

HOW TRANSPARENT ARE THE KOSOVO SPECIALIST CHAMBERS?

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The Kosovo Specialist Chambers (KSC) and the Specialist Prosecutor's Office (SPO) have jurisdiction over crimes against humanity, war crimes, and other crimes related to the obstruction of justice, all connected to the allegations presented in the Parliamentary Assembly of the Council of Europe's report dated January 7, 2011.

The KSC is at the center of discussions and concerns regarding the transparency and integrity of this institution.

This newsletter aims to provide a clear overview of the efforts and challenges related to the transparency of this institution.

Since the establishment of the KSC & SPO, three indictments have been filed for war crimes against six (6) accused persons: Prosecutor vs. Salih Mustafa; Prosecutor vs. Pjetër Shala; Prosecutor vs. Hashim Thaçi and others.



TRANSPARENCY AND ACCESS TO INFORMATION

Transparency and Access to Information

The KSC is committed to publishing decisions, transcripts, and other important documents to ensure open access for the public. However, due to the sensitive nature of the cases, some sessions and documents are closed to the public to protect the identities of witnesses and sensitive information.

To ensure communication, the KSC has a public relations office that provides information and responses to inquiries from citizens and the media. This helps build trust and maintain transparency.

The trials can be monitored physically or via online streaming on the official KSC website, in three languages: Albanian, English, and Serbian.

Challenges to Transparency

A significant portion of the sessions is closed to the public to protect the identities of witnesses and ensure their safety. This has raised concerns about the level of transparency and public access to judicial processes.

In the case of Prosecutor vs. Salih Mustafa, out of fourteen (14) witnesses heard by the prosecution, ten (10) were heard with security measures, identified as numbered witnesses without their identities being disclosed to the public, and most of their testimonies were given in closed sessions.

¹ https://www.scp-ks.org/sites/default/files/public/coe_0.pdf

² Salih Mustafa has been convicted with a final decision for war crimes and sentenced to 22 years of imprisonment.

³ Pjetër Shala has been sentenced by the first instance to 18 years of imprisonment for war crimes, and the parties have the right to appeal to the Court of Appeals.

⁴ In the case of Prosecutor vs. Hashim Thaçi, Kadri Veseli, Rexhep Selimi, and Jakup Krasniqi, the trial proceedings are in the main hearing phase, and witnesses proposed by the prosecution are being heard.

In the case of Prosecutor vs. Pjetër Shala, out of ten (10) witnesses heard by the prosecution, seven (7) were heard with security measures, identified as numbered witnesses without their identities being disclosed to the public, and partially, their testimonies were given in closed sessions.

In the case of Prosecutor vs. Hashim Thaçi and others, out of the eighty-two (82) witnesses proposed by the SPO, from the beginning of the main hearing until August 2024, about fifty (50) witnesses were heard with security measures, identified as numbered witnesses without their identities being disclosed to the public, and most of their testimonies were given in closed sessions.

A considerable amount of the documentation available on the official website of this judicial institution has not been fully translated into Albanian and Serbian, and it is mainly published only in English.

Findings of the HLCK:

-If a significant portion of the court sessions are closed to the public, this raises serious questions about the transparency of the court. Transparency in the judicial system is a key element to ensuring equal justice and increasing public trust in the justice system.

-Courts are generally open to the public to ensure that the principle of publicity is upheld, except in cases where the closure of sessions is required for specific reasons. When a considerable number of sessions are closed to the public, it may imply a lack of transparency and raise concerns about public and media access to judicial processes, making it difficult to maintain public oversight over judicial decisions.

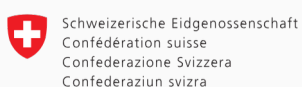
-The public has the right to hear witness statements, but the court must ensure that only information affecting the disclosure of the protected witnesses' identities is redacted, not the entire testimony.

-If this practice continues, the transparency of these trials and the principle of publicity risk losing their significance.

-Compared to all other war crimes trials held in courts in Kosovo and at the Hague Tribunal, the war crimes cases at the KSC are being examined in more closed sessions.

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