



KOSOVO SPECIALIST CHAMBERS  
DHOMAT E SPECIALIZUARA TË KOSOVËS  
SPECIJALIZOVANA VEĆA 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:** Fidelma Donlon

**Date:** 26 January 2023

**Language:** English

**Classification:** **Public**

---

**Decision on the date for the commencement of the trial, evidence presentation and related matters**

---

**To be notified to:**

**Acting Specialist Prosecutor**  
Alex Whiting

**Counsel for the Accused**  
Jean-Louis Gilissen

**Victims' Counsel**  
Simon Laws

**TRIAL PANEL I** (Panel) hereby renders this decision on the date for the commencement of the trial, evidence presentation and related matters.

## I. PROCEDURAL BACKGROUND

1. On 21 September 2022, the Pre-Trial Judge transmitted the case file to the Panel.<sup>1</sup>
2. On 10 October 2022, further to an order from the Panel,<sup>2</sup> the Specialist Prosecutor's Office (SPO),<sup>3</sup> the Defence for Pjetër Shala (Defence and Accused)<sup>4</sup> and Victims' Counsel<sup>5</sup> made submissions regarding, among others, the commencement of the trial and the opening statements.
3. On 18, 19 and 20 October 2022, the Panel held trial preparation conferences, where the Parties and Victims' Counsel made further submissions.<sup>6</sup>
4. On 28 October 2022, the SPO filed an amended list of witnesses.<sup>7</sup>

---

<sup>1</sup> KSC-BC-2020-04, F00284, Pre-Trial Judge, *Decision Transmitting the Case File to Trial Panel I*, 21 September 2022, public, with Annexes 1-3, strictly confidential and *ex parte*.

<sup>2</sup> KSC-BC-2020-04, F00289, Trial Panel I, *Decision setting the date for trial preparation conferences and requesting submissions* (Decision setting the date for trial preparation conferences), 30 September 2022, public, with Annex 1, strictly confidential and *ex parte*.

<sup>3</sup> KSC-BC-2020-04, F00303, Specialist Prosecutor, *Prosecution submissions in advance of the trial preparation conference* (SPO Submissions), 10 October 2022, confidential, with Annexes 1-2, strictly confidential and *ex parte* and Annex 3, confidential. A public redacted version was filed on 11 October 2022, F00303/RED2.

<sup>4</sup> KSC-BC-2020-04, F00305, Defence, *Defence Submissions Pursuant to Order on Trial Preparation Conferences* (Defence Submissions), 10 October 2022, strictly confidential and *ex parte*. A public redacted version was filed the same day, F00305/RED.

<sup>5</sup> KSC-BC-2020-04, F00301, Victims' Counsel, *Victims' Counsel Submissions for Trial Preparation Conference* (Victims' Counsel Submissions), 10 October 2022, public.

<sup>6</sup> Decision setting the date for trial preparation conferences, para. 13(a); KSC-BC-2020-04, Transcript of Hearing, 18 October 2022, public; Transcript of Hearing, 19 October 2022, public; Transcript of Hearing, 20 October 2022, confidential and *ex parte*.

<sup>7</sup> KSC-BC-2020-04, F00331/A01, Specialist Prosecutor, *Annex 1 to Prosecution notice of filing of amended witness list and request to amend its exhibit list* (SPO List of Witnesses), 28 October 2022, confidential.

## II. APPLICABLE LAW

5. The Panel notes Article 40(2) and (6) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office and Rules 9(5)(a), 116(1), 117(2), 118(3), 124, 125 and 126 of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers (Rules).

## III. ANALYSIS

### A. COMMENCEMENT OF TRIAL AND OPENING STATEMENTS

6. Having received all necessary submissions from the Parties and Victims' Counsel, the Panel does not find it necessary to hold any further preparation conferences before the opening of the trial. The Panel notes that the Parties and Victims' Counsel also do not request any further preparation conferences.<sup>8</sup> Further, the SPO, the Defence and Victims' Counsel are, at this date, ready to start the trial. Both the SPO and Victims' Counsel have indicated that they are prepared to start whenever the date is set.<sup>9</sup> The Defence indicated that it expected to be trial ready in January 2023.<sup>10</sup> Accordingly, the Panel varies, pursuant to Rule 9(5)(a) of the Rules, the time limit prescribed in Rule 118(3) of the Rules and sets **Tuesday, 21 February 2023, 09:30 hours**, as the date and time for the opening of the trial.

7. The trial shall open with the procedures set out in Rules 124 and 125 of the Rules. Pursuant to Rule 124(1) of the Rules, the Presiding Judge shall open the trial and ask the Registrar to call the case. Thereafter, the trial shall proceed with the

---

<sup>8</sup> KSC-BC-2020-04, Transcript of Hearing, 18 October 2022, public, p. 390, lines 10-14 (directing the Parties and Victims' Counsel to indicate to the Panel in writing if they wish to have other preparation conferences before the beginning of the trial).

<sup>9</sup> SPO Submissions, para. 20; Victims' Counsel Submissions, para. 12.

<sup>10</sup> Defence Submissions, para. 10.

reading by the SPO of the Corrected Confirmed Indictment,<sup>11</sup> pursuant to Rule 124(2) of the Rules. In order to ensure the efficiency of the proceedings and seeing that the Defence does not object,<sup>12</sup> the Panel does not find it necessary for the SPO to read out to the Accused the Corrected Confirmed Indictment in its entirety, but considers it sufficient to read the charges as read out to him during the initial appearance.<sup>13</sup> The Accused will be subsequently asked whether he understands the Corrected Confirmed Indictment and will be given the opportunity to confirm his initial plea pursuant to Rule 124(3) of the Rules.<sup>14</sup> Pursuant to Rule 125 of the Rules, the Presiding Judge will then inform the Accused of his rights and obligations and the measures provided for under Rule 61(2) of the Rules.

8. The Panel further notes that the SPO, the Defence and Victims' Counsel have all indicated that they intend to make opening statements following the opening of the trial.<sup>15</sup> The Panel accordingly decides to hear the opening statements of the SPO, Victims' Counsel and the Defence, in this order, on **Tuesday, 21 February 2023, at 09:30** (SPO and Victims' Counsel) and **Wednesday, 22 February 2023, at 09:30** (Defence).

9. With regard to the length of the opening statements, the Panel decides to allocate to the SPO, the Defence and Victims' Counsel two (2) hours each for their opening statements, as requested.<sup>16</sup>

10. The Parties and Victims' Counsel are authorised to use visual aids and other materials during their respective opening statements, which shall be communicated to the Panel, the Parties and Victims' Counsel, as the case may be, *via* e-mail, *via* the

---

<sup>11</sup> KSC-BC-2020-04, F00098/A01, Specialist Prosecutor, *Annex 1 to Submission of Corrected Indictment* (containing the Corrected Confirmed Indictment), 1 November 2021, confidential. A public redacted version was filed on 16 November 2021, F00107/A01.

<sup>12</sup> Defence Submissions, para. 11.

<sup>13</sup> KSC-BC-2020-04, Transcript of Hearing, 19 April 2021, public, p. 6, line 1 to p. 7, line 3.

<sup>14</sup> KSC-BC-2020-04, Transcript of Hearing, 19 April 2021, public, p. 11, lines 9-11.

<sup>15</sup> SPO Submissions, para. 21; Defence Submissions, para. 12; Victims' Counsel Submissions, para. 13.

<sup>16</sup> *See* SPO Submissions, para. 21; Defence Submissions, para. 12; Transcript of Hearing, 18 October 2022, public, p. 353, lines 7-12; Victims' Counsel Submissions, para. 13.

Court Management Unit. This shall be done at the earliest opportunity and no later than **Monday, 13 February 2023**. Any objections to the use of any of the visual aids or other material shall be raised also *via* e-mail no later than **Wednesday, 15 February 2023** and any responses to objections no later than **Friday, 17 February 2023**. The Parties and Victims' Counsel shall indicate whether the visual aids and materials they intend to use may be broadcasted to the public.

11. Mindful of the principle of publicity of the proceedings, the Panel directs the Parties and Victims' Counsel to present their opening statements to the greatest extent possible in open session and to rely on visual aids and materials that can be broadcasted to the public. Where this is not possible, the Parties and Victims' Counsel are directed to group arguments to be made in private and/or closed session together, to enhance the efficiency of the proceedings and avoid unnecessarily moving between open and private or closed sessions. The above directions are without prejudice to the protective measures in place for victims and witnesses and the Parties and Victims' Counsel's right to present their arguments in full.

12. As the Defence has chosen to give an opening statement directly after the opening statements of the SPO and Victims' Counsel, it may not make any further opening statement after the closing of the SPO's case and before the opening of its own case.<sup>17</sup> This does not prevent the Defence from making submissions in accordance with the Rules.

13. Noting that the Accused expressed his wish to make an unsworn statement, pursuant to Rule 142(1) of the Rules,<sup>18</sup> the Panel directs the Defence to confirm, by **Friday, 10 February 2023**, whether this will take place directly before or after the Defence opening statement and, if so, how much time the Accused will require.

---

<sup>17</sup> See Rule 126(2) of the Rules, which provides that "[t]he Defence may choose to make an opening statement *either* following the opening statement of the Specialist Prosecutor *or* after the conclusion of the presentation of evidence by the Specialist Prosecutor and before the presentation of evidence by the Defence" (emphasis added). See also Rule 117(3) of the Rules.

<sup>18</sup> KSC-BC-2020-04, Transcript of Hearing, 18 October 2022, public, p. 354, lines 5-10.

Should the Accused finally choose to make an unsworn statement, the Panel directs the Defence to advise the Accused that statements of a political nature, statements which are offensive to witnesses, victims, the SPO, the Panel, or the Specialist Chambers as an institution, statements which have no relevance to the case, or which reveal confidential information of any kind will not be tolerated.

B. REQUESTS PURSUANT TO RULE 117(2) OF THE RULES

14. According to Rule 117(2) of the Rules, the Panel shall set a time limit for any motions to be made prior to the opening of the case. Such motions may be made by the SPO, the Defence, as well as Victims' Counsel. Such motions should include any matter the resolution of which is, in the view of the Parties or Victims' Counsel, as the case may be, a pre-condition for the start of the trial. Accordingly, the Panel considers it appropriate to set **Wednesday, 8 February 2023**, as the deadline for the Parties and Victims' Counsel to file any motions within the meaning of Rule 117(2) of the Rules. Any responses to such motions shall be filed by **Tuesday, 14 February 2023** and any replies by **Thursday, 16 February 2023**. The Panel may rule orally on any such motions before the opening statements.

C. PRESENTATION OF EVIDENCE

15. Considering that the sole available courtroom is to be shared with the other Panel(s) of the Specialist Chambers, the Panel decides that the evidence presentation shall commence on **Monday, 27 March 2023, at 09:30**.<sup>19</sup> The Panel will sit for the first

---

<sup>19</sup> Unless otherwise ordered, a regular court day is divided into three sessions of one and a half hours with breaks between the sessions (09:30-11:00; 11:30-13:00; 14:30-16:00). A fourth session (16:30-18:00) may be organised, in exceptional circumstances, once a week.

evidentiary block until **Friday, 31 March 2023**. The following evidentiary blocks (until the judicial summer recess) are:

- **Monday, 1 May 2023, at 09:30 to Friday, 5 May 2023;**
- **Tuesday, 30 May 2023, at 09:30 to Friday, 9 June 2023; and**
- **Monday, 26 June 2023, at 9:30 to Wednesday, 28 June 2023 and Friday, 30 June 2023, at 09:30 to Friday, 7 July 2023.**

These dates are subject to change, depending on the availability of the courtroom. Future hearing dates will be communicated in due course.

16. The Panel has taken note of the SPO's list of witnesses, including their tentative order of appearance, the mode of testimony and the estimated time for direct examination.<sup>20</sup> The Panel directs the SPO to confirm by **Thursday, 2 February 2023**, whether the order of appearance of the first three witnesses, as set out in the SPO's list of witnesses, remains the same.

17. The Panel informs the Parties and Victims' Counsel that further details on the conduct of the proceedings will be given in due course, including the overall length of the presentation of evidence allocated to each Party and to Victims' Counsel, as well as on other issues<sup>21</sup> and logistical matters.

---

<sup>20</sup> SPO List of Witnesses; SPO Submissions, para. 30.

<sup>21</sup> This includes the Panel's forthcoming decision on KSC-BC-2020-04, F00261, Specialist Prosecutor, *Prosecution submissions concerning items subject to Rule 81(1)(a) protective measures*, 2 September 2022, strictly confidential and *ex parte*, and related filings. A confidential redacted version was filed on 5 September 2022, F00261/CONF/RED.

## IV. DISPOSITION

18. For the above-mentioned reasons, the Panel hereby:

- a. **DECIDES** that the trial shall commence on **Tuesday, 21 February 2023, at 09:30;**
- b. **DECIDES** that the SPO, Victims' Counsel and the Defence shall make their opening statements on **Tuesday, 21 February 2023, at 09:30** and **Wednesday, 22 February 2023, at 09:30**, in accordance with paragraphs 8-11 of the present decision;
- c. **ORDERS** the Defence to inform the Panel, by **Friday, 10 February 2023**, whether the Accused will make an unsworn statement directly before or after the Defence's opening statement and, if so, how much time he will require;
- d. **ORDERS** the Parties and Victims' Counsel to file any motions within the meaning of Rule 117(2) of the Rules by **Wednesday, 8 February 2023**, with responses to be filed by **Tuesday, 14 February 2023** and replies by **Thursday, 16 February 2023**, if any;
- e. **SETS** the following dates for the first four evidentiary blocks, until the summer judicial recess, as follows: (i) **Monday, 27 March 2023, at 09:30 to Friday, 31 March 2023;** (ii) **Monday, 1 May 2023, at 09:30 to Friday, 5 May 2023;** (iii) **Tuesday, 30 May 2023, at 09:30 to Friday, 9 June 2023;** and (iv) **Monday, 26 June 2023, at 09:30 to Wednesday, 28 June 2023 and Friday, 30 June 2023, at 09:30 to Friday, 7 July 2023;** and
- f. **ORDERS** the SPO to confirm by **Thursday, 2 February 2023** the order of appearance of the first three SPO witnesses, as indicated in paragraph 16 of the present decision.

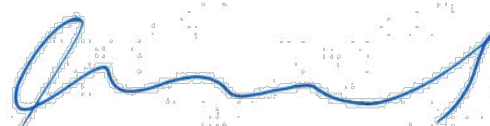




**Judge Mappie Veldt-Foglia**  
**Presiding Judge**



**Judge Gilbert Bitti**



**Judge Roland Dekkers**

Dated this Thursday, 26 January 2023

At The Hague, the Netherlands.