



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: 22 November 2024

Language: English

Classification: **Public**

**Decision on the Defence request for Pjetër Shala to be excused from or
postpone the pronouncement of the Reparation Order**

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 Decision on the Defence request for Pjetër Shala (Mr Shala) to be excused from or postpone the pronouncement of the Reparation Order.

I. PROCEDURAL BACKGROUND

1. On 16 July 2024, the Panel issued the Trial Judgment in the present case.¹
2. On 8 November 2024, the Panel scheduled the pronouncement of the Reparation Order for 29 November 2024, at 11:00, in public session (Scheduling Order). The Panel ordered Mr Shala to be physically present in the courtroom during the hearing.²
3. On 15 November 2024, the Defence for Mr Shala (Defence) filed its request to excuse Mr Shala from attending or, in the alternative, postpone the hearing (Defence Request).³
4. On 19 November 2024, Victims' Counsel filed his response (VC Response).⁴

¹ KSC-BC-2020-04, F00847, Trial Panel I, *Trial Judgment and Sentence* (Trial Judgment), 16 July 2024, confidential, with Annex 1, public. A public redacted version of the Trial Judgment was filed on 24 September 2024, [F00847/RED](#).

² KSC-BC-2020-04, F00861, Trial Panel I, *Scheduling order for the pronouncement of the Reparation Order*, 8 November 2024, public, paras 7, 8(a).

³ KSC-BC-2020-04, F00862, Defence, *Defence Request for Mr Shala to be Excused from or Postpone the Pronouncement of the Reparation Order*, 15 November 2024, public. The Defence initially informed the Panel *via* email of this request on 8 November 2024. On 14 November 2024, the Panel instructed the Defence to put its request formally on record and instructed Victims' Counsel to file any response, if he so wishes, by 19 November 2024, *see* CRSPD 179, *Email from Trial Panel to Parties Participants re Defence message on the Pronouncement of Reparations Order*, dated 14 November 2024, at 15:10.

⁴ KSC-BC-2020-04, F00863, Victims' Counsel, *Victims' Counsel's Response to the "Defence Request for Mr Shala to be Excused from or Postpone the Pronouncement of the Reparation Order"*, 18 November 2024, public.

II. APPLICABLE LAW

5. The Panel notes Articles 21(4)(e), 22(3), (7) and (8) and 40(2) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office (Law) and Rule 68 of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers (Rules).

III. SUBMISSIONS

6. The Defence requests the Panel to excuse Mr Shala from attending or, in the alternative, to postpone the pronouncement of the Reparation Order.⁵ The Defence submits that Mr Shala has a confirmed and pre-scheduled visit with individuals travelling from abroad to meet him at the Specialist Chambers Detention Facilities on 29 November 2024.⁶ The Defence further notes the logistical difficulties in rescheduling this visit and highlights that the planned visit on 29 November 2024 is the only personal visit Mr Shala has planned for the foreseeable future.⁷ According to the Defence, the meeting is one of the rare opportunities for Mr Shala to have contact with the outside world, and it is therefore very important for Mr Shala's well-being.⁸

7. Victims' Counsel, having consulted the participating victims, requests the Panel to deny the Defence's request to postpone the pronouncement of the Reparation Order.⁹ Victims' Counsel defers to the Panel's view as to whether Mr Shala's presence is necessary at the hearing, noting that Mr Shala's presence is unimportant to the participating victims.¹⁰

⁵ Defence Request, paras 6, 11.

⁶ Defence Request, paras 7-8.

⁷ Defence Request, para. 8.

⁸ Defence Request, para. 8.

⁹ VC Response, para. 9.

¹⁰ VC Response, para. 8.

IV. ANALYSIS

A. MR SHALA'S PRESENCE IN THE COURTROOM

8. With reference to Rule 68(4)(e) of the Rules, the Panel is of the view that Mr Shala's presence in the courtroom in this particular instance is required by the Law and the Rules, as already stated and for the reasons indicated in its Scheduling Order,¹¹ unless exceptional circumstances would justify his absence. The Panel is not persuaded by Defence Counsel's submissions that Mr Shala's scheduled visits would constitute exceptional circumstances justifying his absence from the hearing. In light of the above, the Panel rejects Mr Shala's request to be allowed to waive his right to attend the hearing on 29 November 2024.

B. POSTPONEMENT OF THE HEARING

9. With regard to the Defence request to postpone the date of the pronouncement of the Reparation Order, the Panel notes that only exceptional circumstances may justify such a postponement. In the present instance, the Panel considers the reparation stage to be an important step in the proceedings, which concerns both Mr Shala as a direct addressee of the Reparation Order and the victims claiming reparations in this case. In this regard, the Panel pays heed to Victims' Counsel's submissions that the participating victims strongly oppose the postponement of the issuance of the Reparation Order.¹² Moreover, the Panel finds that scheduled detention visits *per se* do not amount to an exceptional circumstance for the purposes of postponing such an important hearing. Lastly, considering the anticipated short duration of the hearing on 29 November 2024, the Registry is instructed to facilitate, as much as possible, the organisation of

¹¹ Scheduling Order, paras 4-6.

¹² VC Response, para. 7.

Mr Shala's visits on that day. In light of the above, the Panel also rejects Mr Shala's request to postpone the date of the hearing.

V. DISPOSITION

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


- a) **REJECTS** the Defence Request;
- b) **MAINTAINS** that Mr Shala must be present in the courtroom during the pronouncement of the Reparation Order; and
- c) **INSTRUCTS** the Registry to facilitate, as much as possible, any visits Mr Shala may receive on 29 November 2024.



Judge Mappie Veldt-Foglia
Presiding Judge



Judge Gilbert Bitti



Judge Roland Dekkers

Dated this Friday, 22 November 2024

At The Hague, the Netherlands.