

Case No.: KSC-BC-2020-04
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: Dr Fidelma Donlon

Date: 6 July 2023

Filing Party: Specialist Defence Counsel

Original Language: English

Classification: Public

THE SPECIALIST PROSECUTOR

v.

PJETËR SHALA

**Defence Notice Pursuant to Rules 119(1) and 130 of the Rules and
Request for an Extension of Time and Word Limit**

Specialist Prosecutor's Office

Alex Whiting

Counsel for Victims

Simon Laws KC

Maria Radziejowska

Specialist Counsel for the Accused

Jean-Louis Gilissen

Hédi Aouini

Leto Cariolou

I. INTRODUCTION

1. Pursuant to the Trial Panel's order dated 16 June 2023 and Rules 119(1) and 130 of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), the Defence for Mr Pjetër Shala ("Defence") hereby files its notice of intention to file a motion to dismiss certain charges in the Indictment and to present a Defence case.¹
2. Pursuant to Rules 9(5)(a) and 76 of the Rules, the Defence requests an extension of the time limit to file its motion for the dismissal of charges by 31 August 2023, which is the fourteenth working day after the end of the summer court recess. The Defence also requests the Panel to grant an extension of the word limit to 12,000 words for the motion, pursuant to Article 36(1) of the Practice Direction on Files and Filings.

II. PROCEDURAL HISTORY

3. On 16 June 2023, the Panel ordered the Defence to inform the Panel, the Specialist Prosecutor's Office ("SPO"), and Victims' Counsel whether it intends to submit a motion under Rule 130 of the Rules to dismiss any or all of the charges in the Indictment and whether it intends to present a case pursuant to Rule 119(1) of the Rules.²

III. SUBMISSIONS

4. The Defence hereby gives notice of its intention to file a motion to dismiss certain charges in the Indictment under Rule 130 of the Rules and its intention to present a case pursuant to Rule 119(1) of the Rules.

¹ T. 16 June 2023 p. 2018.

² T. 16 June 2023 p. 2018.

5. The Defence requests the Panel to grant an extension of the time limit to 31 August 2023 and authorise a word limit of 12,000 words for the motion for the dismissal of charges. Pursuant to Rule 130(2) of the Rules, the Defence must submit the motion within ten days of the closing of the Specialist Prosecutor's case. On 6 July 2023, the Prosecution filed its notice indicating that it closes its case.³

6. Good cause exists to grant the requested extension of time. The Defence at present is working towards competing deadlines including: (i) its request for the admission of material used during its questioning of W04826 and W04875 by 6 July 2023;⁴ (ii) its response to the "Prosecution request for admission of the expert reports of W04887 and for leave to amend the exhibit list" by 7 July 2023;⁵ (iii) its referral to the Specialist Chamber of the Constitutional Court relating to the Panel's "Decision concerning prior statements given by Pjetër Shala" by 10 July 2023;⁶ (iv) its request for reclassification as public of the "Defence Request for an Extension of Time for its Response to the Prosecution Request for Admission of the Expert Reports of W04887 and for Leave to Amend the Exhibit List" and other public redacted versions of filings;⁷ (v) a notice on the qualifications of the expert witnesses indicated in the Victims' Counsel's filing

³ T. 16 June 2023 pp. 2017, 2018, 2024; F00570, Prosecution Notice of the Closing of its Case Pursuant to Rule 129, 6 July 2023.

⁴ T. 16 June 2023 pp. 2017, 2018.

⁵ F00555, Prosecution request for admission of the expert reports of W04887 and for leave to amend the exhibit list with Confidential Annex 1, 23 June 2023 (confidential); F00563, Defence Request for an Extension of Time for its Response to the Prosecution Request for Admission of the Expert Reports of W04887 and for Leave to Amend the Exhibit List, 4 July 2023 (confidential), para. 9; Email from the Court Management Unit of the Registry to the Parties, 6 July 2023, at 11:11 am; F00567, Decision on Defence request for extension of time limit (F00563), paras. 8, 9(b).

⁶ F00364COR, Corrected version of Decision concerning prior statements given by Pjetër Shala, 6 December 2022 (confidential); Rule 20(b) of the Rules of Procedure for the Specialist Chamber of the Constitutional Court.

⁷ F00563, Defence Request for an Extension of Time for its Response to the Prosecution Request for Admission of the Expert Reports of W04887 and for Leave to Amend the Exhibit List, 4 July 2023 (confidential); F00434, Decision on the conduct of the proceedings, 24 February 2023 (confidential), para. 78.

F00558 by 10 July 2023;⁸ (vi) its submissions and response to the submissions by Victims' Counsel on the issue of timing and content of any request for reparations by 12 July 2023;⁹ (vii) its submissions on the twelfth review of detention by 13 July 2023;¹⁰ (viii) its response to the "Prosecution motion for admission of documentary evidence relating to the Accused" by 17 July 2023;¹¹ (iv) its list of witnesses and exhibits containing the information set out in Rule 119(2)(a) and (b) of the Rules by 17 July 2023;¹² (v) preparing to allow the SPO and Victims' Counsel to inspect and obtain copies of any statements, documents, photographs, and other tangible objects in the Defence custody or control which are intended for use by the Defence as evidence at trial by 19 July 2023;¹³ and (vi) its request for certification to appeal the "Decision on the Specialist Prosecutor's motion for admission of evidence pursuant to Rule 155 of the Rules" by 21 August 2023.¹⁴ In addition, the Defence must also focus on preparing for the upcoming presentation of its case and complete its investigations. To this end, the Defence team will spend a considerable amount of the summer recess on missions. In addition, regrettably the Defence team is losing one of its core members at the end of July, unexpectedly and for imperative reasons. Ms Katerina Charitou, the team's most-dedicated legal officer, has tirelessly assisted the Defence in a brilliant manner since the early

⁸ F00558, Victims' Counsel's Submissions pursuant to the Order of 4 May 2023 setting further procedural steps for the presentation of evidence by Victims' Counsel with six confidential annexes, 30 June 2023 (confidential); Rule 149(2) of the Rules.

⁹ T. 4 May 2023 p. 1360; F00558, Victims' Counsel's Submissions pursuant to the Order of 4 May 2023 setting further procedural steps for the presentation of evidence by Victims' Counsel with six confidential annexes, 30 June 2023 (confidential).

¹⁰ F00534, Decision on the Eleventh Review of Detention of Pjetër Shala, 6 June 2023 (confidential), para. 33.

¹¹ F00565, Prosecution motion for admission of documentary evidence relating to the Accused, 6 July 2023 (confidential); F00461, Decision on the Submission and Admissibility of Non-Oral Evidence, 17 March 2023, para. 53; Rule 76 of the Rules.

¹² T. 16 June 2023 p. 2019.

¹³ T. 16 June 2023 p. 2019.

¹⁴ F00562, Decision on the Specialist Prosecutor's motion for admission of evidence pursuant to Rule 155 of the Rules, 4 July 2023 (confidential), para. 69; Rule 77 of the Rules.

stages of the proceedings. While an associate legal officer will be joining the team in August, the change in the composition of the Defence team will require a period of adjustment. Lastly, with the close of the Prosecution's case and the summer recess, all members of the Defence team will need to take a few days for resting to be ready for the next stage in the proceedings.

7. The number, significance, and complexity of the issues to be raised in the motion require thorough factual and legal analysis spanning several different topics. In light of the anticipated scope of the motion and the diverse elements that must be addressed, good cause exists to grant the requested word extension. The Defence requires sufficient time and word-limit to present an effective motion that will assist the Panel in its determination of the relevant issues at stake.
8. The extensions requested will not cause prejudice to the SPO or Victims' Counsel. The Defence does not object to the SPO or the Victims' Counsel making similar requests for extensions for their respective response to the motion.

IV. CLASSIFICATION

9. Pursuant to Rules 82(3) of the Rules, the Notice is filed as public as it does not contain any confidential information.

V. RELIEF REQUESTED

10. The Defence respectfully requests the Panel to grant the extensions requested so that it can submit its motion for the dismissal of charges after the summer court recess by 31 August 2023 with a word limit of 12,000 words.

Word count: 1357

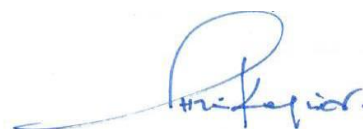
Respectfully submitted,



Jean-Louis Gilissen
Specialist Defence Counsel



Hédi Aouini
Defence Co-Counsel



Leto Cariolou
Defence Co-Counsel

Thursday, 6 July 2023

The Hague, the Netherlands