



## Update

Welcome to the weekly press briefing of the Kosovo Specialist Chambers, where we aim to provide journalists with an update on the latest developments at the court, and the opportunity to ask questions.

On 29 August, the Specialist Chambers of the Constitutional Court rejected a referral by Pjetër Shala, finding it inadmissible. Mr. Shala had complained that his fundamental rights were violated by rulings of the Trial Panel and Court of Appeals Panel allowing for admission into evidence a statement he made in 2016 to Belgian police. The Specialist Chambers of the Constitutional Court found that it is within the competency of the Basic Court and the Appeals Chamber to decide on the admissibility of evidence while it is the task of the Constitutional Court to determine whether the proceedings, as a whole, including the way in which the evidence was obtained, were fair. Since the trial proceedings and any subsequent appeals have not been completed yet, the Judges found the referral to be premature.

During the Defence preparation conference in the *Shala* case, which took place on 24 and 25 August, the Trial Panel issued a number of directions and oral orders organising the presentation of evidence by the Defence.

The Panel announced that, depending on the outcome of its decision on the Defence's motion to dismiss a part of the case against him, the Defence case will open during the week of 18 September. The exact date will be communicated in due course.

The Panel allocated 40,5 hours to the Defence to present its case and the SPO is allocated the same amount of time effectively used by the Defence for the cross-examination of each Defence witness. Victims' Counsel will have 25% of the time effectively used by the Defence.

To ensure the efficiency of the proceedings and avoid hearing witness testimonies that are not relevant to establish the truth or that are repetitive, the Panel ordered the Defence to remove five names from its witness list and file its revised list of witnesses by 29 August 2023.

In the same case, on 21 July, the Trial Panel issued its Decision on Victims' Counsel's request to admit reports from three expert witnesses into evidence. The Decision became public this week. While Victims' Counsel had intended to present the evidence provided by the experts only in written form, the Defence had requested for the witnesses to also appear in court as it intended to cross-examine them. The Panel decided that two of the experts, Karin Duhne-Prinsen and Chayèn Lozano Parra from the "Instituut voor Mensenrechten en Medisch Onderzoek", would testify in court as their testimony related both to establishing the truth of the charges against Mr. Shala and to any eventual reparations, and therefore the Defence should have the possibility to cross-examine them. The two witnesses testified in court on 21 August.

The third witness, Stefan Lertz, is an expert in calculation of income loss and provided evidence on the material harm allegedly suffered by all victims participating in the proceedings. Since this evidence is solely

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relevant for reparations, and because the Rules of Procedure and Evidence provide that issues concerning reparations should mainly be dealt with in written form, the Panel decided to only admit the written report of this witness, while allowing the Defence to submit any questions or challenges to the report in writing.

The next hearing in this case is scheduled for Monday, 18 September starting at 9:30 in the morning.

In the trial of *Thaçi and others*, the 18<sup>th</sup> and 19<sup>th</sup> witness called by the Prosecution testified this week with protective measures and mostly in private session. According to the short summary read in court by the Prosecution, the testimony of the 19<sup>th</sup> witness was about an alleged detention and disappearance of the witness' family member in Drenoc/Drenovac.

On 16 August, the Trial Panel denied a request by the *Thaçi* Defence in regards to the contact with one specific witness. The *Thaçi* Defence had requested to lift the protocol that regulates the contact with witnesses in regards to this witness based on an announcement by the prosecution that it decided to no longer call the witness at this stage of the proceedings.

The Panel found that the protocol continues to apply because the Prosecution still intends to call the witness, but at a later stage of the proceedings. The Panel also clarified that whenever the Prosecution decides it no longer intends to call a previously announced witness, it will have to inform the Defence, as in such cases, the protocol will not apply any longer. Consequently, the Prosecution is required to proactively review, on an ongoing basis, its list of witnesses and to give the Defence prompt notice of any decision taken not to call a particular witness.

The next hearing in this case is scheduled for Monday, 4 September starting at 9:00 in the morning.

### Journalist Questions

There were no questions asked.

