



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEĆA KOSOVA

In: **KSC-BC-2020-04**

The Specialist 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: 23 May 2023

Language: English

Classification: **Public**

**Decision on the Defence request for an expedited ruling on its request for
reconsideration of the "Decision concerning prior statements given by
Pjetër Shala"**

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 Defence request for an expedited ruling on its request for reconsideration of the “Decision concerning prior statements given by Pjetër Shala”.

I. PROCEDURAL BACKGROUND AND SUBMISSIONS

1. On 6 December 2022, the Panel issued the “Decision concerning prior statements given by Pjetër Shala” (Decision), whereby the Panel decided to admit into evidence two statements of Mr Pjetër Shala (Accused), taken by the Office of the Prosecutor of the International Criminal Tribunal for the former Yugoslavia in 2005 and 2007, and further found that two other statements of the Accused, collected by the Belgian Federal Judicial Police in 2016 and 2019, were not inadmissible.¹
2. On 24 January 2023, the Panel granted the Defence leave to appeal the Decision on certain issues,² which the Defence did on 6 February 2023.³
3. On 5 May 2023, the Court of Appeals Panel rendered its decision on the Defence appeal. The Court of Appeals Panel granted the appeal on one issue, in part, but upheld the Panel’s decision on said issue, and denied the appeal in all other aspects.⁴
4. On 18 May 2023, the Defence filed a request seeking reconsideration of the Decision in light of the findings made by the Court of Appeals Panel (Request for

¹ KSC-BC-2020-04, F00364/COR/RED, Trial Panel I, *Public redacted version of Corrected version of Decision concerning prior statements given by Pjetër Shala*, 6 December 2022 (date of public redacted and corrected version, 26 January 2023), public, paras 52, 80, 110, 114.

² KSC-BC-2020-04, F00401, Trial Panel I, *Decision on Request for Leave to Appeal the Decision Concerning Prior Statements Given by Pjetër Shala*, 24 January 2023, public.

³ KSC-BC-2020-04, IA006/F00002, Defence, *Defence Appeal Against the “Decision Concerning Prior Statements Given by Pjetër Shala”*, 6 February 2023, public.

⁴ KSC-BC-2020-04, IA006/F00007, Court of Appeals Panel, *Decision on Shala’s Appeal Against Decision Concerning Prior Statements*, 5 May 2023, public, para. 109.

Reconsideration).⁵ The Defence also asks the Panel to rule on the Request for Reconsideration before the start of the next evidentiary block, set to commence on 30 May 2023⁶ (Request for Expedited Ruling). The Defence advances that this is necessary in order to “limit further prejudice” to the Accused and to “enable the Defence to confront the next witness in full knowledge of the Prosecution’s case”.⁷

II. APPLICABLE LAW

5. The Panel notes Articles 21(4)(a) and 40(2) and 6(h) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office (Law) and Rules 76, 116(1) and 139(1) of the Rules of Procedure and Evidence before the Kosovo Specialist Chambers (Rules).

III. ANALYSIS

6. The present decision concerns solely the Request for Expedited Ruling and is without prejudice to the Panel’s future determination on the Request for Reconsideration.

7. The Panel does not find merit in the Defence’s submissions that an expedited ruling on the Request for Reconsideration is necessary. The Panel fails to see on what basis the Defence claims that, absent a ruling on the Request for Reconsideration, it would not be “in full knowledge of the Prosecutor’s case” and, thus, not in a position

⁵ KSC-BC-2020-04, F00515, Defence, *Defence Request for Reconsideration of the “Decision Concerning Prior Statements Given by Pjetër Shala”*, 18 May 2023, public.

⁶ See KSC-BC-2020-04, F00434/RED, Trial Panel I, *Public redacted version of Decision on the conduct of the proceedings*, 24 February 2023, public, para. 24.

⁷ Request for Reconsideration, para. 11.

to question the next witness. The Accused has been informed of the charges against him⁸ and the Panel reminds the Defence of its recent oral order on this matter.⁹

8. Further, as matters stand, the concerned statements have been admitted into evidence or are available to the Panel for the purposes of its judgment¹⁰ and the Defence should prepare its questioning of the next witness and, more generally, its case accordingly. In this regard, the Panel is of the view that the Defence has failed to articulate how an expedited ruling would help to “limit further prejudice” to the Accused, as claimed by the Defence.

9. For these reasons, the Panel rejects the Request for Expedited Ruling. Accordingly, responses to the Request for Reconsideration and any reply thereof shall follow the time limits prescribed by Rule 76 of the Rules.

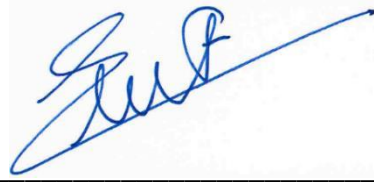
IV. DISPOSITION

10. For the above-mentioned reasons, the Panel hereby:
- a. **REJECTS** the Request for Expedited Ruling; and
 - b. **DIRECTS** the Parties and Victims’ Counsel to file their responses to the Request for Reconsideration and any reply thereof, if they so wish, following the time limits prescribed by Rule 76 of the Rules.

⁸ KSC-BC-2020-04, F00089/RED, Pre-Trial Judge, *Public Redacted Version of Decision on Motion Challenging the Form of the Indictment*, 18 October 2021, public; F00098/A01, Specialist Prosecutor, *Corrected Indictment*, 1 November 2021, confidential (a public redacted version was filed on 16 November 2021, F00107/A01); IA004/F00008/RED, Court of Appeals Panel, *Public Redacted Version of Decision on Pjetër Shala’s Appeal against Decision on Motion Challenging the Form of the Indictment*, 22 February 2022, public.

⁹ KSC-BC-2020-04, Transcript of Hearing, 4 May 2023, p. 1361, line 7 to p. 1362, line 1.

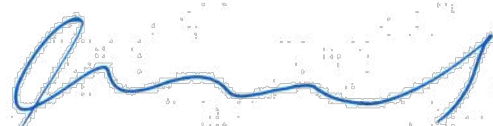
¹⁰ Decision, paras 52, 80, 110, 114; KSC-BC-2020-04, F00491/RED, Trial Panel I, *Public redacted version of Decision on the Specialist Prosecutor’s motion for admission of documentary evidence*, 20 April 2023, paras 40-41.



Judge Mappie Veldt-Foglia
Presiding Judge



Judge Gilbert Bitti



Judge Roland Dekkers

Dated this Tuesday, 23 May 2023

At The Hague, the Netherlands.