

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

Before: Court of Appeals Panel
Judge Michèle Picard
Judge Emilio Gatti
Judge Nina Jørgensen

Registrar: Dr Fidelma Donlon

Filing Participant: Defence Counsel for Rexhep Selimi
Defence Counsel for Jakup Krasniqi

Date: 21 December 2023

Language: English

Classification: Public

Selimi and Krasniqi Defence Request

for Extension of Time Limit to Appeal Decision F01917

Specialist Prosecutor

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I. INTRODUCTION

1. Pursuant to Rule 9(5)(a) of the Rules of Procedure and Evidence before the Kosovo Specialist Chambers (“Rules”), the Defence for Messrs. Rexhep Selimi and Jakup Krasniqi (“Defence”) hereby requests an extension of the time limit to submit their appeal against the Trial Panel’s Decision on Prosecution Motion for Admission of Accused’s Statements¹ by no later than **Friday, 19 January 2024**.

II. PROCEDURAL HISTORY

2. On 9 November 2023, the Trial Panel issued the Impugned Decision.

3. On 27 November 2023, the Defence filed requests for certification to appeal the Impugned Decision.² On 7 December 2023, the Specialist Prosecutor’s Office (“SPO”) responded to the Defence requests.³ On 15 December 2023, the Defence replied to the SPO Response.⁴

4. On 30 November 2023, the SPO informed the Defence, via *inter partes* correspondence, that “it will not oppose extensions/suspension for non-urgent filings made shortly before the recess.”⁵

¹ KSC-BC-2020-06, F01917, Trial Panel II, *Decision on Prosecution Motion for Admission of Accused’s Statements* (“Impugned Decision”), 9 November 2023, public.

² KSC-BC-2020-06, F01961, Krasniqi Defence, *Krasniqi Defence Request for Certification to Appeal the Decision on Prosecution Motion for Admission of Accused’s Statements*, 27 November 2023, public; F01966, Selimi Defence, *Selimi Defence Request for Certification to Appeal the Decision on Prosecution Motion for Admission of Accused’s Statements*, 27 November 2023, public.

³ KSC-BC-2020-06, F01990, Specialist Prosecutor, *Prosecution Consolidated Response to Veseli, Selimi, and Krasniqi Requests for Leave to Appeal Decision F01917* (“Response”), 7 December 2023, public.

⁴ KSC-BC-2020-06, F02010, Krasniqi Defence, *Krasniqi Defence Reply to Prosecution Consolidated Response to Veseli, Selimi, and Krasniqi Requests for Leave to Appeal Decision F01917*, 15 December 2023, public; F02015, Selimi Defence, *Selimi Defence Reply to Prosecution Consolidated Response to Veseli, Selimi, and Krasniqi Requests for Leave to Appeal Decision F01917*, 15 December 2023, public.

⁵ SPO e-mail received on 30 November 2023 at 09:55.

5. On 19 December 2023, the Trial Panel issued its Decision on Defence Requests for Certification to Appeal the Decision on Prosecution Motion for Admission of Accused's Statements.⁶

6. On 21 December 2023, the President of the Specialist Chambers assigned a Court of Appeals Panel to determine the appeal of the Impugned Decision.⁷

III. SUBMISSIONS

7. Pursuant to Rule 170(2) of the Rules, the Defence should normally file its appeal within 10 days of the Impugned Decision. Rule 9(5)(a) of the Rules, however, allows for the variation of any time limit prescribed by the Rules, *proprio motu* or upon a showing of good cause.

8. The Defence submits that good cause exists for the requested extension. At the outset, the Defence notes that the Trial Panel granted leave to appeal the Selimi Defence's Third Issue and the Krasniqi Defence's First, Third, and Ninth Issues.⁸ The four issues for which certification has been granted are of objective significance and legal and factual complexity, relating to the privilege against self-incrimination, the rights of suspects, and the use of the previous statements of the co-Accused against Mr. Krasniqi. The import of the certified issues is further illustrated by the impact of the Impugned Decision on Messrs. Selimi and Krasniqi's fair trial rights and the

⁶ KSC-BC-2020-06, F02022, Trial Panel II, *Decision on Defence Requests for Certification to Appeal the Decision on Prosecution Motion for Admission of Accused's Statements* ("Certification Decision"), 19 December 2023, public.

⁷ KSC-BC-2020-06, IA030/F00001, President of the Specialist Chambers, *Decision Assigning a Court of Appeals Panel*, 21 December 2023, public.

⁸ Certification Decision, para. 94(a).

admission of untested evidence related to their acts and conduct during the Indictment period.

9. The significance and complexity of the issues are factors that have previously been acknowledged as constituting good cause for varying the time limits of appellate filings.⁹ The certified issues require in-depth factual and legal analysis. The Defence will thus require sufficient time to present meaningful appellate submissions that will assist the Appeals Panel in its determination of the relevant issues at stake.

10. Two additional factors militate in favour of the request. The Defence notes that the deadline to submit the appeal against the Impugned Decision falls during the winter judicial recess, and that the Defence is currently working towards multiple competing deadlines.¹⁰ The request is reasonable and proportionate, given that the appeal would be submitted only three weeks after the initial deadline, and less than two weeks after the end of the judicial recess. In this regard, the Defence notes that the Trial Panel granted the Defence a four-week extension to respond to the Prosecution Motion for Admission of Accused's Statements.¹¹

11. Whilst, as noted above, the appeal involves a number of significant and complex issues,¹² no prejudice would be caused to the SPO by a delay in submitting the appeal,

⁹ See e.g., KSC-BC-2020-04, IA002/F00002, Court of Appeals Panel, *Decision on Shala's Request for Variation of Time Limit*, 28 October 2021, public, para. 3; KSC-BC-2020-06, IA013/F00003, Court of Appeals Panel, *Decision on Thaçi's Request for Variation of Time Limit*, 1 November 2021, public, para. 3.

¹⁰ E.g., KSC-BC-2020-04, F00371, Trial Panel I, *Decision on Variation of Time Limits and Related Matters*, 14 December 2022, public, para. 6; KSC-BC-2020-06, F00864, Pre-Trial Judge, *Decision on the Joint Defence Request for Variation of Time Limit for Leave to Appeal Decision KSC-BC-2020-06/F00854 (Decision on Confidential Information and Contact with Witnesses)*, 1 July 2022, public, para. 9; F01378, Trial Panel II, *Decision on Thaçi, Selimi and Krasniqi Defence Request for an Extension of Time for Response to 'Prosecution Motion for Admission of Accused's Statements'*, 16 March 2023, public, para. 6.

¹¹ KSC-BC-2020-06, F01378, Trial Panel II, *Decision on Thaçi, Selimi and Krasniqi Defence Request for an Extension of Time for Response to 'Prosecution Motion for Admission of Accused's Statements'*, 16 March 2023, public, paras 7-8.

¹² *Supra*, para. 8.

given that an immediate decision is not required in order for the SPO to continue the presentation of its case.

12. Finally, the present request is timely, as the Defence was notified of the Certification Decision on 19 December 2023, and it is filed well ahead of the time limit set out in Rule 170(2) of the Rules for the filing of appellate submissions.

IV. CONCLUSION

13. In light of the above, the Defence respectfully requests the Court of Appeals Panel to grant the requested extension and to authorise the Defence to submit their appeals against the Impugned Decision by **Friday, 19 January 2024**.

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Respectfully submitted on Thursday, 21 December 2023



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