



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA KOSOVA

In: KSC-BC-2020-04
The Prosecutor v. Pjetër Shala

Before: **Trial Panel I**
Judge Mappie Veldt-Foglia, Presiding Judge
Judge Roland Dekkers
Judge Gilbert Bitti
Judge Vladimir Mikula, Reserve Judge

Registrar: Dr Fidelma Donlon

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Registry Submissions for Trial Preparation Conferences

with one confidential and 14 strictly confidential and *ex parte* annexes

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1. Pursuant to Article 34(1) and (8) of the Law,¹ Rules 23(2) and 27 of the Rules,² and the decision setting the dates for trial preparation conferences and requesting submissions ('Trial Panel's Decision'),³ the Registrar hereby submits the following observations.

I. PROCEDURAL HISTORY

2. On 19 June 2020, further to the Pre-Trial Judge's decision,⁴ the Specialist Prosecutor's Office (SPO) submitted a Confirmed Indictment against Mr Pjetër Shala ('Mr Shala' or 'the Accused').⁵

3. Mr Shala was arrested in the Kingdom of Belgium on 16 March 2021, pursuant to an arrest warrant issued by the Pre-Trial Judge,⁶ and transferred to the Detention Facilities of the Specialist Chambers ('SC') on 15 April 2021.⁷

4. Following the assignment by the President of the case to Trial Panel I ('Panel') on 15 September 2022,⁸ the Pre-Trial Judge transmitted the case file to the Panel on 21 September 2022.⁹

¹ Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office ('Law'), 3 August 2015.

² Rules of Procedure and Evidence Before the Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020, ('Rules').

³ KSC-BC-2020-04, F00289, Trial Panel I, Decision Setting the Dates for Trial Preparation Conferences and Requesting Submissions, 30 September 2022, ('Trial Panel's Decision').

⁴ KSC-BC-2020-04, F00007, Pre-Trial Judge, Decision on the Confirmation of the Indictment Against Pjetër Shala, 12 June 2020, strictly confidential and *ex parte* (see also F00007/CONF/RED and F00007/RED, 6 May 2021).

⁵ F00010, Specialist Prosecutor, Submission of Confirmed Indictment, 19 June 2020, public, with Annex 1, strictly confidential and *ex parte*, and Annex 2, confidential (see also redacted versions F00016/A01, confidential, F00016/A02, public, 31 March 2021; F00038/A01, confidential, 25 May 2021; and corrected versions F00098/A01, 1 November 2021, confidential and F00107/A01, 16 November 2021, public).

⁶ F00008, Pre-Trial Judge, Decision on Request for Arrest Warrant and Transfer Order, 12 June 2020, confidential (see also F00008/RED, 6 May 2021, F00008/A01/RED, 15 April 2021); see also F00013, Registrar, Notification of Arrest Pursuant to Rule 55(4), 16 March 2021, public.

⁷ F00019, Registrar, Notification of Reception of Pjetër Shala in the Detention Facilities of the Specialist Chambers and Conditional Assignment of Counsel, 15 April 2021, confidential, para. 2, with Annexes 1-2, confidential (see also F00019/RED, 26 April 2021).

⁸ F00276, President, Decision Assigning Trial Panel I, 15 September 2022, public.

⁹ F00284, Pre-Trial Judge, Decision Transmitting the Case File to Trial Panel I, 21 September 2022, public.

5. On 30 September 2022, Trial Panel I issued a decision requesting submissions on the set agenda items, as well as matters listed in the annex to the Trial Panel's Decision, by 10 October 2022.¹⁰

II. APPLICABLE LAW

6. Article 34(8) of the Law provides that WPSO shall implement, on behalf of the Registrar, and in consultation as appropriate with the SPO, Specialist Counsel or Victims' Counsel (the 'Calling Entities'), any "court ordered or otherwise necessary protective measures and security arrangements, counselling and other appropriate assistance for witnesses and others who are at risk on account of testimony given by witnesses."

7. Pursuant to Article 23 of the Law and Rule 27 of the Rules, WPSO may make representations to the Panel on appropriate protective measures, security arrangements, counselling and assistance for a witness before, during, and after testimony, and it shall be responsible for protecting witnesses, victims participating in the proceedings and, where appropriate, others at risk on account of testimony given by witnesses.

8. Accordingly, pursuant to Rule 27(2)(b) of the Rules, WPSO provides all necessary administrative and logistical assistance to witnesses appearing before the SC, including by informing them about all relevant matters pertaining to their participation in courtroom proceedings, such as issues relating to their security and safety, the nature of courtroom proceedings, the courtroom layout and the participants, and the roles, rights, and obligations of witnesses in the proceedings.

9. In addition, pursuant to Rule 27(2) and (3) of the Rules, WPSO assists witnesses and victims participating the proceedings in obtaining medical, psychological and other appropriate support necessary for them to testify before the SC. When required, such assistance may be provided prior to, during, and after testimony, in accordance

¹⁰ Trial Panel's Decision, paras C.2, 11, 13(c).

with WPSO's mandate. WPSO also ensures that witnesses are kept apart in a designated area while waiting to testify and provides any other additional assistance, as decided by the Registrar or a Panel, that is consistent with its responsibilities and mandate.

10. In performing its functions, WPSO respects the interests of witnesses, maintains confidentiality, and acts impartially at all times in accordance with Rule 27(4) of the Rules.

III. SUBMISSIONS

11. Among the agenda items included in the Trial Panel's Decision, the Panel indicated it intended to issue directions on witness familiarisation prior to testimony, and invited the parties, Victims' Counsel and the Registry/WPSO to make submissions on the matter, if they so wished, taking into account the Panel's previous practice, namely the Decision on Witness Familiarisation issued by the Trial Panel in the KSC-BC-2020-05 case ('Case 5').¹¹

12. The Registrar notes the summary submitted in Case 5 of the services provided by the Registry/WPSO to witnesses in relation to the familiarisation process,¹² which were referenced by the Panel in its Decision on Witness Familiarisation.¹³ No further submissions are made on the approach taken by the Panel in this regard.

13. To fully inform the Calling Entities, the Registrar files, as annex to the present submissions, the guidelines and instructions WPSO has developed on the support it provides to witnesses prior to, during, and after their testimony, which incorporate best practices on familiarising witnesses and on other support services.¹⁴

¹¹ *Id.*, para. C.2; *see also* KSC-BC-2020-05, F00150, Trial Panel I, Decision on witness familiarisation, 9 July 2021, public ('Decision on witness familiarisation').

¹² KSC-BC-2020-05, F00131, Registrar, Registry Submissions for Trial Preparation Conferences, 2 June 2022, public.

¹³ *See* KSC-BC-2020-05, Decision on witness familiarisation, and paras 2, 7, 11.

¹⁴ *See* Annex 1, confidential.

14. Additional submissions, as requested by the Panel, are filed in strictly confidential and *ex parte* Annexes 2 – 15.

IV. CLASSIFICATION

15. This submission is filed as public, whereas Annex 1 is submitted as confidential as it contains internal regulations concerning operations of the Registry that are not authorised for public distribution. Annexes 2 15 are filed as strictly confidential and *ex parte* for distribution to the Trial Panel, SPO and WPSO only, pursuant to Rule 82(4) of the Rules.

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Dr Fidelma Donlon
Registrar

Monday, 10 October 2022
At The Hague, the Netherlands