



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: 28 November 2024

Language: English

Classification: **Public**

Public redacted version of
Decision on joint submission of proposed redactions to
the Defence Final Trial Brief and the Defence response to Victims' Counsel's
request for reparations

To be notified to:

Specialist Prosecutor
Kimberly P. West

Counsel for Mr Shala
Jean-Louis Gilissen

Victims' Counsel
Simon Laws

TRIAL PANEL I (Panel) hereby renders this decision on joint submission of proposed redactions to the Defence Final Trial Brief and the Defence response to Victims' Counsel's request for reparations.

I. PROCEDURAL BACKGROUND

1. On 2 October 2024, the Defence for Pjetër Shala (Defence) filed public redacted versions of its Final Trial Brief¹ and its response to Victims' Counsel's request for reparations for victims participating in the proceedings (Response to the Request for Reparations).²

2. On 3 October 2024, following concerns raised by Victims' Counsel regarding the redactions applied by the Defence to the above-mentioned filings,³ the Panel ordered their reclassification as confidential and directed the Defence to liaise with the Specialist Prosecutor's Office (SPO) and Victims' Counsel and to file new public redacted versions.⁴

3. On 4 October 2024, the Defence informed the Panel that there was a "fundamental disagreement" between the Parties and participants as to the extent of the redactions necessary to protect victims and witnesses and to maintain information confidential and requested the Panel to make a judicial determination on the matter.⁵

¹ KSC-BC-2020-04, F00821/RED2, Defence, *Public Redacted Version of Defence Final Trial Brief*, 2 October 2024, confidential, with Annex 1, confidential.

² KSC-BC-2020-04, F00819/RED2, Defence, *Public Redacted Version of Defence Response to Victims' Counsel's Request for Reparations to Address the Physical, Mental, and Material Harm Suffered by Victims Participating in the Proceedings*, 2 October 2024, confidential.

³ KSC-BC-2020-04, CRSPD175, *Email from Victims' Counsel to the Registry's Court Management Unit (CMU)*, 3 October 2024, 16:05, confidential.

⁴ KSC-BC-2020-04, CRSPD175, *Email from the Panel to CMU*, 3 October 2024, 19:11, confidential.

⁵ KSC-BC-2020-04, CRSPD178, *Email from the Defence to CMU*, 4 October 2024, 14:06, confidential.

4. On 7 October 2024, the Panel directed the SPO, the Defence, Victims' Counsel and the Registry's Witness Protection and Support Office (WPSO) to prepare a joint submission, setting out any (additional) redactions to the above-mentioned filings that they deemed necessary and any opposing views (Joint Submission).⁶
5. On 22 October 2024, the Panel received the Joint Submission.⁷

II. APPLICABLE LAW

6. The Panel notes Articles 21(2), 23, and 40(2) and (6)(f) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office and Rules 80 and 82 of the Rules of Procedure and Evidence before the Kosovo Specialist Chambers (Rules).

III. ANALYSIS

7. In making its determination on the Joint Submission, the Panel has considered: (i) the submissions made by the SPO, the Defence, Victims' Counsel and WPSO; (ii) the principle of publicity of the proceedings; (iii) the Panel's duty to ensure the protection, safety and well-being of victims and witnesses; (iv) the individual risk profiles of each victim or witness concerned and their families; (v) the redactions applied throughout these proceedings to filings and transcripts in the case record, in order to ensure consistency and the overall effectiveness of the redactions applied; and (vi) the information already available to the public, which – depending on the circumstances – militates either against the application of redactions or in favour of more extensive redactions, as counterbalance.

⁶ KSC-BC-2020-04, CRSPD176, *Email from Trial Panel I to CMU*, 7 October 2024, 15:28, confidential.

⁷ KSC-BC-2020-04, F00856, *Defence, Joint Submission of the Proposal for Public Redacted Versions of the Defence Final Trial Brief and the Defence Response to Victims' Counsel's Request for Reparations*, 21 October 2024 (notified on 22 October 2024), public, with Annexes 1-2, confidential.

8. The Panel has assessed each redaction proposal on a case by case basis and sets out its justification for granting or rejecting the proposed redactions below. In addition, the Panel orders certain limited redactions *proprio motu*, pursuant to Rule 80 of the Rules. Where the Panel instructs the Defence to redact portions of the text, this extends also to any accompanying references (footnotes).

A. DEFENCE FINAL TRIAL BRIEF

9. The Panel orders the Defence to redact the following portions of its Final Trial Brief, in addition to the redactions it has already applied to the second public redacted version, filed as F00821/RED2:

- a. [REDACTED];
- b. [REDACTED];
- c. [REDACTED];
- d. [REDACTED];
- e. [REDACTED];
- f. [REDACTED];
- g. [REDACTED];
- h. [REDACTED];
- i. [REDACTED];
- j. [REDACTED];
- k. [REDACTED];
- l. [REDACTED];
- m. [REDACTED];

- n. [REDACTED];
- o. [REDACTED];
- p. [REDACTED];
- q. [REDACTED];
- r. [REDACTED];
- s. [REDACTED];
- t. [REDACTED];
- u. [REDACTED];
- v. [REDACTED];
- w. [REDACTED];
- x. [REDACTED]; and
- y. [REDACTED].

10. The Panel authorises the Defence to leave unredacted the following parts of its Final Trial Brief:

- a. para. 179: “[REDACTED]” in the third sentence, as the information is sufficiently generic [REDACTED];
- b. para. 180: “TW4-01” in the third sentence and footnote 400, as this does not [REDACTED] given the redactions ordered by the Panel *proprio motu* above, under paragraph 9(h);
- c. para. 191: “he has a long record which includes convictions for violent offences”, as this information does not lead to the identification of TW4-01

and it is already public at paragraph 105 of the public redacted version of the “Trial Judgment and Sentence” (Judgment);⁸

- d. para. 200: “convictions for aggressive and violent behaviour. In addition, as he admitted before this Panel”, as this information does not lead to the identification of TW4-01 and it is already public at paragraph 105 of the public redacted version of the Judgment; and
- e. para. 284: “EULEX investigators and prosecutions”, as this information cannot [REDACTED], given that the Panel has ordered that paragraphs 285 and 286 be entirely redacted.

B. DEFENCE RESPONSE TO THE REQUEST FOR REPARATIONS

11. The Panel orders the Defence to redact the following portions of its Response to the Request for Reparations, in addition to the redactions it has already applied to the second public redacted version, filed as F00819/RED2:

- a. [REDACTED];
- b. [REDACTED];
- c. [REDACTED];
- d. [REDACTED];
- e. [REDACTED];
- f. [REDACTED]; and
- g. [REDACTED].

⁸ KSC-BC-2020-04, F00847/RED, Trial Panel I, *Public redacted version of Trial Judgment and Sentence*, 29 September 2024, public, with Annex 1, public, para. 105.

12. The Panel authorises the Defence to leave unredacted the following parts of its Response to the Request for Reparations:

- a. para. 25: the paragraph may remain unredacted in its entirety, as the information contained therein is generic and does not lead to V01/04's identification; and
- b. para. 60: "as high as €150,000.80", as this information cannot lead to the identification of the victims concerned.

C. REQUEST FOR THE LIFTING OF REDACTIONS

13. In addition to the proposed (additional) redactions discussed above, the Defence makes further proposals for the lifting of redactions in relation to its Final Trial Brief and its Response to the Request for Reparations.⁹

14. The Panel notes, first, that this request is beyond the scope of the Joint Submission as ordered by the Panel, which ought to focus on any additional redactions deemed necessary.¹⁰ Second, in seeking to lift redactions applied to its Final Trial Brief and Response to the Request for Reparations, the Defence is essentially contesting the redactions applied by the Panel to the Judgment.¹¹ The Panel finds that this is not the proper avenue for the Defence to do so. Further, having carefully

⁹ Joint Submission, para. 1 and Annex 2 to the Joint Submission.

¹⁰ KSC-BC-2020-04, CRSPD176, *Email from Trial Panel I to CMU*, 7 October 2024, 15:28, confidential, instructing "[t]he Parties and Victims' Counsel, together with WPSO [...] to prepare a joint filing [...] on the *additional redactions* to F00819/RED2 and F00821/RED2, as requested by Victims' Counsel [...] and *any other redaction* that Victims' Counsel, SPO and/or WPSO, as the case may be, deem necessary" (emphasis added).

¹¹ KSC-BC-2020-04, F00847/RED, *Trial Panel I, Public redacted version of Trial Judgment and Sentence*, 29 September 2024, public, with Annex 1, public.

weighed the different interests at stake when preparing the public redacted version of the Judgment, the Panel sees no reason to reconsider this matter.

15. Accordingly, the Defence request in this regard is rejected.

D. RECLASSIFICATION

16. [REDACTED].¹²

17. [REDACTED]. Accordingly, the Panel: (i) instructs the Registry to reclassify the public redacted version of the Rule 130 Motion (F00623/RED) as confidential; and (ii) orders the Defence to file a new public redacted version, aligning its redactions with those ordered by the Panel in this decision and applied to the public redacted version of the Judgment.

18. Lastly, the Panel orders the Registry, pursuant to Rule 82(5) of the Rules, to reclassify as public Annex 1 to the Defence Final Trial Brief (F00821/A01), currently classified as confidential.

IV. DISPOSITION

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

- a. **GRANTS** the Joint Submission to the extent specified in this decision;
- b. **REJECTS** the remainder of the Joint Submission;
- c. **ORDERS** the Registry to reclassify the public redacted version of the Rule 130 Motion (F00623/RED) as confidential and Annex 1 to the Defence Final Trial Brief (F00821/A01) as public; and

¹² [REDACTED].

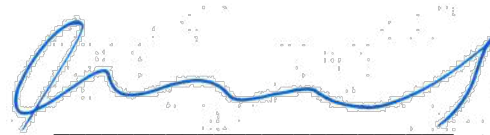
- d. **ORDERS** the Defence to file public redacted versions of its Final Trial Brief (F00821), Response to the Request for Reparations (F00819), and Rule 130 Motion (F00623), as instructed in the present decision, by **Thursday, 19 December 2024.**



Judge Mappie Veldt-Foglia
Presiding Judge



Judge Gilbert Bitti



Judge Roland Dekkers

Dated this Thursday, 28 November 2024

At The Hague, the Netherlands.