



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: 14 July 2023

Language: English

Classification: **Public**

**Decision on the Defence request for an extension of time for the submission of its
lists of witnesses and exhibits (F00583)**

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 extension of time for the submission of its lists of witnesses and exhibits (F00583).

I. PROCEDURAL BACKGROUND

1. On 16 June 2023, the Panel set the calendar for the presentation of evidence by the Defence, in case it chose to present a case, and ordered the Defence *inter alia* to file its lists of witnesses and exhibits by 17 July 2023. The Panel also set the date for the opening of the Defence's case for 18 September 2023.¹

2. On 6 July 2023, the Specialist Prosecutor's Office (SPO) closed its case.² On the same day, the Defence notified the Panel of its intention to request the dismissal of certain charges in the Confirmed Indictment³ and to present a case.⁴

3. On 12 July 2023, the Defence requested an extension of the time limit for the filing of its lists of witnesses and exhibits until 18 August 2023 (Request).⁵ The Defence submits that it is "simply not in a position to meet the current deadline", as it will conduct investigations during the summer recess and is expected to meet with proposed witnesses to confirm their ability and willingness to testify. The Defence adds that it is also working towards multiple competing deadlines and that it must

¹ KSC-BC-2020-04, Transcript of Hearing, 16 June 2023, public, p. 2017, line 12 to p. 2025, line 10.

² KSC-BC-2020-04, F00570, Specialist Prosecutor, *Prosecution notice of the closing of its case pursuant to Rule 129*, 6 July 2023, public.

³ KSC-BC-2020-04, F00098/A01, Specialist Prosecutor, *Corrected Indictment*, 1 November 2021. A public redacted version was filed on 16 November 2021, [F00107/A01](#).

⁴ KSC-BC-2020-04, F00571, Defence, *Defence Notice Pursuant to Rules 119(1) and 130 of the Rules and Request for an Extension of Time and Word Limit*, 6 July 2023, public, paras 1, 4.

⁵ KSC-BC-2020-04, F00583, Defence, *Defence Request for an Extension of Time for the Submission of its List of Witnesses and Exhibits Under Rule 119(2)(a) and (b) of the Rules*, 12 July 2023, public, paras 1, 14.

prepare for the hearings scheduled after the summer recess and for the presentation of its case.⁶

4. On 14 July 2023, the SPO responded to the Request, submitting that (i) it opposes the Request for an extension of time for the lists of witnesses and exhibits, but (ii) does not oppose an extension until immediately after the summer judicial recess for the disclosure/inspection of the witness statements and exhibits the Defence will include on its lists.⁷

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) and (6), and 76 of the Rules of Procedure and Evidence before the Kosovo Specialist Chambers (Rules).

III. DISCUSSION

6. The Panel finds that the Request has been submitted sufficiently in advance to enable the Panel to rule on it before the expiry of the time limit, as required by Rule 76 of the Rules.

7. Turning to the requested extension of time, the Panel notes that: (i) the Accused was transferred to the detention facilities of the Specialist Chambers⁸ and had his

⁶ Request, paras 6-12.

⁷ KSC-BC-2020-04, F00590, Specialist Prosecutor, *Prosecution response to Defence request for time extension to file its witnesses and exhibit lists* (Response), 14 July 2023, public, paras 1-2, 8-9.

⁸ KSC-BC-2020-04, F00019/RED, Registrar, *Public Redacted Version of 'Notification of Reception of Pjetër Shala in the Detention Facilities of the Specialist Chambers and Conditional Assignment of Counsel'*, filing F00019 dated 15 April 2021, 15 April 2021 (date of public redacted version, 26 April 2021), public.

initial appearance in April 2021,⁹ more than two years ago;¹⁰ (ii) as early as the opening of the case, on 21 February 2023, the Panel anticipated that the SPO's case would be completed before the summer judicial recess;¹¹ (iii) throughout the SPO's case, the Panel did not sit in court for hearings continually, as it had to share the courtroom with other Panels;¹² and (iv) the Defence has requested and has been granted several extensions of time for its competing deadlines.¹³ Accordingly, the Panel considers that the Defence should have made sufficient progress in its investigations by this time and should have been prepared to comply with the deadline set by the Panel and file its lists of witnesses and exhibits following the closing of the SPO's case.

8. Having said that, and notwithstanding the objections of the SPO,¹⁴ the Panel is mindful of the Defence's submission that it is still conducting its investigations and is expected to meet with witnesses during the summer judicial recess.¹⁵ For this reason, the Panel decides to vary the time limit, pursuant to Rule 9(5)(a) of the Rules, bearing in mind also the rights of other participants and the expeditious conduct of the proceedings.

⁹ KSC-BC-2020-04, Transcript of Hearing, 19 April 2021, public.

¹⁰ See also the latest submissions of the Defence on the duration of the Accused's length of detention, KSC-BC-2020-04, F00588, Defence, *Defence Submissions on the Twelfth Review of Detention of Pjetër Shala*, 13 July 2023, public, para. 8.

¹¹ KSC-BC-2020-04, Transcript of Hearing, 21 February 2023, public, p. 567, lines 5-10.

¹² 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. 20.

¹³ KSC-BC-2020-04, F00580, Trial Panel I, [Decision on the Defence request for an extension of time and word limit for its motion under Rule 130 of the Rules F00586](#), 11 July 2023, public, para. 12 (a), (b); F00586, Trial Panel I, *Decision on the Defence Requests for an Extension of Time (F00582)*, 13 July 2023, public, para. 16 (b), (c).

¹⁴ Response, paras 1, 6-9.

¹⁵ Request, para. 8.

9. Accordingly, by **Wednesday, 16 August 2023, at 12h00**, the Defence is ordered to:
- a. file its lists of witnesses and exhibits containing the information set out in Rule 119(2)(a) and (b) of the Rules;
 - b. permit the SPO and Victims' Counsel to inspect and copy any statements, documents, photographs and other tangible objects in the Defence's custody or control, which are intended for use by the Defence as evidence at trial;
 - c. provide to the SPO and Victims' Counsel the statements, if any, of all witnesses the Defence intends to call at trial, and all statements taken, which the Defence intends to present at trial; and
 - d. provide to the SPO and Victims' Counsel the exhibits that the Defence intends to present at trial, as set out in Rule 104(5), (6) and (7) of the Rules.
10. The Defence shall comply with the Panel's previous directions in this regard, which are hereby incorporated by reference.¹⁶
11. The dates set for the Defence Preparation Conference and opening of the Defence's case shall remain unchanged.¹⁷
12. The Panel considers that no prejudice is caused to Victims' Counsel by disposing of the Request without giving him the opportunity to be heard.
13. Lastly, the Panel directs the Defence, in the future, to make consolidated requests for extension of time when it seeks the extension of several competing deadlines.

¹⁶ KSC-BC-2020-04, Transcript of Hearing, 16 June 2023, public, p. 2019, line 25 to p. 2020, line 10; F00434/RED, Trial Panel I, [Public redacted version of Decision on the conduct of the proceedings](#), 24 February 2023, public, paras 27-28, 30-33, 35, 56, 64, 68-69.

¹⁷ The same applies to the dates set for the presentation of evidence by Victims' Counsel, which are unaffected; KSC-BC-2020-04, Transcript of Hearing, 16 June 2023, public, p. 2020, lines 11-18; p. 2021, lines 9-16; Transcript of Hearing, 26 June 2023, public, p. 2028, lines 3-7.

This will enable the Panel to assess the requests in a holistic manner and allow, not only the Panel, but all Parties and participants to use their time and resources in the most efficient manner, thereby promoting the overall efficiency of the proceedings.

IV. DISPOSITION

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

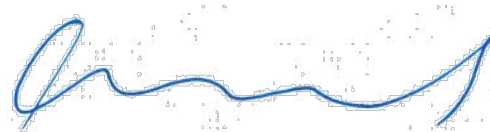
- a. **GRANTS** the Request, in part;
- b. **ORDERS** the Defence to file its lists of witnesses and exhibits no later than **Wednesday, 16 August 2023, at 12h00**; and
- c. **ORDERS** the Defence to comply with its disclosure obligations and the Panel's directions, as set out in paragraphs 9 and 10 of the present decision.



Judge Mappie Veldt-Foglia
Presiding Judge



Judge Gilbert Bitti



Judge Roland Dekkers

Dated this Friday, 14 July 2023

At The Hague, the Netherlands.