



## 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.

Due to compelling humanitarian grounds, the Trial Panel has instructed the Registry to manage a custodial visit to Kosovo for Mr. Krasniqi to meet immediate family. The Accused remains in detention and in the custody of the Specialist Chambers. EULEX and Kosovo Police are supporting the Kosovo Specialist Chambers.

On 3 October 2024, President Trendafilova assigned a Constitutional Court Panel to decide on a referral by Salih Mustafa from 27 September in which he alleges, among others, that his constitutional rights have been violated when the Supreme Court allowed Victims Counsel to make submissions concerning his request for protection of legality and when the Supreme Court decided that the Yugoslav Law from 1976 was not applicable as a basis to determine the sentencing range. Mr. Mustafa also requested that his case be returned to the appropriate Panel for re-trial. The Constitutional Court Panel consists of Judges Vidar Stensland, Roumen Nenkov, and Romina Incutti.

On 4 October, the Trial Panel ordered the continued detention of Haxhi Shala and Sabit Januzi. For Haxhi Shala, the Panel saw a risk of flight. In regards to both accused, the Panel found that there continues to be a risk that they may obstruct the progress of proceedings and/or commit further crimes. In particular, the Panel found that they both would have the motive, means and opportunity to exert pressure on Witness 1 and to dissuade him from participating in the proceedings, or to otherwise tamper with evidence. The Panel furthermore considered that the imminent start of the trial and the accused' increased access to sensitive witness-related information as a result of the ongoing disclosure process constitute relevant factors in assessing the possibility that the Accused might obstruct the progress of the proceedings. The Panel concluded that it is only through the communication monitoring framework applicable at the Specialist Chambers Detention Facilities that the accused' communications can be restricted in a manner to sufficiently mitigate these risks.

In the case of Sabit Januzi, Ismet Bahtijari and Haxhi Shala, the Trial Panel on 7 and 8 October held trial preparation conferences aiming at discussing any issue that needs to be resolved for an expeditious start of the trial. Following discussions on, among others, investigations, anticipated evidence and disclosure, the Panel issued a number of oral orders on 8 October.

The Panel took note of the confirmation by the defence teams of Mr. Shala and Mr. Bahtijari regarding their readiness and availability to start the trial on Friday, 8 November 2024, with trial hearings to be held in the week from 11 to 15 November. The Panel decided that in case Mr. Januzi's lead counsel is not available on some of these days, Mr. Januzi can on those days be represented by co-counsel.

The Panel invited the defence teams to file written submissions, if they so wish, on the proposals by the Specialist Prosecutor's Office on the submission and admissibility of non-oral evidence; the public character

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of the proceedings; and the fair and expeditious character of the proceedings by no later than Wednesday, 16 October. By the same deadline, the Panel invited the defence teams to file submissions on the practice of witness preparation.

The Panel ordered the prosecution to file any request for admission of evidence other than witness testimonies by 15 October. Should the Defence wish to reply to the prosecution's submission, they are ordered to do so by 22 October. Any further response by the Prosecution has to be filed by 25 October 2024.

The Panel also ordered the defence teams to file their respective witness lists by 4 November. These lists shall include, among others: the total time estimated for the presentation of each Defence case; the total number of witnesses who are expected to testify for each accused, including whether the accused himself is expected to appear as a witness; a summary of the facts on which each witness is expected to testify; the allegations in the indictment on which each witness is expected to testify, including specific reference to charges; and the estimated length of time required for direct examination of each witness. In addition, the Panel directed the Defence teams to include in their respective filings any request for protective measures or summons. The Prosecution was ordered to file any response to the defence requests by no later than 11 November; and the Defence shall file any reply by no later than 14 November 2024.

Concerning the question if the Prosecution at the opening of the trial shall read a summary of the indictment rather than the entire document, the Panel ordered the prosecution and the Januzi Defence to either file a joint proposal for a summary of the indictment or inform the Panel that no such proposal was agreed upon. In the latter case, the indictment will be read in its entirety at the opening of the case. The Panel gave the deadline of Friday, 1 November.

The Panel rejected the submission by the Januzi Defence that they are unable to complete their expert investigations before the prosecution has disclosed the forensic evidence of certain mobile phones. The Panel ordered the Januzi Defence to liaise with the Registry and the Defence Office immediately to make the necessary arrangements to secure expert assistance and to proceed without delay with the envisaged investigations.

The Panel instructed the Prosecution and the Registry to provide technical assistance to the defence teams to ensure the latter have access to forensic copies of certain phones that were seized. The Panel directed the parties and the Registry to in the future proactively liaise with each other in order to solve technical issues without delay.

The Panel announced that it intends to start the trial on 8 November 2024, with the first witness to be called the following week, and that it will issue a decision on the start date as well as on witness familiarisation or preparation; on the conduct of proceedings; and on the submission and admissibility of non-oral evidence.

The next hearing before the Specialist Chambers is scheduled for 21 October 2024 in the *Thaçi et al* case.





In other news, the President of the Specialist Chambers, Judge Ekaterina Trendafilova this week travelled to Kosovo for bilateral meetings including the EUSR, the EULEX Head of Mission, representatives of EU Member States and the Minister of Justice. The aim of the trip was to provide public information about the court's current activities. President Trendafilova plans to address civil society and media in Kosovo at another time in the near future.

### **Questions**

Following the briefing a journalist asked about the agenda and applicable security measures during Jakup Krasniqi's custodial visit to Kosovo this week. KSC Spokesperson Angela Griep responded that she could not comment on operational matters related to the visit.

The journalist also asked whether Haxhi Shala had requested a custodial visit following the recent death of a family member, and if so how the judges had responded to this request. Angela answered that she cannot comment at this point in time.

The journalist asked about the outcome of President Trendafilova's visit to Kosovo this week, and whether there was any news about the implementation of the reparations order for victims in the Salih Mustafa case.

Angela responded that the President in her bilateral meetings in Kosovo provided public information on the court's activities, and she explained a recent decision by the Single Judge who is overseeing the implementation of the reparations order in the Mustafa case. The judge found that the reparations order can be implemented immediately given that Mr. Mustafa did not appeal it and since there is a final judgment in the case. He also invited Mr Mustafa to make any voluntary payments and ordered the Registrar to inform him of the modalities thereof. He also issued orders regarding Mr Mustafa's potential assets to be used for the partial execution of the Reparations Order on the basis of proportional payments to the victims. The Single Judge also indicated that before submitting any potential application to the Crime Victim Compensation program in Kosovo, it must be established whether and to what extent Mr Mustafa can pay the Reparations Order himself within a reasonable time.

