



KOSOVO SPECIALIST CHAMBERS  
DHOMAT E SPECIALIZUARA TË KOSOVËS  
SPECIJALIZOVANA VEÇA KOSOVA

**In:** KSC-CA-2024-03  
**Specialist Prosecutor v. Pjetër Shala**

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

**Registrar:** Fidelma Donlon

**Date:** 24 July 2025

**Original language:** English

**Classification:** Public

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**Decision on Urgent *Thaçi et al.* Joint Defence Request to Access Confidential Material**

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**Specialist Prosecutor's Office:**

Kimberly P. West

**Counsel for Pjetër Shala:**

Jean-Louis Gilissen

**Counsel for Victims:**

(KSC-BC-2020-06 & KSC-CA-2024-03)

Simon Laws

**Counsel for Hashim Thaçi:**

Luka Misetić

**Counsel for Kadri Veseli:**

Rodney Dixon

**Trial Panel II**

Judge Charles L. Smith III, Presiding Judge

Judge Christoph Barth

Judge Guénaél Mettraux

Judge Fergal Gaynor, Reserve Judge

**Counsel for Rexhep Selimi:**

Geoffrey Roberts

**Counsel for Jakup Krasniqi:**

Venkateswari Alagendra

**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),<sup>1</sup> acting pursuant to Article 33(1)(c) of the Law on Specialist Chambers and Specialist Prosecutor’s Office (“Law”) and Rules 172, 176 and 183 of the Rules of Procedure and Evidence (“Rules”), is seised of an appeal by Mr Pjetër Shala (“Shala”) against the Reparation Order in the case of the *Specialist Prosecutor v. Pjetër Shala*, KSC-BC-2020-04 (“*Shala Case*” and “Reparation Order”, respectively), which was pronounced and filed in writing on 29 November 2024 in accordance with Rule 168 of the Rules. In this capacity, as still seised of the Reparation Order in the *Shala Case*, acting pursuant to Articles 21(2), 21(4)(c) and 21(6), 23, and 40(2) and 40(6) of the Law and Rules 81(1)-(2) and 82 of the Rules, the Court of Appeals Panel is further seised of a joint request for access and use on a confidential basis of the confidential version of the Appeal Judgment in the *Shala Case* (“Confidential Version of the Shala Appeal Judgment”),<sup>2</sup> filed on 22 July 2025 (“Request”) by the Defence teams for Mr Hashim Thaçi, Mr Kadri Veseli, Mr Rexhep Selimi and Mr Jakup Krasniqi (collectively, “Defence” and “Accused”) in the case of the *Specialist Prosecutor v. Hashim Thaçi et al.*, KSC-BC-2020-06 (“*Thaçi et al. Case*”).<sup>3</sup> The Specialist Prosecutor’s Office responded on 23 July 2025 that it does not oppose the Request.<sup>4</sup>

## I. BACKGROUND

1. In a decision issued on 21 July 2025, Trial Panel II directed the Defence in the *Thaçi et al. Case* to file “its Request for the Parties, participants and the Panel to be granted access to the [Confidential Version of the Shala Appeal Judgment], before the

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

<sup>2</sup> F00069, Appeal Judgment, 14 July 2025 (confidential).

<sup>3</sup> RAC001/F00001, Urgent Thaçi, Veseli, Selimi and Krasniqi Defence Request to Access Confidential Material in Case KSC-CA-2024-03, 22 July 2025 (“Request”).

<sup>4</sup> RAC001/F00002, Prosecution response to ‘Urgent Thaçi, Veseli, Selimi and Krasniqi Defence Request to Access Confidential Material in Case KSC-CA-2024-03’, 23 July 2025, para. 1.

Court of Appeals Panel”.<sup>5</sup> Trial Panel II stressed that the Court of Appeals Panel is still seised of an appeal against the Reparation Order and that, therefore, proceedings are still ongoing before the Appeals Panel.<sup>6</sup> Accordingly, Trial Panel II found that the Appeals Panel was competent to deal with the Request.<sup>7</sup>

## II. DISCUSSION

### A. SUBMISSIONS OF THE PARTIES

2. The Defence argues that the requested material is specifically identified as the Confidential Version of the Shala Appeal Judgment.<sup>8</sup>

3. The Defence further argues that there is a legitimate forensic purpose for the Request since access to the requested material is necessary for the preparation of the Defence’s final trial brief and would facilitate fair and expeditious proceedings in the *Thaçi et al.* Case.<sup>9</sup> In that regard, the Defence argues that the overlap between the *Shala* Case and the *Thaçi et al.* Case is obvious and was already acknowledged by Trial Panel II.<sup>10</sup> The Defence further underlines that the Accused and SPO previously requested for the *Thaçi et al.* Trial Panel, Parties and Victims’ Counsel access to and use of confidential filings from the *Shala* Case and that such requests were granted.<sup>11</sup> The Defence adds that access to the confidential version of the Trial Judgment in the *Shala* Case was already provided to them.<sup>12</sup>

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<sup>5</sup> KSC-BC-2020-06, RAC006/F00002, Decision on Urgent Joint Defence Request to Access Confidential Material, 21 July 2025 (“Trial Panel II Decision on Request to Access Confidential Material”), para. 4.

<sup>6</sup> Trial Panel II Decision on Request to Access Confidential Material, para. 2.

<sup>7</sup> Trial Panel II Decision on Request to Access Confidential Material, paras 2-4.

<sup>8</sup> Request, paras 3, 5, 8-9. See also, Request, para. 10.

<sup>9</sup> Request, paras 3, 5, 7-8.

<sup>10</sup> Request, para. 6. The Panel notes that the Defence is referring to the *Thaçi et al.* Case as “Case 06” and to the *Shala* Case as “Case 04”. The Defence is also pointing to the overlap between the *Thaçi et al.* Case and the case of the *Specialist Prosecutor v. Salih Mustafa*, KSC-BC-2020-05 (“*Mustafa* Case”) referred to by the Defence as “Case 05”. Request, para. 6.

<sup>11</sup> Request, para. 6. The Defence further mentions that they requested access to and use of confidential filings from the *Mustafa* Case and that these requests were granted. Request, para. 6.

<sup>12</sup> Request, para. 7.

4. The Defence submits that the Request should have no impact on the applicable protective measures which shall continue to have effect in the *Thaçi et al.* Case as any reference to or use of confidential portions of the filings would occur on a confidential basis.<sup>13</sup>

B. ASSESSMENT OF THE COURT OF APPEALS PANEL

5. The Panel will assess the Request pursuant to Rule 82 of the Rules, in light of the Defence's right to receive all material and relevant evidence or facts, pursuant to Article 21(6) of the Law, and the need to ensure the protection of victims and witnesses, pursuant to Article 23 of the Law.

6. In the absence of a specific standard upon which to assess requests for access to confidential information in a different case, the Panel notes that Trial Panel II considered it appropriate to turn to jurisdictions outside the Specialist Chambers. In particular, Trial Panel II adopted the test established at the *ad hoc* tribunals for access to confidential material in a different case, namely that: (i) the documents to which access is sought must be identified or described by their general nature; and (ii) a legitimate forensic purpose for such access must be shown.<sup>14</sup> The Panel finds it appropriate to adopt the same approach.<sup>15</sup>

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<sup>13</sup> Request, para. 4.

<sup>14</sup> See KSC-BC-2020-06, RAC004/F00004, Decision on Urgent Joint Defence Request to Access Confidential Material, 3 June 2025 ("Trial Panel II Decision dated 3 June 2025"), para. 14; KSC-BC-2020-06, RAC001/F00002, Decision on Prosecution Request Concerning Access to Confidential Versions of Judgments from Case KSC-BC-2020-05, 30 April 2024 ("Trial Panel II Decision dated 30 April 2024"), para. 8. See also e.g. ICTY, *Prosecutor v. Hadžić*, IT-04-75-PT / IT-95-13/1-A, Decision on Motion on Behalf of Goran Hadžić Seeking Access to Confidential Material in *Prosecutor v. Mrkšić et al.*, 22 March 2012, para. 5; ICTR, *Rutaganda v. Prosecutor*, ICTR-96-3-R, Decision on Georges A.N. Rutaganda's Appeal Against Decision on Request for Closed Session Testimony and Sealed Exhibits, 22 April 2009, para. 10; ICTY, *Prosecutor v. Hadžihasanović et al.*, IT-01-47-PT, Decision on Motion by Mario Čerkez for Access to Confidential Supporting Material, 10 October 2001, para. 10.

<sup>15</sup> In that regard, the Panel recalls that subsidiary sources such as the jurisprudence from the international *ad hoc* tribunals, the ICC and other criminal courts can also guide the Judges' reflection in instances where primary sources do not provide guidance on a specific matter. See e.g. KSC-CA-2024-03, F00069/RED, Public Redacted Version of Appeal Judgment, 14 July 2025 (confidential version filed on 14 July 2025), para. 37.

7. The Panel finds that the Defence has identified the document for which access is sought, namely, the Confidential Version of the Shala Appeal Judgment. Therefore, the first prong of the test is met.

8. With respect to the legitimate forensic purpose, the Panel observes that Trial Panel II previously acknowledged that the *Shala* Case overlaps with the present case, the *Thaçi et al.* Case.<sup>16</sup> Furthermore, the Panel takes note of the Defence's submissions that: (i) the temporal and geographical scope of the crimes for which Shala was charged is identical to the temporal and geographical scope of the crimes for which the Accused are charged;<sup>17</sup> and (ii) the Accused have been charged under the Joint Criminal Enterprise mode of liability within the temporal period of March 1998 through September 1999 and within the context of the same alleged armed conflict.<sup>18</sup> As such, the Panel is satisfied that there is a specific, legitimate forensic purpose for the access sought by the Defence.

9. The Panel notes that pursuant to Rule 81(1)(a) of the Rules, protective measures in the *Shala* Case shall continue to have effect *mutatis mutandis* in the *Thaçi et al.* Case unless otherwise varied in accordance with Rule 81 of the Rules. Moreover, noting that access to the confidential version of the Trial Judgment in the *Shala* Case<sup>19</sup> was already provided to the Defence,<sup>20</sup> the Panel sees no reasons to maintain vis-à-vis the Trial Panel, Parties and Victims' Counsel in the *Thaçi et al.* Case any of the redactions contained in the public redacted version of the Shala Appeal Judgment.

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<sup>16</sup> Trial Panel II Decision dated 3 June 2025, para. 16.

<sup>17</sup> Request, para. 6.

<sup>18</sup> Request, para. 6.

<sup>19</sup> KSC-BC-2020-04, F00847, Trial Judgment and Sentence, 16 July 2024 (confidential).

<sup>20</sup> KSC-BC-2020-06, Transcript, 23 April 2025, p. 26135, line 23 – p.26138, line 13 ("Oral Order dated 23 April 2025"). The Panel notes that the Judges of Trial Panel I indicated that there were no reasons to maintain vis-à-vis Trial Panel II or the parties or Victims' Counsel in Case 06, the *Thaçi et al.* Case, any of the redactions contained in the public redacted version of selected filings, including the Trial Judgment, in Case 04, the *Shala* Case. See Oral Order dated 23 April 2025. See also Request, para. 7.

10. Accordingly, the Panel grants the Request and directs the Registry to ensure that the Trial Panel, the Defence, the SPO and Victims' Counsel in the *Thaçi et al.* Case are granted access to and use of the Confidential Version of the Shala Appeal Judgment in Legal Workflow. The Panel reminds the Parties and participants of the confidential classification of this filing and that, pursuant to Rule 82(1)(b), its confidential portions shall not be disclosed to the public.

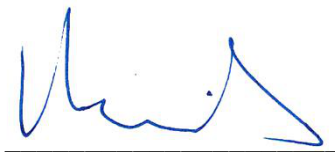
### III. DISPOSITION

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

**GRANTS** the Request;

**INSTRUCTS** the Registry to ensure that the Trial Panel, the Defence, the SPO and Victims' Counsel in the *Thaçi et al.* Case are granted access to and use of the Confidential Version of the Shala Appeal Judgment in Legal Workflow; and

**REMINDS** the Parties and participants of the confidential classification of the Confidential Version of the Shala Appeal Judgment and that, pursuant to Rule 82(1)(b) of the Rules, the confidential portions of the Shala Appeal Judgment shall not be disclosed to the public.



**Judge Michèle Picard,  
Presiding Judge**

Dated this Thursday, 24 July 2025

At The Hague, the Netherlands.