



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEĆA 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: 11 November 2022

Language: English

Classification: **Confidential**

Decision on the Defence Request for an Extension of Time (F00342)

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 an Extension of Time (F00342).

I. PROCEDURAL BACKGROUND

1. On 20 September 2022, the Defence for Pjetër Shala (Defence and Accused, respectively) filed a request seeking *inter alia* the exclusion from the case file of all statements given by the Accused to various authorities in 2016 and 2019, as well as of other related items (Defence Request).¹
2. On 30 September 2022, the Specialist Prosecutor's Office (SPO) responded to the Defence Request,² and on 7 October 2022, the Defence filed its reply.³
3. On 20 October 2022, the Panel requested the SPO to file additional submissions on the merits of the Defence Request by 1 November 2022.⁴
4. On 28 October 2022, the Panel granted the SPO request⁵ for extension of word limit in relation to its upcoming submissions.⁶
5. On 1 November 2022, the SPO filed its submissions and requested the Panel to admit the contested material, as well as two other prior statements of the Accused and related material, into evidence (SPO Request).⁷

¹ KSC-BC-2020-04, F00281, Defence, *Motion to Exclude Evidence from the Case File to be Transmitted to the Trial Panel*, 20 September 2022, confidential, para. 1, with Annexes 1-3, confidential.

² KSC-BC-2020-04, F00288, Specialist Prosecutor, *Prosecution response to Defence motion to exclude evidence from the case file*, 30 September 2022, confidential.

³ KSC-BC-2020-04, F00299, Defence, *Defence Reply to Prosecution Response to Defence Motion to Exclude evidence from the Case File*, 7 October 2022, confidential.

⁴ KSC-BC-2020-04, Transcript of Hearing, 20 October 2022, confidential, p. 495, line 4 to p. 495, line 18.

⁵ KSC-BC-2020-04, F00327, Specialist Prosecutor, *Prosecution request for extension of word limit*, 27 October 2022, confidential.

⁶ KSC-BC-2020-04, F00330, Trial Panel I, *Decision on Specialist Prosecutor's request for extension of word limit*, 28 October 2022, confidential.

⁷ KSC-BC-2020-04, F00334, Specialist Prosecutor, *Prosecution motion for admission of Accused's statements*, 1 November 2022, confidential, with Annex 1, confidential.

6. On 9 November 2022, the Defence requested the Panel to grant it a ten-day extension of time to respond to the SPO Request (Defence Request for Extension of Time).⁸

7. On 10 November 2022, the SPO responded that it does not object to the Defence Request for Extension of Time.⁹

II. APPLICABLE LAW

8. 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) and 76 of the Rules of Procedure and Evidence before the Kosovo Specialist Chambers (Rules).

III. DISCUSSION

9. At the outset, the Panel finds that the Defence Request for Extension of Time has been submitted sufficiently in advance of the deadline for response to the SPO Request, namely 14 November 2022.

10. 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 it is facing a number of procedural deadlines for submissions on important matters falling on 11, 14 and 16 November 2022, respectively. The Panel furthermore understands from the Defence that it is also involved in litigation before a Constitutional Court Panel.¹⁰

⁸ KSC-BC-2020-04, F00342, Defence, *Defence Request for an Extension of Time for its Response to the Prosecution Motion for the Admission of Statements*, 9 November 2022, confidential.

⁹ KSC-BC-2020-04, F00343, Specialist Prosecutor, *Prosecution response to Defence request for an extension of time*, 10 November 2022, confidential.

¹⁰ Defence Request for Extension of Time, para. 6.

11. At the same time, the Panel recalls that the next deadline for the review of the Accused's detention is 21 November 2022,¹¹ while the Defence is requesting an extension of time allowing it to file a response to the SPO Request by 24 November 2022.¹² Given that the Defence requests the exclusion of the statements given by the Accused in 2016 and 2019, for *all* purposes, including detention review,¹³ the Panel considers that a resolution of the litigation around the Defence Request is desirable prior to reviewing the Accused's detention.

12. In light of the above, should the Accused wish to waive his right to have his detention reviewed as currently scheduled and to request the postponement of the detention review until such time as the Panel has rendered its decision on the Defence Request (and in any event, no later than 6 December 2022), the Defence shall file a notice of waiver with an annexed signed waiver by the Accused, by no later than **Wednesday, 16 November 2022 (16h00)**. In the alternative, the Panel will proceed to review the detention of the Accused, as per Article 41(10) of the Law, taking into consideration the statements and related documents currently under litigation.

IV. DISPOSITION

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

- a. **GRANTS** the Defence Request for Extension of Time;

¹¹ KSC-BC-2020-04, F00282, Pre-Trial Judge, *Decision on Review of Detention of Pjetër Shala*, 21 September 2022, confidential. See further KSC-BC-2020-04, F00284/A03, Pre-Trial Judge, *Handover Document*, 21 September 2022, strictly confidential and *ex parte*, para. 20.

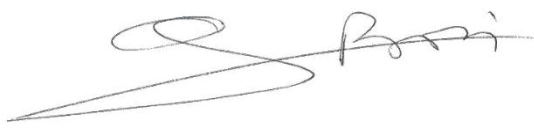
¹² Defence Request for Extension of Time, para. 8.

¹³ See Defence Request, para. 41 and F00341, Defence, *Defence Response to "Prosecution submissions for eighth review of detention"*, 8 November 2022, confidential, para.17.


- b. **ORDERS** the Defence to file its response to the SPO Request by **Thursday, 24 November 2022 (16h00)**, and the SPO to file its reply, if any, by **Tuesday, 29 November 2022 (16h00)**; and
- c. **ORDERS** the Defence, if the Accused wishes to waive his right to have his detention reviewed as currently scheduled and to request the postponement of the detention review until such time as the Panel has rendered its decision on the Defence Request (and in any event, no later than 6 December 2022), to file a notice of waiver with an annexed signed waiver by the Accused himself, by no later than **Wednesday, 16 November 2022 (16h00)**.



Judge Mappie Veldt-Foglia
Presiding Judge



Judge Gilbert Bitti



Judge Roland Dekkers

Dated this Friday, 11 November 2022

At The Hague, the Netherlands.