

In: KSC-CA-2024-03
The Specialist Prosecutor v. Pjetër Shala

Before: A Panel of the Court of Appeals Chamber
Judge Michèle Picard
Judge Kai Ambos
Judge Nina Jørgensen

Registrar: Fidelma Donlon

Date: 29 October 2024

Filing Party: Counsel for Pjetër Shala

Original language: English

Classification: Public

**Defence Reply to ‘Prosecution Response to Defence Motion for Variation of
Time and Word Limits to File Appeal Brief’**

Specialist Prosecutor’s Office

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Specialist Defence Counsel

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1. Pursuant to the Appeals Panel's Order dated 25 October 2024 and Rule 9(5)(a) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers,¹ the Defence for Mr Pjetër Shala ("Defence") hereby replies to the Prosecution response to the Defence Motion for Variation of Time and Word Limits to File Appeal Brief'.²

I. SUBMISSIONS IN REPLY

2. In reply, the Defence reiterates that good cause exists for its variation requests.
3. The Prosecution submitted that the Defence had previously received two extensions of time for the preparation of its appellate filings.³ These extensions, however, as the Prosecution acknowledges, were specifically provided for filing the Defence original and revised notice of appeal.⁴ The additional days granted were fully used to prepare the original and revised Notice of Appeal,⁵ as well as to apply redactions and revised redactions on the instructions by the Trial Panel to core trial filings.⁶ These extensions were not granted nor used for the benefit of the appeal brief.
4. Second, it is the right of an accused to be provided an official written translation of the judgment to ensure that he can exercise his right of defence and to

¹ Email from CMU Filings to the Parties and Victims' Counsel, 25 October 2024, 16:17.

² KSC-CA-2024-03, F00019, Prosecution response to 'Defence Motion for Variation of Time and Word Limits to File Appeal Brief', 25 October 2024 ("Prosecution Response"); KSC-CA-2024-03, F00018, Defence Motion for Variation of Time and Word Limits to File Appeal Brief, 14 October 2024 ("Motion"). All further references to filings in this Reply concern Case No. KSC-CA-2024-03 unless otherwise indicated.

³ Prosecution Response, para. 2.

⁴ Prosecution Response, para. 2, *referring to* F00006, Decision on Defence Motion for Variation of Time Limit to File Notice of Appeal, 24 July 2024, para. 10; F00015, Decision on SPO Request for Order to Shala to Refile the Notice of Appeal, 18 September 2024 (confidential), para. 16.

⁵ F00010, Defence Notice of Appeal, 2 September 2024 (confidential); F00017, Revised Defence Notice of Appeal, 30 September 2024 (confidential).

⁶ Motion, para. 16.

safeguard the fairness of the proceedings.⁷ Mr Shala has the right to receive the Trial Judgment in a language he understands. This will be served in the last week of October 2024,⁸ along with a record showing any differences between various translation versions prepared by the Registry.⁹ This is particularly important given a history of the lack of accuracy in translations and numerous changes between unrevised and final versions of translations.¹⁰ Mr Shala is not able and, therefore, does not want to give instructions or allow counsel to present on his behalf an appeal brief before he can study the official translated version of the trial judgment. Adequate time should be guaranteed for Mr Shala to read and understand the official trial judgment in a language he understands and confer with counsel as to the presentation of the appeal brief.

5. The Defence has explained in its notice of appeal (both the original and revised version) the nature of the complex issues raised in this appeal. The complexity of this case is not related to the number or time span of the indicted incidents and crimes.¹¹ The Prosecution's ill-advised submissions proceed on the assumption that the number of indicted crimes or incidents determines the complexity of criminal proceedings. This is arbitrary and simply untrue.
6. While the Reparations Order has not been issued to date, the Prosecution cannot argue that its issuance is speculative. The order is expected to be issued within the same time period in which the Defence needs to present its appeal brief (judging from previous cases already dealt with by the Trial Panel currently seized of the reparation proceedings) and proper organization

⁷ EU Directive 2010/64/EU dated 20 October 2010 concerning the right to interpretation and translation in criminal proceedings and proceedings for the execution of a European arrest warrant.

⁸ T. 20 September 2024 p. 6.

⁹ KSC-BC-2020-04, F00847, Trial Judgment and Sentence, 16 July 2024 (confidential); T. 20 September 2024 p. 10.

¹⁰ T. 20 September 2024, p. 8, lines 8-18.

¹¹ Motion, paras 19, 20.

requires factoring in the amount of time needed to deal with the reparation order and other anticipated work as well as the appeal brief.

7. Finally, the Defence reiterates that here we are dealing with a request by the Defence for respect and protection of the fundamental right of Mr Shala to be provided with sufficient time and means to present his case and the interests of justice. The Prosecution's objection to granting the Defence an entirely reasonable extension of the applicable time and word limits is based on a mere interest to deal with this case summarily without allowing sufficient and proper time to Mr Shala to prepare or a sufficient opportunity to properly present his defence (which is not possible within the limited amount of words allowed by the KSC *guidance* on filings). The Prosecution's position has remained consistent throughout these proceedings in allowing as little time possible for the Defence preparation of its case and ability to be trial ready. There should be firm limits placed by a court where one party is claiming protection of a fundamental right and its opponent unreasonably contests reasonable requests on mere grounds of expediency. It should also be recalled that the alleged crimes took place twenty-five years ago. In these circumstances, it is not unreasonable for Mr Shala to request one additional month to prepare his appeal.

II. CLASSIFICATION

8. Pursuant to Rules 82(3) of the Rules, the Reply is filed as public as it does not contain any confidential information.

III. RELIEF REQUESTED

9. The Defence respectfully requests the Appeals Panel to extend the deadline for filing the Defence appeal brief to 16 December 2024 and grant an extension of the word limit of 15,000 words for the appeal brief.

Word count: 966

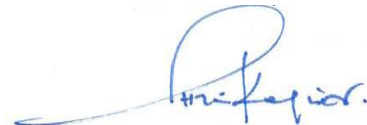
Respectfully submitted,



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Tuesday, 29 October 2024

The Hague, the Netherlands