

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: Dr Fidelma Donlon

Filing Participant: Specialist Counsel for Hashim Thaçi
Specialist Counsel for Kadri Veseli
Specialist Counsel for Rexhep Selimi
Specialist Counsel for Jakup Krasniqi

Date: 22 July 2025

Language: English

Classification: Public

**Urgent Thaçi, Veseli, Selimi and Krasniqi Defence Request to Access
Confidential Material in Case KSC-CA-2024-03**

Specialist Prosecutor's Office

Kimberly P. West

Counsel for Victims

(Case No. KSC-BC-2020-06 & KSC-CA-2024-03)

Simon Laws

Counsel for Accused

(Case No. KSC-CA-2024-03)

Jean-Louis Gilissen

Counsel for Hashim Thaçi

Luka Misić

Counsel for Kadri Veseli

Rodney Dixon KC

Counsel for Rexhep Selimi

Geoffrey Roberts

Counsel for Jakup Krasniqi

Venkateswari Alagendra

I. INTRODUCTION

1. The Defence for Messrs. Hashim Thaçi, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi (“Defence”) hereby requests, pursuant to Rule 81, Rule 82(1) and (5) of the Rules of Evidence and Procedure and Article 70 of the Registry Practice Direction Files and Filings before the KSC, to access and use, on a confidential basis, the Appeal Judgment delivered on 14 July 2025 in Case KSC-CA-2024-03 Prosecutor v. *Pjetër Shala*.
2. On 21 July 2025, Trial Panel II directed the Defence to file “its Request for the Parties, participants and the Panel to be granted access to the confidential version of the Appeal Judgment in case KSC-CA-2024-03 before the Court of Appeals Panel.”¹
3. The requested material is specifically identified, there is a legitimate forensic purpose for the request, access to the requested material is necessary for the Defence and would facilitate fair and expeditious proceedings in *Thaçi et al.*
4. This request should have no impact on applicable protective measures which shall continue to have effect in *Thaçi et al.* Any reference to or use of confidential portions of the filings would occur on a confidential basis.

II. SUBMISSIONS

5. International Tribunals have held that a party is entitled to seek material from any source, including another case before the Tribunal, to assist in the preparation of its case.² The material sought should be specifically identified and the applicant seeking access to confidential material must demonstrate a legitimate forensic purpose.³ In this regard, consideration should be given to the relevance of the material

¹ KSC-BC-2020-06/RAC006-F00002, Trial Panel II, *Decision on Urgent Joint Defence Request to Access Confidential Material*, 21 July 2025, Public, para. 4.

² See, e.g. *Theoneste Bagosora et al. v. The Prosecutor*, Case No. ICTR.98-41-A, Decision on Augustin Ndirabatware Motion for Disclosure of Confidential Material Relating to Witness DAK, 23 July 2010, paras. 10-11; *Prosecutor v. Kvočka et al.*, Case No. IT-98-30/1-A, Decision on Momcilo Gruban’s Motion for Access to Material, 13 January 2003, para. 3, *see also* footnote 2.

³ KSC-BC-2020-06/F02276, Trial Panel II, *Decision on Prosecution Request Concerning Access to Confidential Versions of Judgments from Case KSC-BC-2020-05*, 30 April 2024, Public, para 8. *See also* e.g. ICTY, Prosecutor

sought which may be demonstrated by showing the existence of a nexus between the applicant's case and the case from which such material is sought and that this material is likely to assist his case materially or that there is at least a good chance that it would.⁴ The Trial Panel assessed the request in light of "the Defence's right to receive all material and relevant evidence or facts, pursuant to Article 21(6), and the need to ensure the protection of victims and witnesses, pursuant to Article 23" and held that the Panel had discretion to grant access to parts of the record of a closed or completed case.⁵

6. The overlap between Case 06 and Cases 04 and 05 is obvious and was already acknowledged by Trial Panel II.⁶ The crimes for which Mr. Shala was charged are identical to the temporal and geographical scope as those with which the Accused are charged. Also, the Accused have been charged under the Joint Criminal Enterprise ("JCE") mode of liability within the temporal period of March 1998 through September 1999 and within the context of the same alleged armed conflict between the KLA and FRY forces. The Defence and SPO previously requested for the *Thaçi et al.* Panel, Parties and Victims' Counsel to access and use confidential filings from Case 04 and Case 05 and the requests were granted.⁷

v. Limaj, IT-03-66-T, Decision on Motion of Assigned Counsel in Milosevic for Variance of Protective Measures pursuant to Rule 75, 14 April 2005, p. 2; *Prosecutor v. Lukic*, IT98-32/1-T, Decision on Motion by Radovan Karadzic for Access to Confidential Materials in the Lukic and Lukic Case, 10 July 2009, para. 9; ICTR, *The Prosecutor v. Edouard Karemera et al.*, Appeals Chamber, Decision on Jacques Mungwarere's Motion for Access to Confidential Material, 31 May 2012, para. 17.

⁴ ICTR, *The Prosecutor v. Edouard Karemera et al.*, Appeals Chamber, Decision on Jacques Mungwarere's Motion for Access to Confidential Material, 31 May 2012, para. 17. *See also*, *Tharcisse Muvunyi v. The Prosecutor*, Case No. ICTR-2000-55A-A, Decision on Ildephonse Nizeyimana's Request for Access to Closed Session Transcripts, 31 March 2011, para. 3; *Theoneste Bagosora et al. v. The Prosecutor*, Case No. ICTR.98-41-A, Decision on Augustin Ndirabatware Motion for Disclosure of Confidential Material Relating to Witness DAK, 23 July 2010, paras. 10-11. *See also* *Prosecutor v. Kvočka et al.*, Case No. IT-98-30/1-A, Decision on Momcilo Gruban's Motion for Access to Material, 13 January 2003, paras 3-4 and footnote 2.

⁵ KSC-BC-2020-06/F02276, Trial Panel II, *Decision on Prosecution Request Concerning Access to Confidential Versions of Judgments from Case KSC-BC-2020-05*, 30 April 2024, Public, para 7. *See also* footnote 12.

⁶ English transcript of 23 April 2025, p. 26137, lines. 7-16; KSC-BC-2020-06/F02276, Trial Panel II, *Decision on Prosecution Request Concerning Access to Confidential Versions of Judgments from Case KSC-BC-2020-05*, 30 April 2024, Public, para. 10; RAC004-F00004, Trial Panel II, *Decision on Urgent Joint Defence Request to Access Confidential Material*, 3 June 2025, confidential, para. 16.

⁷ KSC-BC-2020-06/F02276, Trial Panel II, *Decision on Prosecution Request Concerning Access to Confidential Versions of Judgments from Case KSC-BC-2020-05*, 30 April 2024, Public; English transcript of 23 April 2025,

7. Access to the confidential Appeal Judgment in the *Shala* case is necessary for the Defence, particularly for the preparation of the final trial brief. As highlighted by Victims' Counsel, some matters relevant for the proceedings in *Thaçi et al.* have been resolved by the Appeal Judgment in *Prosecutor v. Pjetër Shala*.⁸ The Defence already has access to the confidential *Trial Judgment and Sentence*.⁹ Therefore, there is no legitimate reason which prevents access to the confidential version of the Appeal Judgment.

8. The Defence submits that the requested material is sufficiently identified as it only relates to one filing, has a legitimate forensic purpose considering the factual nexus between the cases and that the requested material will assist the Defence materially.

III. CONCLUSION

9. In light of the foregoing, the Defence requests access and use, on a confidential basis, the confidential Appeal Judgment from *Prosecutor v. Pjetër Shala* delivered on 14 July 2025.

10. Victims' Counsel shared its "intention to submit some adjudicated facts for admission", after the Appeal Judgment in the *Shala* case.¹⁰ Considering that this is due to be filed on Thursday 24 July 2025, the Defence respectfully requests for this motion be adjudicated urgently.

Word Count: 1145 words

Tuesday, 22 July 2025,
The Hague, The Netherlands

confidential, p. 26135, line 23-p. 26138, line 13; RAC004-F00004, Trial Panel II, *Decision on Urgent Joint Defence Request to Access Confidential Material*, 3 June 2025, confidential, para. 16.

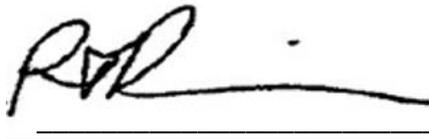
⁸ English transcript real time from 16 July 2025, public, p. 8, lines 6-10.

⁹ KSC-BC-2020-04/F00847, Trial Panel I, *Trial Judgment and Sentence*, 16 July 2024, confidential.

¹⁰ English transcript real time from 17 July 2025, public, p. 55, lines 5-14.



Luka Misetic
Counsel for Hashim Thaçi



Rodney Dixon KC
Counsel for Kadri Veseli



Kerrie Ann Rowan
Co-Counsel for Kadri Veseli



Annie O'Reilly
Co-Counsel for Kadri Veseli



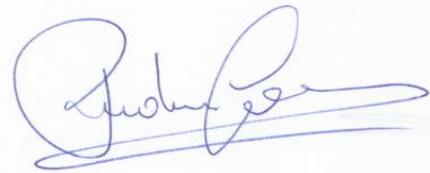
Geoffrey Roberts
Lead Counsel for Rexhep Selimi



Eric Tully
Co-counsel for Rexhep Selimi



Chad Mair
Co-counsel for Rexhep Selimi



Rudina Jasini
Co-counsel for Rexhep Selimi



Venkateswari Alagendra
Lead Counsel for Jakup Krasniqi



Shyamala Alagendra Khan
Co-Counsel for Jakup Krasniqi



Aidan Ellis
Co-Counsel for Jakup Krasniqi



Victor Băieșu
Co-Counsel for Jakup Krasniqi