



In: KSC-CA-2024-03
Name: The Specialist Prosecutor v. Pjetër Shala
Before: A Panel of the Court of Appeals Chamber
Judge Michèle Picard, Presiding
Judge Kai Ambos
Judge Nina Jørgensen
Registrar: Dr. Fidelma Donlon
Date: 16 May 2025
Classification: PUBLIC REDACTED

[IN COURT REDACTION ORDER]

The Presiding Judge of a Panel of the Court of Appeals Chamber FINDS that the following blacked-out text contains confidential information and ORDERS this information shall be removed/ edited from the PUBLIC broadcast/streaming, audio visual recording and transcripts in all three languages *Albanian/ English/ Serbian*. Hearing of 16 May 2025, transcript reference Page 8 Line 25 to Page 9 Line 1, (time code from 10:18:11 and 10:18:18).

8:24	did not know that the murder victim was in critical condition at the	10:18:08
25	critical time. This detainee, having been shot [REDACTED]	10:18:11
9:1	[REDACTED] and thereafter beaten subsequently died from his	10:18:18
2	injuries. The Panel described the agony as an aggravating factor.	10:18:23
3	Without in any way suggesting that Mustafa's conduct was less	10:18:30
4	culpable or cruel, it is important to recall what Mr. Shala did to	10:18:35
5	the murder victim and the other victims in this case when given the	10:18:39
6	opportunity. The 15-year sentence of Mustafa, complained of by	10:18:44
7	counsel for Mr. Shala, have a result of the Supreme Court Chamber's	10:18:53
8	legality decision, which the Constitutional Court Chamber has now	10:18:58
9	determined was based on an erroneous interpretation of law. It is,	10:19:01
10	therefore, not a useful or safe source of comparison.	10:19:07
11	Part of the predicate for the Appeals Panel's reduction of	10:19:09
12	Mustafa's sentence was the identification of a sentencing range by	10:19:19
13	the Supreme Court Chamber, which was itself erroneous. The legal	10:19:23
14	basis for the Supreme Court Chamber's legality decision and the	10:19:30
15	subsequent re-sentencing decision thus contained legal errors which	10:19:35
16	should not be replicated nor impact the correct analysis of the Shala	10:19:41
17	Trial Panel.	10:19:46


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28:14	Now, the application of this principle. Evidence of witnesses	11:00:01
15	such as Trial [REDACTED], who testified, for instance, that all the	11:00:14
16	detainees in Room 1 - all of them - were beaten and provide	11:00:20
17	corroboration to evidence of Rule 153 and Rule 155 witnesses who	11:00:30
18	testified about similar episodes happened within the same location or	11:00:35
19	in the room next to Room 1 within the same timeframe. Now, these	11:00:41
20	circumstances, reliance on their written evidence would be, in our	11:00:48
21	view, entirely legitimate.	11:00:52
22	I will add that the possibility for the Defence to cross-examine	11:00:53
23	witnesses such as trial [REDACTED] and [REDACTED] were detained	11:01:04
24	at the same time of witnesses whose evidence were introduced in	11:01:14
25	writing and were detained by the same perpetrators within the same	11:01:17
29:1	location that also amounts to a counterbalancing factor. That	11:01:20
2	amounts to something that the Panel should take into account in	11:01:35
3	assessing whether reliance on written evidence was appropriate.	11:01:35

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40:14	At page 25 of yesterday's transcript, Defence counsel told Your	11:29:02
15	Honours that [REDACTED]	11:29:12
16	[REDACTED]	11:29:24
17	Again, that's not the whole picture. [REDACTED],	11:29:36
18	but it was in the place where he was first detained. That was his	11:29:41
19	evidence. That's a place called Rromanat. See paragraph 448 of the	11:29:45
20	trial judgment.	11:29:50
21	All the Defence can really say is that Trial Witness 6 thought	11:29:50
22	it was Kukes. And in the context of the many different humiliations	11:29:57
23	and assaults that 4733 endured and then related to his family, this	11:30:04
24	is a minor discrepancy. The fact that a family member may have	11:30:09
25	misheard or misremembered the location of that mistreatment is no	11:30:25
41:1	justification for asserting that 4733 was not credible.	11:30:25
2	And the same observation applies to the other criticisms of the	11:30:30
3	evidence from the family. Again, can I just emphasize one point from	11:30:33
4	our response at paragraph 64. At the trial, the Defence placed	11:30:39

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52:19	the same witness, Prosecution Witness 1. In fact, Your Honours,	12:23:57
20	[REDACTED]	12:24:12
21	[REDACTED] and he simply	12:24:12
22	denied. That's to be found at transcript page 1908.	12:24:14
23	And finishing with the fourth individual, the cherry on the	12:24:22
24	cake. The Prosecution tried to qualify Prosecution Witness's 11 live	12:24:27
25	testimony that he was detained together with [REDACTED] as evidence	12:24:53
53:1	of support for this allegation for this individual. Yet, during this	12:24:53
2	testimony of this Witness 11, this witness identified another person,	12:24:53
3	Witness 4733, as [REDACTED] when he was shown a picture. That's	12:24:56
4	to be found at transcript pages 1307 to 1309 and at page 1328.	12:25:02
5	This is telling, Your Honours, on the level of approximation and	12:25:10
6	stretching we are in as well as the danger of untested evidence	12:25:16
7	without confrontation in court. The Trial Panel themselves stated in	12:25:21
8	paragraph 426 that, and I quote:	12:25:27
9	"The fact that Prosecution Witness 11 erroneously believed that	12:25:31
10	Witness 4733 was [REDACTED] is based on what he heard from others	12:25:38
11	and could also be explained by the fact that several of the detainees	12:25:53
12	held at the KMF were [REDACTED] and that	12:25:53
13	he, therefore, mixed them up."	12:25:55
14	The Prosecution tried hard yesterday to fill in the blanks and	12:25:58
15	stitch different fabrics falling short of testifying themselves.	12:26:03
16	But, Your Honours, the fact is that those allegations and the	12:26:10
17	conviction of Mr. Shala for completed crimes on those four	12:26:13

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67:17	know who am I talking about. But they have been people involved in	12:56:27
18	[REDACTED]	12:56:32
19	and to other sources as well.	12:56:37
20	Now, [REDACTED] has already been squashed. But how	12:56:43
21	is it possible for the Prosecution office to rely on those two people	12:56:48
22	when everybody knows that those people have been included in criminal	12:56:52
23	activity? I'm not asking for mercy, dear Judges, but I'm asking for	12:56:57
24	justice. I deserve justice. I have no relation, no connection	12:57:04
25	whatsoever with the murder. I have not been aware of anything up	12:57:08
68:1	until 2015, up until I've been telephoned.	12:57:14
2	I mean, how is it possible for me to have an intention of	12:57:18
3	killing the person when I had no information whatsoever about him?	12:57:21
4	And the Victims' Counsel was saying before that I've been -- I	12:57:25



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68:4	And the Victims' Counsel was saying before that I've been -- I	12:57:25
5	mean, he was referring to [REDACTED] as well.	12:57:31
6	I mean, [REDACTED]	12:57:36
7	[REDACTED]	12:57:43
8	[REDACTED], but I can tell you that I had no	12:57:46
9	knowledge whatsoever what was happening, and I'm not aware of what	12:57:50
10	has happened to this person, but the person that is allegedly been	12:57:56
11	involved into doing whatever happened to the person, what has	12:58:01
12	happened is that the [REDACTED]	12:58:06
13	[REDACTED]	12:58:15
14	[REDACTED]	12:58:19
15	So I just understood that [REDACTED] I had no	12:58:19
16	idea whatsoever what had happened to this person because otherwise I	12:58:24
17	[REDACTED] So you	12:58:27
18	can consider the reliability of these persons. You see [REDACTED]	12:58:33
19	[REDACTED] and you can also see on	12:58:39
20	whether this person is seen as reliable in the past.	12:58:43
21	I can tell you I am not guilty for what you accuse me of. I	12:58:46
22	don't pretend that I am an angel, but I have no relation whatsoever	12:58:51
23	to the charges that you are putting on to me and for the sentences	12:58:57
24	that you have taken against me.	12:59:00

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