



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.

This briefing covers developments in the proceedings since 14 December 2023, including decisions taken during the winter judicial recess, which finished on 5 January. During the recess period the court remained functional and work continued across all sections of the KSC.

In the Haxhi Shala case, the Pre-Trial Judge determined on 14 December that the working language of the case will be English, as requested by both the Prosecution and Mr Shala's duty Counsel. The first status conference was held on 15 December, at which Mr Shala requested to enter a plea and subsequently pleaded not guilty to all three charges in the indictment.

On 19 December, the Pre-Trial Judge issued a Framework Decision on Disclosure of Evidence and Related Matters in the same case. Among other things, this decision sets out a series of deadlines in January and February by which time the Prosecution must share different categories of evidence with the Defence. This process is also known as disclosure.

Following an earlier request by the Prosecution to join the case of Mr Haxhi Shala and the case of Mr Januzi and Mr Bahtijari into a single trial, the Pre-Trial Judge issued an oral order on 14 December directing the Prosecution to file its proposed joinder indictment by 12 January.

In December, the Registrar appointed Jonathan Elystan Rees as Counsel for Mr Januzi, and in January she appointed Felicity Gerry as Counsel for Mr Ismet Bahtijari and Toby Cadman as Counsel for Mr Haxhi Shala.

In the *Thaçi et al.* case, on 15 December, the Trial Panel ordered the continued detention of Hashim Thaçi and Kadri Veseli in separate decisions.

For both accused, the Judges found that there continues to be a risk that they will obstruct the progress of proceedings and commit further crimes against those perceived as being opposed to the KLA, including witnesses who have provided or could provide evidence in the case. The Trial Panel maintained the view that these risks can only be mitigated through the communication monitoring framework applicable at the Specialist Chambers detention facilities, including those measures recently ordered by the Trial Panel.

In the same case, on 15 December, the Trial Panel partially granted the Prosecution's request to admit into evidence the written statements of some witnesses, including witnesses who had testified in other cases and since died.

The KSC Law, as adopted by the Kosovo Assembly, provides that testimony given before the ICTY and before Kosovo courts may be admissible in the trials. In line with this, the Rules of Procedure and Evidence say that

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the written testimony of persons who have since died may be admitted if the Judges are satisfied that “the statement, the record or the transcript is prima facie reliable...”.

As with any piece of evidence, it will be up to the Judges in the course of the trial to determine the weight and value of such statements in the context of the overall case.

On 18 December, the Trial Panel in the *Thaçi et al.* case authorised the Prosecution to apply additional redactions to a piece of exculpatory evidence, as permitted under the Rules, for the protection of a witness.

On 19 December, the Trial Panel partially granted requests from the Krasniqi Defence and the Selimi Defence to appeal an earlier decision on whether certain previous statements of the accused can be admitted as evidence. The President of the Specialist Chambers has assigned Judge Michèle Picard, Judge Emilio Gatti Judge, and Nina Jørgensen to a Court of Appeals Panel to decide on these matters.

On 20 December 2023, the Trial Panel decided on complaints made by Mr Selimi (joined by Mr Thaçi and Mr Veseli) in relation to the Registrar’s implementation of the Trial Panel’s 1 December decision modifying the detention conditions for the three accused. The Panel denied the request as premature, noting that such complaints should first be submitted directly to the Registrar and, if denied, the detainees can then request judicial review of the Registrar’s decision by the Trial Panel.

Four hearings previously scheduled in February in the *Thaçi et al.* case have been cancelled, following a request from the Veseli Defence. The Trial Panel found that the Defence has shown good cause for a limited adjustment of the schedule in order to ensure that the Defence’s ability to prepare for the cross-examination of the upcoming witnesses is not affected by the recent sudden death of one of its Co-Counsel.

On 3 January 2024, the Registrar informed the Trial Panel of the confirmation of approval of Ms Kerrie Ann Rowan as Co-Counsel for Mr Kadri Veseli.

The next scheduled hearing in the *Thaçi et al.* trial will take place next Monday, 15 January.

Hearings in the Pjetër Shala trial resumed this week. The 10th witness called by the Defence, Safet Gashi, testified without protective measures on Tuesday and Wednesday.

During yesterday’s hearing, the Judges issued a number of oral orders, one of which related to a Defence request to add the expert report of a psychologist to the list of exhibits in the case and to call her to testify in person. The Trial Panel ordered that the witness and the report, which the Trial Panel found relevant for sentencing in case the accused is found guilty, be added to the Defence lists of witnesses and evidence. The Judges however rejected the request that her testimony take place in court.





In same case, on 9 January the Trial Panel issued its fifth decision on redactions in transcripts, which included reclassifying as public parts of the transcripts of trial hearings held in private session between 23-25 October.

In the Salih Mustafa case, the public redacted version of the full Appeals judgment was issued in December and can be accessed on the KSC website.

Journalist Questions

There were no questions asked.

