



KOSOVO SPECIALIST CHAMBERS  
DHOMAT E SPECIALIZUARA TË KOSOVËS  
SPECIJALIZOVANA VEÇA KOSOVA

**In:** KSC-BC-2023-10  
**The Specialist Prosecutor v. Sabit Januzi, Ismet Bahtijari and Haxhi Shala**

**Before:** Pre-Trial Judge  
Judge Nicolas Guillou

**Registrar:** Dr Fidelma Donlon

**Date:** 2 May 2024

**Language:** English

**Classification:** Public

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**Decision on Haxhi Shala Request for Extension of Time**

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**THE PRE-TRIAL JUDGE**,<sup>1</sup> pursuant to Rules 9(5)(a) and 76 of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers (“Rules”) hereby renders this decision.

## I. PROCEDURAL BACKGROUND

1. On 27 March 2024, the Pre-Trial Judge issued the “Decision Setting out the Calendar for the Remaining Procedural Steps of the Pre-Trial Phase” in which, *inter alia*, he ordered: (i) the defence to submit any request related to the disclosure process, including objections pursuant to Rule 95(2)(e) of the Rules, by Friday, 19 April 2024; and (ii) the Specialist Prosecutor’s Office (“SPO”) to complete all its pre-trial disclosure obligations, with the exception of any material requiring judicial authorisation, by no later than 19 April 2024, as well as to submit a detailed overview of the entire disclosure process, by the same date.<sup>2</sup>

2. On 19 April 2024, the SPO submitted its overview of the entire disclosure process<sup>3</sup> and made further disclosures to the Defence, including an audio recording dated 12 April 2023 (“12 April 2023 Audio Recording”), a revised transcript of said recording, as well as other related materials.<sup>4</sup>

3. On the same day, the Defence for Haxhi Shala (“Mr Shala” and “Defence”) filed an application seeking an extension of the time limit set by the Pre-Trial Judge for the Defence to submit requests related to the disclosure process, including objections pursuant to Rule 95(2)(e) of the Rules (“Request”).<sup>5</sup>

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<sup>1</sup> KSC-BC-2023-10, F00001, President, *Decision Assigning a Pre-Trial Judge*, 11 September 2023, public.

<sup>2</sup> KSC-BC-2013-10, F00233, Pre-Trial Judge, *Decision Setting Out the Calendar for the Remaining Procedural Steps of the Pre-Trial Phase*, 27 March 2024, public, paras 23, 25, 30(e), (g).

<sup>3</sup> KSC-BC-2013-10, F00260, Specialist Prosecutor, *Prosecution Detailed Notice of Disclosure Process*, 19 April 2024, public.

<sup>4</sup> KSC-BC-2013-10, Disclosure Package Nos. 26 and 29, 19 April 2024.

<sup>5</sup> KSC-BC-2023-10, F00261, Defence for Mr Shala, *Haxhi Shala Request for an Extension of Time to File its Submission of Requests Related to the Disclosure Process*, 19 April 2024, confidential.

4. On 29 April 2024, the SPO responded to the Request (“Response”).<sup>6</sup>
5. On 2 May 2024, the Defence replied to the Response (“Reply”).<sup>7</sup>

## II. SUBMISSIONS

6. Mr Shala submits that he is unable to comply with the deadline of 19 April 2024 set by the Pre-Trial Judge, in light of the SPO’s further disclosures on the same date.<sup>8</sup> In support, Mr Shala asserts that he intends to object to the admissibility of the 12 April 2023 Audio Recording and its accompanying transcripts, but requires additional time.<sup>9</sup> In this respect, Mr Shala submits that he cannot specify a date by which he will be able to file his objections, as (i) the SPO has not yet disclosed all materials related to the 12 April 2023 Audio Recording identified in its 5 April 2024 submissions, and has not provided a specific date for their disclosure; and (ii) he will need time to consider all of the evidence provided once it is received.<sup>10</sup> Accordingly, Mr Shala requests an extension of time to file his objections to the admissibility of the aforementioned materials, in order to allow him to give proper consideration to all the materials following their disclosure.<sup>11</sup>

7. The SPO responds that, while it does not object to the Request, it wishes to clarify the record regarding several assertions made by the Defence.<sup>12</sup> In particular, the SPO submits that: (i) as indicated at the 22 March 2024 status conference, the 12 April 2023 Audio Recording is not new, but is a version of an original recording disclosed to the Defence, with its corresponding transcript, on 15 December 2023;<sup>13</sup>

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<sup>6</sup> KSC-BC-2023-10, F00271, Specialist Prosecutor, *Prosecution Response to F00261*, 29 April 2024, confidential.

<sup>7</sup> KSC-BC-2023-10, F00275, Defence for Mr Shala, *Reply to Prosecution Response to F00261*, 2 May 2024, confidential.

<sup>8</sup> Request, paras 1, 4.

<sup>9</sup> Request, para. 4.

<sup>10</sup> Request, para. 5.

<sup>11</sup> Request, para. 7.

<sup>12</sup> Response, para. 2.

<sup>13</sup> Response, para. 3.

and (ii) the additional materials identified in the Request were disclosed to the Defence on 19 April 2024 (“Additional Materials”), and only their addition to the exhibit list remains pending.<sup>14</sup> Consequently, the SPO asserts that the Defence should be able to provide a specific and reasonable anticipated date by which to raise any issues or challenges related to the evidence and/or its disclosure.<sup>15</sup>

8. In reply, the Defence acknowledges that the Additional Materials were in fact disclosed by the SPO on 19 March 2024, but given its timing, the Defence was unaware of the disclosure at the time of submitting the Request.<sup>16</sup> Nonetheless, the Defence submits that, considering that (i) there are now three separate versions of the transcript of the 12 April 2023 Audio Recording, seemingly from different sources, which will require close examination; and (ii) the Additional Materials include a report by the Netherlands Forensic Institute (“NFI Report”) that is highly technical in nature, the Defence’s review of the evidence will be time-consuming.<sup>17</sup> Accordingly, the Defence requests an extension of time of 14 days to file its objection to the admissibility of the evidence.<sup>18</sup>

### III. APPLICABLE LAW

9. Pursuant to Rule 9(5)(a) of the Rules, the Panel may, *proprio motu*, or upon showing of good cause extend or reduce any time limit prescribed by the Rules or set by the Panel.

10. Pursuant to Rule 76 of the Rules, applications for extension of time shall be filed sufficiently in advance to enable the Single Judge to rule on the application before the expiry of the relevant time limit.

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<sup>14</sup> Response, paras 4-5.

<sup>15</sup> Response, para. 5.

<sup>16</sup> Reply, para. 7.

<sup>17</sup> Reply, paras 8-9.

<sup>18</sup> Reply, para. 12.

#### IV. DISCUSSION

11. At the outset, the Pre-Trial Judge recalls that, pursuant to Rule 76 of the Rules, applications for extension of time shall be filed sufficiently in advance to enable the Panel to rule on the application before the expiry of the relevant time limit. The Pre-Trial Judge notes that the Request was filed on the day of expiry of the applicable time limit, i.e. on Friday, 19 April 2024. Nevertheless, having regard to the timing of the SPO's disclosures on the same day, the Pre-Trial Judge notes that the Defence could not have submitted its Request further in advance of the expiry of the time limit at issue, and will accordingly consider the Request.

12. As regards the showing of good cause, the Pre-Trial Judge pays heed to the fact that: (i) Mr Shala intends to object to the admissibility of the 12 April 2023 Audio Recording; and (ii) on 19 April 2024, the SPO disclosed further materials related to the 12 April 2023 Audio Recording, including a new version of said recording and its corresponding transcript, as well as an NFI Report.<sup>19</sup> The Pre-Trial Judge further notes that the SPO does not oppose the Request.<sup>20</sup> Accordingly, the Pre-Trial Judge finds that good cause has been shown, warranting the requested extension of time.

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<sup>19</sup> See KSC-BC-2013-10, Disclosure Packages Nos. 26 and 29, 19 April 2024. The Pre-Trial Judge takes note that the SPO has requested authorisation to disclose further materials pursuant to Rule 102(1)(b) of the Rules, for which requests are pending before the Pre-Trial Judge. However, the Pre-Trial Judge notes that these requests do not concern materials related to the 12 April 2023 Audio Recording. See KSC-BC-2023-10, F00242, Specialist Prosecutor, *Prosecution Request for Rule 102(1)(b) Disclosure and to Amend Exhibit List*, 5 April 2024, confidential, paras 4-5; F00254, Specialist Prosecutor, *Prosecution Request for Rule 102(1)(b) Disclosure and to Amend Exhibit List*, 18 April 2024, confidential.

<sup>20</sup> See above, para. 7.

## V. DISPOSITION

13. For the above-mentioned reasons, the Pre-Trial Judge hereby:

- a. **GRANTS** the Request;
- b. **ORDERS** the Defence to submit any request related to the disclosure process, including any objections pursuant to Rule 95(2)(e) of the Rules, by no later than **Monday, 13 May 2024**; and
- c. **INSTRUCTS** the Registrar to reclassify as public filings F00261, F00271 and F00275 (presently classified as confidential).



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**Judge Nicolas Guillou**  
**Pre-Trial Judge**

Dated this Thursday, 2 May 2024  
At The Hague, the Netherlands.