

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: 22 January 2024

Filing Party: Specialist Defence Counsel

Original Language: English

Classification: Public

THE SPECIALIST PROSECUTOR

v.

PJETËR SHALA

Defence Request for an Extension of Time and Word Limit for its Final Trial Brief

Specialist Prosecutor's Office

Kimberly P. West

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 Rules 9(5)(a), 76, and 134(b) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers (“Rules”), the Defence for Mr Pjetër Shala (“Defence”) requests a fifteen-day extension of the time limit prescribed by the Rules to file its Final Trial Brief and a 15,000-word extension of the applicable word limit. The Defence also requests that the Panel allow the consecutive filing of the Parties’ final trial briefs so that the Defence can file its final trial brief five days after it receives the final trial brief of the Prosecution and Victims’ Counsel.

II. SUBMISSIONS

A. Request for Extension of Time and Consecutive Filing of the Parties’ Final Trial Briefs

2. Rule 134(b) of the Rules provides that the Panel must invite the parties to file their respective Final Trial Briefs within thirty days from the date that the Panel announces that the evidentiary proceedings are closed. The Defence requests the Panel to grant an extension of the time limit prescribed in Rule 134(b) of the Rules by allowing the Defence fifteen additional days for filing its final brief. The Defence considers that the time provided in this Rule is very limited and in the circumstances of the present case, it prevents the Defence from presenting effective submissions. The Accused is entitled to adequate time and facilities to present his defence as per Article 21(4)(c) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor’s Office.
3. Pursuant to Rule 76 of the Rules, applications for an extension of time must be filed sufficiently in advance to enable the Panel to rule on them before the expiry of the relevant time limit. The Defence files this Request seven days after

the closing of its case,¹ and before the closing of the evidentiary proceedings which will trigger the deadline prescribed in Rule 134(b) of the Rules.

4. Good cause exists to grant the requested extension of time. The Defence must thoroughly review the evidence presented at trial and needs to have sufficient time to prepare meaningful submissions that will assist the Panel in assessing the evidence on the trial record. The Defence also needs to develop its submissions on the complex issues related to fairness of these proceedings before the KSC. In addition, as instructed by the Panel's Oral Order dated 25 October 2023, the Defence will also need to present its submissions on sentencing its Final Trial Brief.² Hence, given the complex nature of the issues at hand, it is a matter of fairness for the Defence to be granted adequate time to present its arguments.
5. The Defence therefore requests the Panel to allow the filing of its Final Trial Brief 45 days after the close of the evidentiary proceedings.
6. In addition, the Defence requests the Panel to allow the consecutive filing of the Parties' final trial briefs, by allowing the Defence to file its final trial brief five days after the Prosecution and Victims' Counsel file its final trial briefs. Allowing the consecutive filing of the Parties' final trial briefs will provide the Defence with a real opportunity to prepare and properly respond to the submissions presented in the Prosecution's final trial brief. Simultaneous filing of the final trial briefs will prevent the Defence from responding to the Parties' submissions in writing. For instance, at the International Criminal Court, it is common to allow the Defence to file its closing brief after the Prosecution and

¹ F00770, Defence Notice of Closing its Case Pursuant to Rule 131 of the Rules, 15 January 2023.

² T. 25 October 2023, p. 3153, line 9 - p. 3156, line 24.

legal representatives of victims, assuring the Accused's right to be informed of the case presented against him and to adequately respond to it.³

7. The Defence request will maintain procedural fairness in the proceedings and will not prejudice the Prosecution nor Victims' Counsel. Allowing the Defence to properly respond to the Prosecution and Victims' Counsel submissions in writing, will also provide the Prosecution and Victims' Counsel the benefit of knowing the Defence response so that they are in a better position to present their reply in their final (oral) submissions to the Panel.

B. Request for Extension of Word Limit

8. The Defence undertakes to present clear submissions using a minimum amount of words. Nonetheless, the Defence finds the word limit prescribed in Article 45 of the Registry Practice Directions on Files and Filings Before the Kosovo Specialist Chambers insufficient to enable it to present its case. An extension of the word limit from 30,000 to 45,000 words is necessary given the number, significance, and complexity of the issues to be raised in the Final Trial Brief. This is particularly the case in light of the fair trial issues and sentencing submissions that the Defence intends to develop in its final brief.
9. The Defence further notes that in the case of *Mustafa*, the Panel has granted an extension of word limit from 30,000 to 45,000 words both to the Prosecution and the Defence.⁴ Similarly, in this case, the number, significance, and complexity of the issues to be raised in the Final Trial Brief require thorough factual and legal analysis spanning several different topics. In light of the

³ ICC, *Prosecutor v. Bosco Ntaganda*, Case No. ICC-01/04-02/06, Order providing directions related to the closing briefs and statements, 28 December 2017, para. 8, 13; *Prosecutor v. Jean-Pierre Bemba Gombo*, Case No. ICC-01/05-01/08, Decision on the timeline for the completion of the defence's presentation evidence and issues related to the closing of the case, 16 July 2013, para 27, 32.

⁴ KSC-BC-2020-05, Decision on Prosecution request for extension of word limit, 8 July 2022.

anticipated scope of the Final Trial Brief and the diverse elements that must be addressed, good cause exists to grant the requested word extension.

III. CLASSIFICATION

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

IV. RELIEF REQUESTED

11. For these reasons, the Defence respectfully requests the Panel to grant the extensions requested so that it can properly present its case and assist the Panel in the determination of the issues at stake.

Word count: 1029

Respectfully submitted,



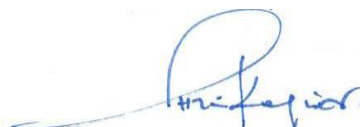
Jean-Louis Gilissen

Specialist Defence Counsel



Hédi Aouini

Defence Co-Counsel



Leto Cariolou

Defence Co-Counsel

Monday, 22 January 2024

The Hague, the Netherlands