



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA KOSOVA

In: **KSC-CA-2024-03**

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

Registrar: Fidelma Donlon

Date: 5 May 2025

Original language: English

Classification: **Public**

Order for the Preparation of the Appeal Hearing

Specialist Prosecutor's Office:

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Counsel for Pjetër Shala:

Jean-Louis Gilissen

Counsel for Victims:

Simon Laws

THE PANEL OF THE COURT OF APPEALS CHAMBER of the Kosovo Specialist Chambers (“Court of Appeals Panel”, “Appeals Panel” or “Panel” and “Specialist Chambers”, respectively),¹ acting pursuant to Article 33(1)(c) of the Law on Specialist Chambers and Specialist Prosecutor’s Office (“Law”) and Rule 172 of the Rules of Procedure and Evidence (“Rules”), hereby issues this Order.

1. On 1 April 2025, the Appeals Panel scheduled a hearing on the appeal of Mr Pjetër Shala (“Shala”) against the Trial Judgment² for Thursday, 15 May 2025 at 13:30 and Friday, 16 May 2025 at 10:00 (“Appeal Hearing”).³

2. The Appeals Panel invites the Parties and Participants, as relevant,⁴ without prejudice to any other matter advanced in their submissions or any other matter that the Appeals Panel may wish to raise, to address, within the scope of their oral submissions and the time allotted for the Appeal Hearing, the following issues with references to the record:

(i) In relation to Ground of Appeal 7:

- Noting the Trial Panel’s findings on the “collective mistreatment” of detainees,⁵ and on the improvement of detention conditions and treatment of detainees at the KMF immediately after the death of the Murder Victim on or about 5 June 1999,⁶ what evidence on the trial record (and in particular, what live evidence), if any, supports or rebuts the allegation that detainees at the KMF were subjected to

¹ F00011, Decision Assigning a Court of Appeals Panel, 3 September 2024 (confidential, reclassified as public on 4 September 2024).

² KSC-BC-2020-04, F00847/RED, Public redacted version of Trial Judgment and Sentence, 24 September 2024 (confidential version filed on 16 July 2024) (“Trial Judgment”).

³ F00054, Order Scheduling an Appeal Hearing, 1 April 2025.

⁴ See F00005, Decision on Modalities of Victims’ Participation in Appellate Proceedings, 24 July 2024.

⁵ See e.g. Trial Judgment, paras 640-653.

⁶ See e.g. Trial Judgment, paras 637-638.

i) collective/systematic mistreatment and/or ii) inhumane and degrading detention conditions, after the death of the Murder Victim?

- The Defence challenges Shala's conviction for torture in respect of four specific individuals.⁷ What live evidence on the trial record supports or rebuts the allegation that these four individuals were i) detained at the KMF; ii) prior to the death of the Murder Victim, on or about 5 June 1999?

(ii) In relation to Ground of Appeal 12:

- Could the Defence, in relation to paragraphs 208-209 and 212 of the Appeal Brief, elaborate on why the Trial Panel's reliance on any of the sources of law referred to in paragraphs 942-943 of the Trial Judgment to interpret the second and third basic procedural safeguards ((ii) to bring the person deprived of liberty promptly before a judge or other competent authority; and (iii) to provide the person deprived of liberty with an opportunity to challenge the lawfulness of their detention) amounts to an error of law? The Appeals Panel invites the SPO to respond.
- Noting the Trial Panel's conclusion that the detainees held at the KMF "were arrested and detained on vague allegations of being 'collaborators', 'spies', or 'traitors', or of not being sufficiently supportive of the KLA effort",⁸ could the Parties: (i) elaborate on the evidence that was relied upon by the Trial Panel to conclude that the KMF detainees "were not held at the KMF pursuant to any criminal

⁷ F00029/COR/RED2, Public Redacted Version of Corrected Version of Defence Appeal Brief, 13 January 2025 (corrected confidential version filed on 26 November 2024, uncorrected confidential version filed on 25 November 2024) ("Appeal Brief"), paras 133-136.

⁸ Trial Judgment, para. 947.

charges and no security concerns made it absolutely necessary for any of them to be detained”;⁹ and (ii) provide their views on whether, in the circumstances of this case, the evidence was sufficient to enable this conclusion to the relevant standard?

(iii) In relation to Ground of Appeal 13:

- Could the Parties explain the *mens rea* standard necessary for the crime of murder and how this is affected by the mode of liability employed, especially committing as part of a joint criminal enterprise in its basic form (JCE I)?
- Could the SPO elaborate on the evidence that was relied upon by the Trial Panel to conclude that Shala had direct intent to commit the crime of murder as part of a JCE I?

(iv) In relation to Ground of Appeal 14, could the Parties and Participants present their views on whether the *Mustafa* Constitutional Court Judgment issued on 17 April 2025¹⁰ impacts the Trial Panel’s findings on sentencing?

3. The Appeals Panel emphasises that oral submissions should be supported by references to the Trial Panel’s findings and evidence on the record, where relevant, as well as any relevant jurisprudence.

4. The Panel reminds the Parties and Participants that they are expected to focus their oral arguments on the grounds of appeal raised in their briefs and that the Appeal Hearing is not an occasion for presenting new arguments on the merits of the case.

⁹ Trial Judgment, para. 947.

¹⁰ KSC-CC-2024-27, F00011, Judgment on the Referral of Salih Mustafa Concerning Fundamental Rights Guaranteed by Articles 31 and 33 of the Kosovo Constitution and Articles 6 and 7 of the European Convention on Human Rights, 17 April 2025.

5. The Panel further stresses that the present order in no way expresses the Appeals Panel's views on the merits of the appeal in the current case, and does not prevent the Panel from raising further questions prior to or during the Appeal Hearing.

6. For these reasons, the Court of Appeals Panel:

INVITES the Defence, SPO and Victims' Counsel, when relevant, to address during the Appeal Hearing the issues identified in paragraph 2 above.



**Judge Michèle Picard,
Presiding Judge**

Dated this Monday, 5 May 2025

At The Hague, the Netherlands