

In: KSC-BC-2023-10
Specialist Prosecutor v. Sabit Januzi, Ismet Bahtijari and Haxhi Shala

Before: Pre-Trial Judge
Judge Nicolas Guillou

Registrar: Dr Fidelma Donlon

Filing Participant: Specialist Counsel for Haxhi Shala

Date: 27 March 2024

Language: English

Classification: Confidential

Urgent Supplement to Reply to the Prosecution Submission Pertaining to Periodic Detention Review of Haxhi Shala

Specialist Prosecutor

Kimberly P. West

Counsel for Sabit Januzi

Jonathan Elystan Rees

Huw Bowden

Counsel for Ismet Bahtijari

Dr. Felicity Gerry

James O'Keefe

Counsel for Haxhi Shala

Toby Cadman

John Cubbon

Almudena Bernabeu

I. INTRODUCTION

1. The Defence for Mr. Haxhi Shala (“Accused”) hereby seeks to add an urgent supplement to the Reply to the Prosecution Submission Pertaining to Periodic Detention Review of Haxhi Shala that it filed on 26 March 2024¹ (“Reply”) in light of the Decision Setting out the Calendar for the Remaining Procedural Steps of the Pre-Trial Phase that the Pre-Trial Judge issued on 27 March 2024 (“Decision”).

II. SUBMISSIONS

2. In the Reply the Haxhi Shala Defence submitted that the Accused would be detained for an unreasonable period prior to the opening of the case because the timeframe for the pre-trial period appeared to have been extended.² The Defence stated: “The prospect of transmitting the case file to the Trial Judge by 31 May 2024 is therefore far from certain.”³

¹ KSC-BC-2023-10/F00232.

² Reply, para. 4.

³ Reply, para. 5.

3. In the Decision the Pre-Trial Judge decided to set the date for transmitting the case file to the Trial Panel to 21 June 2024⁴ and ordered the Defence, should it not be able to respect the procedural calendar, to file written requests justifying an amendment of the timeline.⁵ As a consequence the date for the transmission of the case file to the Trial Panel will be 21 June 2024 *at the earliest* and the Accused's term in pre-trial detention will be significantly longer than had been anticipated when the Reply was filed. This further strengthens the Accused's case as set out in the Reply for release pursuant to Rule 56(2) of the Rules of Procedure and Evidence before the Kosovo Specialist Chambers⁶ whereby the Panel shall ensure that a person is not detained for an unreasonable period prior to the opening of the case.

4. In paragraph 61(b) of the Decision on Review of Detention of Haxhi Shala⁷, the Pre-Trial Judge laid down a timetable for submissions in relation to the review of detention, as a result of which the final day for the Defence to file its reply to the submissions of the Prosecution was 26 March 2024. In view of the importance of the periodic review of detention, the Haxhi Shala Defence

⁴ Decision, para. 30(k).

⁵ Decision, para. 30(j).

⁶ KSC-BD-03/Rev3/2020.

⁷ KSC-BC-2023-11/F00165, Decision on Review of Detention of Haxhi Shala, 9 February 2024.

submits that this filing should be considered as a supplement to the Reply even though it is filed after that date.

III. CLASSIFICATION

5. This filing is submitted confidentially pursuant to Rule 82(4) of the Rules.

IV. CONCLUSION

6. For the foregoing reasons the Defence requests that the Pre-Trial Judge give consideration to this Supplement in his Periodic Detention Review of Haxhi Shala and that he order the Accused's release as sought in the Reply.

Word Count: [445 words]



Toby Cadman

Specialist Counsel

Wednesday, 27 March 2024

At London, United Kingdom