



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEĆA KOSOVA

In: KSC-BC-2020-04

The Specialist 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 July 2024

Language: English

Classification: Public

**Seventh decision on the lifting of redactions or application of new redactions in
trial hearing transcripts and their reclassification**

with Annex 1 confidential

To be notified to:

Specialist Prosecutor

Kimberly P. West

Counsel for the Accused

Jean-Louis Gilissen

Registry

Fidelma Donlon

Victims' Counsel

Simon Laws

TRIAL PANEL I (Panel) hereby renders this seventh decision on the lifting of redactions or application of new redactions in trial hearing transcripts and their reclassification.

I. PROCEDURAL BACKGROUND

1. On 15 May 2023, the Panel ordered the Parties and Victims' Counsel to undertake, on a rolling basis, a revision of the transcripts following the completion of each evidentiary block, and to provide submissions, in a consolidated filing, on whether existing redactions could be lifted and/or transcripts reclassified as public, with a view to respecting the principle of publicity while upholding the protective measure for witnesses and victims.¹

2. On 12 June 2023, the Panel directed the Registry, most notably the Witness Protection and Support Office (WPSO), to liaise with the Parties and Victims' Counsel and add their proposals for the lifting of redactions and/or reclassification of transcripts, if they so wished, to the joint submissions made by the Parties and Victims' Counsel.²

3. On 5 June 2024, the Panel received the "Defence Submissions on the Joint Proposal for the Lifting of Redactions for the Closing Statements with Confidential Annex 1" ("Joint Proposals") with the Defence's proposals and the Specialist Prosecutor's Office's, Victims' Counsel's and Registry's comments and/or disagreements.³

¹ KSC-BC-2020-04, F00510, Trial Panel I, *Second order for submissions on the lifting of redactions and/or reclassification of transcripts of trial hearings*, 15 May 2023, public, paras 5, 8.

² KSC-BC-2020-04, F00541, Trial Panel I, *Decision on the lifting of redactions or application of new redactions in trial hearing transcripts and their reclassification*, 12 June 2023, public, para. 25, with Annex 1, confidential.

³ KSC-BC-2020-04, F00840, Defence, *Defence Submission on the Joint Proposal for the Lifting of Redactions for the Closing Statements*, 5 June 2024, public, with Annex 1, confidential.

II. SUBMISSIONS

4. The Parties, Victims' Counsel and WPSO submit their proposals for the lifting of redactions and/or reclassification of the transcripts of the closing statements, which were held on 15, 16, and 17 April 2024 ("Closing Statements"),⁴ subject to the application of redactions, where necessary, to protect the identity of witnesses and victims and related confidential information.⁵

III. APPLICABLE LAW

5. The Panel notes Articles 21(2), 23, 40(2), (4) and (6)(f) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office (Law) and Rules 80, 84(1) and 120 of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers (Rules).

IV. ANALYSIS

6. The Panel recalls that, pursuant to Article 21(2) of the Law, and subject to any protective measures ordered under Article 23 of the Law for the protection of witnesses and victims, the Accused has the right to a public hearing in the determination of the charges against him. With a view to respecting the principle of publicity while upholding the protective measures in place, the Panel has exercised its duty under Rule 84(1) of the Rules to review the classification of the transcripts of the Closing Statements and, where applicable, hereby orders their reclassification, as set out below. For ease of reference, the Panel lists all

⁴ KSC-BC-2020-04: T. 15 April 2024, public, pp. 4077-4169; T. 16 April 2024, public, pp. 4170-4281; T. 17 April 2024, public, pp. 4282-4374.

⁵ Annex 1 to Joint Proposals, pp. 2-13.

reclassifications and redactions to be applied by the Registry to the relevant transcripts in the annex appended to this decision.

7. The Panel notes that the Parties, Victims' Counsel and WPSO agree that certain excerpts of the transcripts of the Closing Statements that held in private session can be made public, some of them subject to the application of redactions.⁶

8. In this respect, the Panel finds that the proposals made by the Parties, Victims' Counsel and WPSO are consistent with the Panel's approach in protecting witnesses and victims under Article 23 of the Law and that they strike an appropriate balance between the different rights and interests at stake, namely, the principle of publicity under Article 40(4) of the Law, the right of the Accused to a public hearing under Article 21(2) of the Law, and the protection of witnesses and victims under Article 23 of the Law.

9. The Panel grants partially the requests contained in the Joint Proposals to reclassify as public parts of the transcripts of the Closing Statements, subject to the application of the requested redactions and further redactions by the Panel, as set out in the annex to this decision.

10. Conversely, the Panel decides to keep the confidential classification of the following excerpts, on the basis that reclassifying them as public would likely reveal identifying details of the witnesses and other persons at risk, and any redactions applied would not counterbalance this risk or would render the text unintelligible, and therefore meaningless:

- **Transcript of 15 April 2024**
 - Page 4110, line 22 to page 4112, line 19.
- **Transcript of 16 April 2024**
 - Page 4178, lines 3-24;

⁶ Annex 1 to Joint Proposals, pp. 2-13.

- Page 4261, lines 2-14.
- **Transcript of 17 April 2024**
 - Page 4305, lines 17-21;
 - Page 4319, lines 11-23;
 - Page 4372, lines 18-23.

11. In light of the above, the Panel instructs the Registry to reclassify as public parts of the transcripts recording private sessions, in line with the instructions included in the annex to this decision, and subject to the application of redactions contained therein. The abovementioned reclassification of transcripts shall equally apply to the transcripts in Albanian and Serbian languages.

12. Finally, the Panel incorporates by reference its previous instructions to the Registry regarding the implementation of redactions to the audio-video material of the relevant trial hearing transcripts.⁷

V. DISPOSITION

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

- a) **AUTHORISES** in part the reclassification as public of parts of the transcripts of the Closing Statements and the subsequent application of redactions therein, in accordance with paragraphs 9-10 of this decision;
- b) **INSTRUCTS** the Registry to reclassify as public parts of the transcripts of the Closing Statements, in all languages, subject to the authorised redactions, as set out in the annex to this decision;

⁷ KSC-BC-2020-04, F00579, Trial Panel I, *Second decision on the lifting of redactions or application of new redactions in trial hearing transcripts and their reclassification*, 11 July 2023, public, paras 24-25, with Annex 1, confidential.

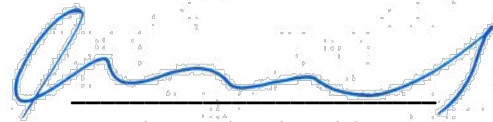
- c) **INSTRUCTS** the Registry to implement, as technically possible, the redactions in the corresponding audio-video material of the relevant transcripts of the Closing Statements, in all languages; and
- d) **INSTRUCTS** the Registry's Court Management Unit to liaise with the Panel should any issues arise in the implementation of this decision.



Judge Mappie Veldt-Foglia
Presiding Judge



Judge Gilbert Bitti



Judge Roland Dekkers

Dated this Thursday, 11 July 2024

At The Hague, the Netherlands.