



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:** 7 February 2024

**Language:** English

**Classification:** **Public**

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**Sixth decision on the lifting of redactions or application of new redactions in trial hearing transcripts and their reclassification**

**with Annex 1 confidential**

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**To be notified to:**

**Specialist Prosecutor**

Kimberly P. West

**Counsel for the Accused**

Jean-Louis Gilissen

**Registry**

Fidelma Donlon

**Victims' Counsel**

Simon Laws

TRIAL PANEL I (Panel) hereby renders this sixth decision on the lifting of redactions or application of new redactions in trial hearing transcripts and their reclassification.

## I. PROCEDURAL BACKGROUND

1. On 15 May 2023, the Panel ordered the Parties and Victims' Counsel to undertake, on a rolling basis, a revision of the transcripts following the completion of each evidentiary block, and to provide submissions, in a consolidated filing, on whether existing redactions could be lifted and/or transcripts reclassified as public, with a view to respecting the principle of publicity while upholding the protective measure for witnesses and victims.<sup>1</sup>

2. On 12 June 2023, the Panel directed the Registry, most notably the Witness Protection and Support Office (WPSO), to liaise with the Parties and Victims' Counsel and add their proposals for the lifting of redactions and/or reclassification of transcripts, if they so wished, to the joint submissions made by the Parties and Victims' Counsel.<sup>2</sup>

3. From 20 to 29 November 2023, during the ninth evidentiary block, the Panel heard the testimonies of Zijadin Hoxha (W03887), Safete Hadergjonaj (W04441), Time Kadrijaj (W04440), expert witness André de Villiers Horne (DW4-03) and

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<sup>1</sup> KSC-BC-2020-04, F00510, Trial Panel I, *Second order for submissions on the lifting of redactions and/or reclassification of transcripts of trial hearings*, 15 May 2023, public, paras 5, 8.

<sup>2</sup> KSC-BC-2020-04, F00541, Trial Panel I, *Decision on the lifting of redactions or application of new redactions in trial hearing transcripts and their reclassification*, 12 June 2023, public, para. 25, with Annex 1, confidential.

witness W04280.<sup>3</sup> Moreover, on 9-10 January 2024, during the tenth evidentiary block, the Panel heard the testimony of Safet Gashi (W04405).<sup>4</sup>

4. On 13 December 2023 and 24 January 2024, the Parties, Victims' Counsel and WPSO submitted their joint proposals on the application of new redactions and/or reclassification of transcripts for the trial hearings that took place between 20 and 29 November 2023 (First Joint Proposal)<sup>5</sup> and on 9-10 January 2024 (Second Joint Proposal).<sup>6</sup>

## II. SUBMISSIONS

5. The Parties, Victims' Counsel and WPSO propose to reclassify as public parts of the transcripts of the trial hearings held in private session on 20-24 and 28-29 November 2023 and on 9 January 2024, subject to the application of redactions, where necessary, with the aim of protecting the identity of witnesses and victims and related confidential information.<sup>7</sup> No proposals are submitted for the trial hearings that took place on 27 November 2023 and 10 January 2024.

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<sup>3</sup> Transcript of Hearing, 20 November 2023, confidential, pp. 3164-3283; Transcript of Hearing, 21 November 2023, confidential, pp. 3284-3407; Transcript of Hearing, 22 November 2023, confidential, pp. 3408-3518; Transcript of Hearing, 23 November 2023, confidential, pp. 3519-3611; Transcript of Hearing, 24 November 2023, confidential, pp. 3612-3627; Transcript of Hearing, 27 November 2023, confidential, pp. 3628-3727; Transcript of Hearing, 28 November 2023, confidential, pp. 3728-3829; Transcript of Hearing, 29 November 2023, confidential, pp. 3830-3884. The Panel notes that W04280 benefits from protective measures *vis-à-vis* the public. See also Transcript of Hearing, 28 November 2023, confidential, page 3732, line 2 to page 3733, line 6.

<sup>4</sup> Transcript of Hearing, 9 January 2024, confidential, pp. 3885-3999; Transcript of Hearing, 10 January 2024, confidential, pp. 4000-4076.

<sup>5</sup> KSC-BC-2020-04, F00747, Defence, *Defence Submission on the Joint Proposal for the Lifting of Redactions for the Ninth Evidentiary Block*, 13 December 2023, public, with Annex 1, confidential.

<sup>6</sup> KSC-BC-2020-04, F00785, Defence, *Defence Submission on the Joint Proposal for the Lifting of Redactions for the Tenth Evidentiary Block*, 24 January 2024, public, with Annex 1, confidential.

<sup>7</sup> Annex 1 to First Joint Proposal, pp. 2-7; Annex 1 to Second Joint Proposal, p. 2.

### III. APPLICABLE LAW

6. The Panel notes Articles 21(2), 23, 40(2), (4) and (6)(f) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office (Law) and Rules 80, 84(1) and 120 of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers (Rules).

### IV. ANALYSIS

7. The Panel recalls that, pursuant to Article 21(2) of the Law, and subject to any protective measures ordered under Article 23 of the Law for the protection of witnesses and victims, the Accused has the right to a public hearing in the determination of the charges against him. With a view to respecting the principle of publicity while upholding the protective measures in place, the Panel has exercised its duty under Rule 84(1) of the Rules to review the classification of the transcripts of the trial hearings held between 20 and 29 November 2023 and on 9-10 January 2024 and, where applicable, hereby orders their reclassification, as set out below. For ease of reference, the Panel lists all reclassifications and redactions to be applied by the Registry to the relevant transcripts in an annex appended to this decision.

8. The Panel notes that the Parties, Victims' Counsel and WPSO agree that certain excerpts of the transcripts of the trial hearings held in private session on 20-24 and 28-29 November 2023 and on 9 January 2024 can be made public, subject to the application of redactions.<sup>8</sup>

9. The Panel finds that the Parties', Victims' Counsel's and WPSO's proposals are consistent with the approach of the Panel in protecting witnesses and victims under Article 23 of the Law and strike an appropriate balance between the

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<sup>8</sup> Annex 1 to First Joint Proposal, pp. 2-7; Annex 1 to Second Joint Proposal, p. 2.

different rights and interests at stake, namely, the principle of publicity under Article 40(4) of the Law, the right of the Accused to a public hearing under Article 21(2) of the Law, and the protection of witnesses and victims under Article 23 of the Law. Nevertheless, the Panel finds it necessary to apply additional redactions in the excerpts of the transcripts that the Parties, Victims' Counsel and WPSO seek to reclassify as public, in order to ensure the protection of witnesses and related confidential information. Accordingly, the Panel grants the requests contained in the First and Second Joint Proposals to reclassify as public parts of the transcripts of the aforementioned trial hearings, subject to the application of the requested redactions and the Panel's directions, as set out in the annex to this decision

10. In addition to the Parties', Victims' Counsels' and WPSO's proposals, the Panel considers that additional excerpts of the transcripts of the trial hearings held on 20, 22 and 27-29 November 2023 can be reclassified as public, subject to the application of redactions, in order to give full effect to the principle of publicity while ensuring the protection of witnesses, victims and related confidential information.

11. In light of the above, the Panel authorises the reclassification as public of parts of the transcripts of the aforementioned trial hearings held in private session and the subsequent application of redactions therein, in accordance with the annex to this decision. Accordingly, the Panel instructs the Registry to reclassify as public parts of the transcripts recording private sessions, in line with the instructions included in the annex to this decision, and subject to the application of redactions contained therein. The abovementioned reclassification of transcripts shall equally apply to the transcripts in Albanian and Serbian languages.

12. Finally, the Panel incorporates by reference its previous instructions to the Registry regarding the implementation of redactions to the audio-video material of the relevant trial hearing transcripts.<sup>9</sup>

## V. DISPOSITION

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

- a) **AUTHORISES** the reclassification as public of parts of the transcripts of trial hearings held in private session and the subsequent application of redactions therein, in accordance with paragraph 11 of this decision;
- b) **INSTRUCTS** the Registry to reclassify as public parts of the trial hearing transcripts, in all languages, subject to the authorised redactions, as set out in the annex to this decision;
- c) **INSTRUCTS** the Registry to implement, as technically possible, the redactions in the corresponding audio-video material of the relevant trial hearing transcripts, in all languages; and
- d) **INSTRUCTS** the Registry's Court Management Unit to liaise with the Panel should any issues arise in the implementation of this decision.

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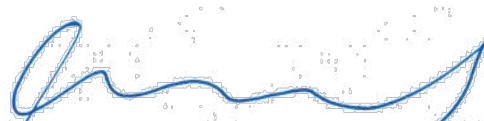
<sup>9</sup> KSC-BC-2020-04, F00579, Trial Panel I, *Second decision on the lifting of redactions or application of new redactions in trial hearing transcripts and their reclassification*, 11 July 2023, public, paras 24-25, with Annex 1, confidential.



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



**Judge Gilbert Bitti**



**Judge Roland Dekkers**

Dated this Wednesday, 7 February 2024

At The Hague, the Netherlands.