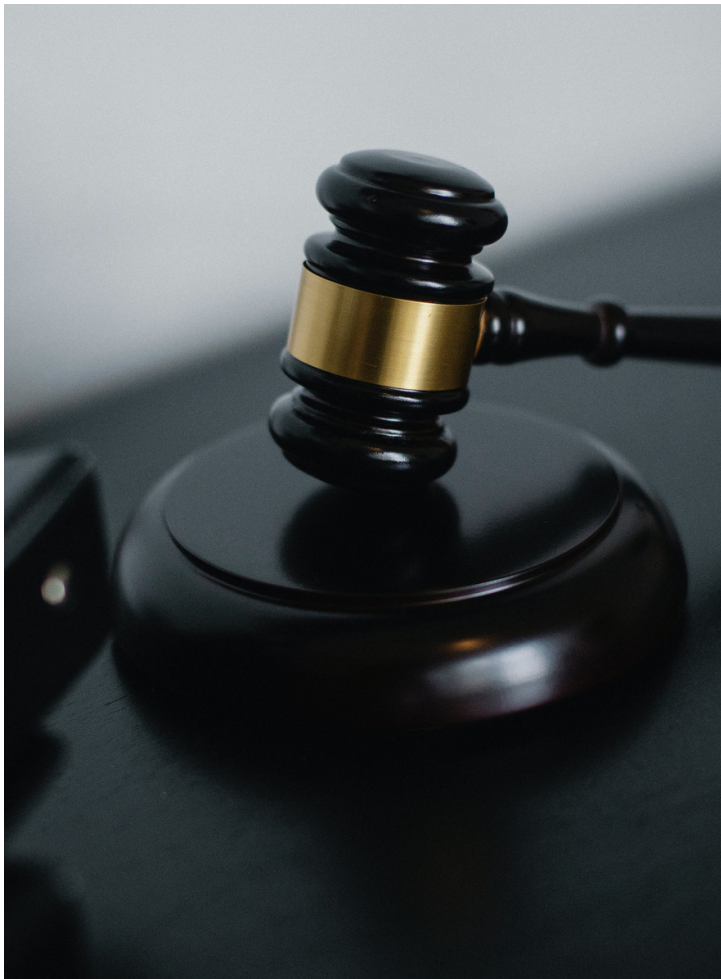


# TRIALS BEFORE THE KOSOVO SPECIALIST CHAMBERS

JULY-DECEMBER 2022



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The Humanitarian Law Center Kosovo (HLCK) monitors the judicial proceedings taking place at the Kosovo Specialist Chambers. HLCK publishes newsletters and analyzes related to the work of the Specialist Chambers, with a view of disclosing more information to the general public about the progress of court proceedings.

This newsletter presents general information on the progress of trials before the Kosovo Specialist Chambers (KSC) during the six-month period July - December 2022.

Currently, there are four (4) cases being handled by the KSC. Prosecutor vs. Hashim Thaçi and others; Prosecutor vs. Pjetër Shala; Prosecutor vs. Salih Mustafa; and the Prosecutor vs. Hysni Gucati and Nasim Haradinaj.



# FORWARDING OF CASES TO THE TRIAL PANEL

## **Prosecutor vs. Pjetër Shala**

Pjetër Shala, a KLA member is charged by the prosecution with war crimes during the period between May 17, 1999 and June 5, 1999, against persons who were detained in a metal factory in Kukës, Albania.

The preliminary proceedings against Shala were completed, and on September 21, 2022, the case files were forwarded to the trial panel for the trial.

During the period July - December 2022, the court held three (3) statutory hearings for the trial, which means that the evidentiary examination has not yet begun. One of these hearings was closed to the public. In such hearings, the parties prepare for the main trial.

Defendant Shala has been in detention since his arrest in March 2021.

For similar crimes that occurred in the north of Albania in the past, two other court proceedings were also held in Kosovo: The Prosecutor vs. Xhemshit Krasniqi and the Prosecutor vs. Sabit Geci and others, where six people were convicted of war crimes against the civilian population by the judges of the EULEX mission.

## **Prosecutor vs. Hashim Thaçi and others**

Hashim Thaçi, Kadri Veseli, Jakup Krasniqi and Rexhep Selimi, all previously holding senior positions in the KLA, are charged by the prosecution of war crimes and crimes against humanity, for the period from March 1998 to September 1999, in several locations in Kosovo and Albania, allegedly having been committed by KLA members against hundreds of civilians and persons who were not participating in the fighting.

During the period July - December 2022, four (4) statutory conferences were held on the case, one of them before the court panel. These statutory conferences discussed issues of importance to the parties, including, among other things, the amendments to the indictment, the investigation by the prosecution and disclosure of materials, the progress of the defense counsel investigations, the requests for special investigative opportunities, submissions by defense teams related to incomplete disclosure of files and materials by the prosecution, as well as in relation to excessive use of redaction in witness statements by the prosecution.

Preliminary proceedings against the defendants have ended. **On December 15, 2022, the case files were forwarded to the trial panel for the trial**, and on December 16, 2022, a first statutory hearing was held before the trial panel.

The defendants were arrested in early November 2020, and have been in custody since then.

## CASE BEFORE THE FIRST INSTANCE CHAMBER

### **Prosecutor vs. Salih Mustafa**

Salih Mustafa, commander of the BIA unit of the KLA, is charged of war crimes allegedly committed during the month of April 1999 in the village of Zllash/Zlaš of the Municipality of Prishtina/Priština.

During the period July - December 2022, three (3) court hearings were held before the court panel, in which the parties presented their closing arguments. The main trial was completed within a period of one year, upon holding 52 trial sessions, where 29 witnesses were heard, and material evidence was administered.

On December 16, 2022, the court panel announced the first judgment on war crimes before this court, in the case of the Prosecutor vs. Salih Mustafa. The court convicted Salih Mustafa for the criminal offenses of arbitrary detention, torture and murder as a war crime, and sentenced him to a unified sentence of 26 years of imprisonment, while for legal reasons, he was acquitted for the criminal offense of cruel treatment.

Since Mustafa's arrest in September 2020, he is still in custody.

## CASE BEFORE THE APPELLATE CHAMBER

### **Prosecutor vs. Hysni Gucati and Nasim Haradinaj**

Hysni Gucati and Nasim Haradinaj have been charged with criminal offenses against public order and obstruction of justice and public administration.

On May 18, 2022, the first instance court panel found the defendants guilty of criminal offenses: violation of the secrecy of the proceedings, intimidation during the criminal proceeding, and obstruction of an official person in the performance of official duties, and sentenced him to a unified sentence of 4 years and 6 months of imprisonment.

The defense teams have challenged this judgment within the legal deadline, and this proceeding has been forwarded to the second instance court.

During the period July - December 2022, three (3) hearings were held in this case, which included one (1) pre-appeal conference in July 2022 and then two (2) appeal sessions in December of the year 2022. On December 1 and 2, 2022, appeal hearings were held, where the defense teams made their statements on the appeal cases.

Now, after the final motions of the parties to the appeal, the court panel must decide within 90 days, and render the verdict of the second instance.

## HLCK FINDINGS

The staff hired within the Specialist Chambers and the Office of the Specialist Prosecution of Kosovo must ensure their engagement for a longer period of time, and there should not be frequent resignations, as war crimes cases are quite voluminous and they require time for any new person to familiarize themselves with the cases. Since September 2016, four (4) specialist prosecutors have been appointed to head the Office of the Specialist Prosecutor, two (2) of whom are acting in their terms.

The sentence of 26 years of imprisonment against Salih Mustafa, when compared with the earlier practices of the ICTY and judicial proceedings in Kosovo, represents a new standard of sanctioning, thereby giving a harsher sentence. With the publication of the full verdict, it remains to be seen whether or not the court has applied the most favorable criminal law when imposing the sentence.

In rendering its verdict, the court has warned that it will issue a victim compensation order and that would be a first decision in the court practices of war crimes in Kosovo, where the court, in its announcement of the verdict, would issue such an order to compel a convicted person to compensate or indemnify the victim.

[Here](#) you can read the newsletter for the period January - June 2022.



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