> The Specialist Prosecutor's Office ("SPO") replied on 8 May 2023.<sup>4</sup>

4. On 9 November 2023, the Trial Panel issued the Decision.

5. On 13 November 2023, following a joint request by the Defence teams for the four Accused, the Trial Panel extended the time-limit to seek certification to appeal the Decision until 27 November 2023.<sup>5</sup>

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<sup>1</sup> KSC-BC-2020-06, F01917, Trial Panel II, *Decision on Prosecution Motion for Admission of Accused's Statements* ("Impugned Decision"), 9 November 2023, public.

<sup>2</sup> KSC-BC-2020-06, F01351, Specialist Prosecutor, *Prosecution Motion for Admission of Accused's Statements*, 8 March 2023, public, with Annex 1, public.

<sup>3</sup> KSC-BC-2020-06, F01475, Krasniqi Defence, *Krasniqi Defence Response to Prosecution Motion for Admission of Accused's Statements*, 24 April 2023, confidential.

<sup>4</sup> KSC-BC-2020-06, F01509, Specialist Prosecutor, *Prosecution Reply to Krasniqi Response to 'Prosecution Motion for Admission of Accused's Statements'*, 8 May 2023, confidential.

<sup>5</sup> KSC-BC-2020-06, In Court – Oral Order, *Order on Selimi Defence request for extension of time to file request for certification to appeal F01917*, 13 November 2023, public.

6. On 23 November 2023, the Defence inquired *inter partes* with the SPO whether they would oppose the requested extension. The SPO responded on the same day and indicated that it does not oppose a reasonable extension, while noting that the extension sought almost doubles the permitted word limit, the filing should just address the Rule 77 criteria, and that while the Impugned Decision is a lengthy filing overall, the relevant parts to Mr. Krasniqi are much more limited.

### III. SUBMISSIONS

7. Pursuant to Article 43 of the Practice Direction, any request for certification to appeal pursuant to Rule 77 of the Rules shall not exceed 3,000 words. Article 36 of the Practice Direction in turn provides that, in exceptional circumstances, a participant may seek authorisation from the Panel sufficiently in advance to exceed the word limit.

8. Good cause exists for an extension of the word limit to request certification to appeal the Impugned Decision. The Impugned Decision is 116 pages long, and covers a large number of issues, many of which of significant complexity. *Inter alia*, it addresses questions of evidence admissibility, issues of interpretation of ICTY rules and jurisprudence, the factual background of Mr. Krasniqi's previous statements and testimonies, the nature and scope of the protection afforded by the privilege against self-incrimination, and the issue of whether the previous statements of the co-Accused can be used against Mr. Krasniqi. These are issues of particular significance, as they relate to fundamental components of Mr. Krasniqi's fair trial rights, as well as to the admission of untested evidence going to his acts and conduct during the Indictment period. Further, the Trial Panel's findings are underpinned by a series of successive legal steps leading to the final decision on admissibility. Due to their importance and complexity, good cause exists to extend the word limit, so that the Defence can

provide meaningful and comprehensive submissions about how every issue arising from the Decision satisfies the requirements for certification. The significance and complexity of the issues for appeal are in fact factors that have previously been acknowledged as constituting good cause for varying the word limit.<sup>6</sup>

9. In its response to the Defence's email, the SPO responded that while the Impugned Decision is lengthy, the portions relevant to Mr. Krasniqi are "much more limited". However, it is submitted that the Impugned Decision must be considered and assessed in its totality. While only a section of the Impugned Decision is concerned directly with the admissibility of Mr. Krasniqi's previous statements, the Trial Panel's reasoning is often rooted in findings made in relation to the statements of the other Accused, which were then referred to in its determination of the admissibility of Mr. Krasniqi's statements.<sup>7</sup>

10. Concerning the timing of this request, the necessity of the extension of the word limit only became apparent during the preparation of the request for certification, which followed a careful and thorough review of the Impugned Decision. In any event, it is submitted that no prejudice arises from granting the extension sought.

#### IV. CONCLUSION

11. In light of the above, the Defence respectfully requests a variation of the word limit to 5,500 words to submit its Request for Certification to Appeal the Decision on Prosecution Motion for Admission of Accused's Statements.

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<sup>6</sup> KSC-BC-2020-06, IA0009/F00024, Court of Appeals Panel, *Decision on Selimi's Request for Variation of Word Limit*, 14 October 2021, public, para. 4.

<sup>7</sup> See e.g. Impugned Decision, paras 159-160.

Word count: 833



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**Venkateswari Alagenda**

Thursday, 23 November 2023

Kuala Lumpur, Malaysia.



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**Aidan Ellis**

Thursday, 23 November 2023

London, United Kingdom.



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**Victor Băieșu**

Thursday, 23 November 2023

The Hague, the Netherlands.