

In: KSC-BC-2020-06
The Specialist Prosecutor v. Hashim Thaçi, Kadri Veseli,
Rexhep Selimi, and Jakup Krasniqi

Before: Trial Panel II
Judge Charles L. Smith, III, Presiding Judge
Judge Christoph Barthe
Judge Guénaél Mettraux
Judge Fergal Gaynor, Reserve Judge

Registrar: Dr Fidelma Donlon

Filing Participant: Victims' Counsel

Date: 23 July 2025

Language: English

Classification: Public

**Public Redacted Version of Victims' Counsel's motion for judicial notice of
adjudicated facts with confidential annex 1**

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I. INTRODUCTION

1. Pursuant to the Trial Panel's instruction of 17 July 2025,¹ Article 21(4)(d) of the Law, and Rules 114(4) and (5) and Rule 157 of the Rules, Victims' Counsel hereby requests the Trial Panel ('Panel') to take judicial notice of facts relevant to this case which have been adjudicated in the Trial Judgment in the case of *The Specialist Prosecutor v Pjetër Shala*² ("Proposed Facts").

II. CLASSIFICATION

2. This submission is classified as confidential as it contains information that could identify victims participating in this case who have been granted anonymity. A public redacted version is filed simultaneously. The Annex contains information that could identify individuals who have been granted anonymity and should remain confidential.

III. PROCEDURAL HISTORY

3. On 25 May 2022, the Pre-trial Judge issued the Third Decision on Victims' Participation.³ On 15 February 2023, the Trial Panel issued the Fifth Decision on Victims' Participation.⁴
4. On 23 April 2025, the Trial Panel ordered Victims' Counsel to submit "the roadmap to the Victims' case as well as any motions under Rule 153 to 155, bar table motions and any other related filings pursuant to the Rules and the Panel's Order on Conduct of Proceedings" by 28 May 2025.⁵
5. On 28 May 2025, Victims' Counsel filed his Submissions on the Presentation of the Victims' Case.⁶ At paragraphs 9 and 10, Victims' Counsel gave notice that if

¹ KSC-BC-2020-06, T. 17 July 2025, 26370:11-23.

² KSC-BC-2020-04/F00847, Trial Judgment and Sentence, 16 July 2024 ("*Shala* Trial Judgment").

³ KSC-BC-2020-06/F00817, Third Decision on Victims' Participation, 25 May 2022.

⁴ F01293, Fifth Decision on Victims' Participation, 15 February 2023.

⁵ KSC-BC-2020-06, T., 23 April 2025, 26177:1-26177:21.

⁶ F03205, Victims' Counsel's Submissions on the Presentation of the Victims' Case, 28 May 2025.

the convictions in the *Shala* case were upheld, a motion seeking judicial notice of adjudicated facts would be filed.

6. On 14 July 2025, the Court of Appeals Panel granted Shala's appeal of the Trial Judgment in part in relation to three counts, dismissing it in all other aspects.⁷
7. On 17 July 2025, the Trial Panel granted Victims' Counsel until 24 July 2025 to file this motion.⁸

IV. APPLICABLE LAW

8. Rule 157(2) provides:

Upon request by a Party or *proprio motu*, after hearing the Parties and, where applicable, Victims' Counsel, the Panel may, in the interests of a fair and expeditious trial, take judicial notice of adjudicated facts from other proceedings of the Specialist Chambers or from final proceedings before other Kosovo courts or from other jurisdictions relating to matters at issue in the current proceedings, to the extent that they do not relate to the acts and conduct of the Accused as charged in the indictment.

V. SUBMISSIONS

9. Victims' Counsel seeks the admission of twelve adjudicated facts, as set out in Annex 1, from the *Shala* Trial Judgment.
10. The requirements for the admission of these adjudicated facts, as set out below, are all met.
11. Specifically, the Proposed Facts relate to a matter in issue in the proceedings, namely the harm caused to victims participating in the proceedings ("VPPs"), and do not relate to the acts and conduct of the Accused as charged in the Indictment.
12. Moreover, and applying the criteria set out in the Panel's first decision in relation to adjudicated facts:⁹

⁷, KSC-CA-2024-03/F00069, Appeal Judgment, 14 July 2025, para. 938 ("*Shala* Appeal Judgment").

⁸ KSC-BC-2020-06, T. 17 July 2025, 26370:11-23.

⁹ F01534, Decision on Prosecution Motion for Judicial Notice of Adjudicated Facts with Annex 1 (Confidential) and Annex 2 (Public), 17 May 2023, para. 11.

(i) the proposed facts are distinct, concrete, and identifiable;

13. The Proposed Facts reflect factual findings resulting from the assessment of the evidence heard by Trial Panel I in the original proceedings, and are not discussions of evidence or subjective qualifications.

(ii) the proposed facts, as formulated by the moving Party, do not differ in any substantial way from the formulation of the original judgement;

14. The original wording from the *Shala* Trial Judgment has been retained where possible, and altered only to isolate the factual finding from surrounding discussion and analysis.

(iii) the proposed facts are not unclear or misleading in the context in which they are placed in the moving Party's motion;

15. The Proposed Facts are clear findings of harsh conditions and of the effects of detention on [Redacted] and [Redacted] and [Redacted].

(iv) the proposed facts do not contain legal findings or characterisations;

16. The Proposed Facts relate only to factual, not legal, findings.

(v) the proposed facts are not based on an agreement between the Parties to the original proceedings;

17. The Proposed Facts were not the subject of an agreement between the Parties in Cases 04.

(vi) the proposed facts are not subject to pending appeal or review.

18. The *Shala* Appeal Judgment was issued on 14 July 2025 and does not disturb any of the factual findings on which the Proposed Facts are based.

(vii) The proposed facts do not go to the core of the prosecution case.

19. The Proposed Facts relate to the conditions of treatment and the harm to victims, neither of which are could be said to be at the core of the prosecution case.

(viii) The proposed facts are not broad, vague, tendentious, or conclusory.

20. The Proposed Facts are succinct, clear, uncontroversial and demonstrably supported by the evidence.

(ix) There is no basis for supposing that either Party may seek to rebut the proposed facts.

21. There is no apparent basis to suppose that the Defence may seek to rebut the facts in relation to the conditions of detention at Kukës (Proposed Facts 7-10). There are already a number of adjudicated facts admitted on this topic: these Proposed Facts complement those. Similarly, there is no basis to suppose that the Defence may seek to rebut the Proposed Facts (1-6, 11 and 12) relating to the harm suffered by the VPPs.

VI. RELIEF REQUESTED

22. For the above reasons, Victims' Counsel requests the Panel to take judicial notice of the Proposed Facts pursuant to Rule 157(2).

Word count: 1006



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Co-Counsel for Victims

23 July 2025
At The Hague, the Netherlands.