



## 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 the last briefing on 25 July, including decisions taken during the judicial recess, which finished on 16 August. During the recess period the court remained functional and work continued across all sections of the Kosovo Specialist Chambers.

In the Salih Mustafa case, the Supreme Court Panel granted, in part, Mr Mustafa's request for protection of legality on 29 July and annulled the appeal judgment as it relates to Mr Mustafa's sentence of 22 years of imprisonment. The Supreme Court Panel returned the judgment back to the Appeals Panel to consider Mr Mustafa's sentence in light of the reasoning set out in the decision of the Supreme Court Panel.

On 31 July, KSC President Ekaterina Trendafilova assigned a Court of Appeals Panel for a new determination of Mr Mustafa's sentence, in accordance with the decision on his request for protection of legality. The appeals panel consists of Judges Michèle Picard, Kai Ambos and Nina Jørgensen.

Persons convicted at trial have the right to appeal judgments and to seek extraordinary legal protections under certain circumstances, as Mr Mustafa did in this case.

Hearings resumed this week in the trial of Hashim Thaçi, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi. On Monday and Tuesday, former US Army officer Steven Russell testified. On Tuesday afternoon, the 79<sup>th</sup> Prosecution witness testified in court under protective measures. According to the summary read out in court, the witness joined the KLA around March 1998 and served at multiple locations, providing training to KLA soldiers and acting as a Commander. The witness concluded their testimony yesterday. The next hearing in the Thaçi et al. trial is scheduled for Monday, 26 August, at 09:00.

In the same case, on 21 August, the Trial Panel granted in part a request by the Prosecution to take judicial notice of a list of facts already decided upon by the court in the Salih Mustafa case, which the Prosecution believes are also relevant to the Thaçi et al. case. Earlier this month, the Trial Panel also issued decisions related to witness testimonies, including granting a Prosecution motion to admit three witness statements once these witnesses have appeared in court for cross-examination by the Defence.

On 14 August, the Trial Panel ordered the continued detention of Hashim Thaçi and Kadri Veseli in separate decisions, finding that the risks that the accused will obstruct the progress of proceedings and commit further crimes against persons perceived as being opposed to the KLA, including witnesses who have provided or could provide evidence in the case, continue to exist. In regards to Mr Thaçi, the Panel recalled its previous findings that the accused appears to have provided unprivileged visitors with information elicited during the testimony of protected witnesses.





On 21 August, the Trial Panel granted a request by Kadri Veseli for the early termination of Ben Emmerson as his Counsel. The Judges referred to a letter from Mr Veseli requesting the withdrawal of Counsel “due to an irrevocable breakdown in the client counsel relationship” and a letter from Mr Emmerson notifying the Registrar of his early withdrawal as Counsel. The Judges also considered a notification by the Registrar that she had received a request from Mr Veseli to appoint Mr Rodney Dixon as his new lead Counsel.

The Trial Panel considered that Mr Veseli’s request for early termination of Counsel accords with his rights and adequately ensures his continuous and effective representation, having in mind that the Defence team consists of 11 persons, including two other Counsel who have been involved in the case for some time and considering the Registrar’s submissions that she is in a position to take steps to appoint Mr Dixon as replacement Counsel.

In the case of Sabit Januzi, Ismet Bahtijari and Haxhi Shala, the Pre-Trial Judge ordered the continued detention of Ismet Bahtijari on 26 July, finding that there continues to be a moderate risk that Mr Bahtijari will flee and a risk that he may obstruct the progress of proceedings and or/ commit further crimes. The Pre-Trial Judge further decided that it is only through the communication monitoring framework at the Specialist Chambers detention facilities that these risks can be sufficiently mitigated.

On 5 August, the Pre-Trial Judge ordered the continued detention of Sabit Januzi. Being mindful that, should he be released, Mr Januzi would have the motive, means and opportunity to exert pressure on Witness 1 to dissuade him from participating in the proceedings, or to otherwise tamper with evidence, the Pre-Trial judge further found that the risk that the accused may obstruct the progress of proceedings and/or commit further crimes continues to exist. The Judge also found a moderate risk that Mr Januzi may flee.

In the same case, on 12 August, the Pre-Trial Judge denied preliminary motions made by the Defence alleging defects in the indictment, in particular in relation to the charge of intimidation through a promise of a gift or any other form of benefit, as set out in the Kosovo Criminal Code.

In the case of Pjetër Shala, the Appeals Panel on 24 July granted in part a request by the Defence to extend the deadline for the filing of its notice of appeal against the trial judgment. The Appeals Panel denied a subsequent 8 August request for further extension of this deadline.

By way of background, the Trial Panel found Mr Shala guilty of the war crimes of arbitrary detention, torture and murder on 16 July and sentenced him to a prison sentence of 18 years, with credit for time served. Under the rules, a party seeking to appeal the judgment and/or the sentence has 30 days to file a notice of appeal, setting forth the reasons for the appeal. The Appeals Panel has now extended the deadline for filing this notice until 2 September.

The Defence had asked for a longer extension until 30 days after the official Albanian translation of the trial judgment is available, but the Appeals Panel found that Mr Shala failed to demonstrate good cause for a further extension because the determination and formulation of potential grounds of appeal fall within the





responsibility of Defence Counsel, who can work in English. The Appeals Panel also recalled that under the rules, the Judges may authorise a variation of the grounds of appeal and so the parties will have the opportunity, if they so wish, to request a variation of their grounds of appeal after having read the Albanian translation of the trial judgment, provided that they show good cause under this Rule.

In an update filed with the Appeals Panel earlier this month, the Registrar informed the Judges that an unrevised translation of the trial judgment is expected to be filed by 6 September 2024.

