



SPECIALIST PROSECUTOR'S OFFICE
ZYRA E PROKURORIT TË SPECIALIZUAR
SPECIJALIZOVANO TUŽILAŠTVO

In: **KSC-BC-2020-04**
Specialist Prosecutor v. Pjetër Shala

Before: **Trial Panel I**
Judge Mappie Veldt-Foglia, Presiding Judge
Judge Roland Dekkers
Judge Gilbert Bitti
Judge Vladimir Mikula, Reserve

Registrar: Dr Fidelma Donlon

Filing Party: Specialist Prosecutor's Office

Date: 3 May 2024

Language: English

Classification: Public

Public redacted version of

Prosecution submissions for the seventeenth review of detention

Specialist Prosecutor's Office

Kimberly P. West

Counsel for Pjetër Shala

Jean-Louis Gilissen

Counsel for Victims

Simon Laws

I. INTRODUCTION

1. Pursuant to Article 41(6) and (10) of the Law¹ and Rule 57(2) of the Rules,² and in compliance with the order of the Trial Panel ('Panel'),³ the Specialist Prosecutor's Office ('SPO') hereby files its submissions for the review of detention of Pjetër SHALA ('Accused').

2. The continued detention of the Accused remains necessary and proportionate. The grounded suspicion and each of the Article 41(6)(b) risks remain high, and are further heightened by the approaching end of the trial. The continued detention of the Accused is the only measure capable of sufficiently mitigating these risks.

II. SUBMISSIONS

A. EXISTENCE OF A GROUNDED SUSPICION

3. The Pre-Trial Judge found in the Confirmation Decision that there is a well-grounded suspicion that the Accused committed multiple crimes within the jurisdiction of the Kosovo Specialist Chambers ('KSC').⁴ This finding was made on the basis of a standard exceeding that required by Article 41(6)(a).

4. Furthermore, in its Rule 130 Decision,⁵ the Panel established that the evidence presented during the SPO case, if accepted, is capable of supporting a conviction of the Accused for the charge of murder, under one or more of the modes of liability with which he is charged.⁶

¹ Law No.05/L-053 on Specialist Chambers and Specialist Prosecutor's Office, 3 August 2015 ('Law'). Unless otherwise specified, all references to 'Article' or 'Articles' are to Law.

² Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 ('Rules'). All references to 'Rule' or 'Rules' herein are to the Rules, unless otherwise specified.

³ Decision on the Sixteenth Review of Detention of Pjetër Shala, KSC-BC-2020-04/F00812, 18 March 2024, confidential ('Sixteenth Detention Decision'), para.44b.

⁴ Confidential Redacted Version of the Decision on the Confirmation of the Indictment Against Pjetër Shala, KSC-BC-2020-04/F00007/CONF/RED, 6 May 2021, confidential ('Confirmation Decision'), para.140(a).

⁵ Decision on the Defence Rule 130 Motion to Dismiss the Charge of Murder in the Indictment, KSC-BC-2020-04/F00652, 15 September 2023, confidential ('Rule 130 Decision').

⁶ Rule 130 Decision, KSC-BC-2020-04/F00652, para.34.

5. In its Sixteenth Detention Decision, the Panel again confirmed that grounded suspicion continued to exist.⁷ No circumstances capable of changing this determination have intervened since 18 March 2024.

B. EXISTENCE OF RISKS WARRANTING CONTINUED DETENTION PURSUANT TO ARTICLE 41(6)(B)

6. The existence of risks of obstruction and commission of further crimes by the Accused was confirmed in the Sixteenth Detention Decision.⁸ Circumstances and factors considered by the Panel in reaching that finding include: (i) the Accused's threatening statements [REDACTED];⁹ (ii) the Accused's knowledge of the identity of all SPO witnesses, including protected victims;¹⁰ (iii) the Accused's knowledge of the potentially incriminating evidence against him;¹¹ (iv) [REDACTED];¹² (v) the well-established and ongoing climate of intimidation against witnesses in Kosovo.¹³ No circumstances have intervened capable of changing these findings.

7. The closure of the case against the Accused¹⁴ does not undermine the existence of these risks. He may still obstruct the progress of the proceedings, including possible appeals proceedings, or commit further crimes by interfering with victims, witnesses and/or their relatives;¹⁵ or approaching them in retaliation against the incriminating evidence they provided at trial. Indeed, having received the SPO's final trial brief and heard the closing submissions, the Accused may be more incentivised than ever to obstruct, retaliate or otherwise seek to evade justice.

⁷ Sixteenth Detention Decision, KSC-BC-2020-04/F00812, para.21.

⁸ Sixteenth Detention Decision, KSC-BC-2020-04/F00812, paras 24-35.

⁹ Sixteenth Detention Decision, KSC-BC-2020-04/F00812, paras 24, 28, 32.

¹⁰ Sixteenth Detention Decision, KSC-BC-2020-04/F00812, paras 24, 28, 32.

¹¹ Sixteenth Detention Decision, KSC-BC-2020-04/F00812, paras 24, 32.

¹² Sixteenth Detention Decision, KSC-BC-2020-04/F00812, para.24.

¹³ Sixteenth Detention Decision, KSC-BC-2020-04/F00812, paras 24, 29.

¹⁴ Transcript of the trial hearing (Closing Statements), KSC-BC-2020-04, 17 April 2024, T.4374, lines 9-10.

¹⁵ Sixteenth Detention Decision, KSC-BC-2020-04/F00812, paras 24-30.

8. As such, the SPO also maintains its position as to the existence of a concrete risk that, if released, the Accused will abscond,¹⁶ including in light of the stage of proceedings.

9. In light of these circumstances, all three risks enumerated in Article 41(6)(b) continue to exist. They can only be mitigated by the Accused's continued detention at the KSC Detention Facilities, where his communications can be effectively monitored and his freedom of movement effectively restricted.¹⁷ The Accused's detention is the only suitable and effective measure to mitigate these risks.

C. PROPORTIONALITY OF THE CONTINUED DETENTION

10. For the reasons considered by the Panel in the Sixteenth Detention Decision, including the gravity of the charges, the existence of risks under Article 41(6)(b), the impossibility to mitigate such risks with conditions alternative to detention on remand, the reasonable pace at which the proceedings have progressed in this case,¹⁸ as well as the forthcoming judgment, the Accused's detention remains reasonable and proportionate.

11. Given the advanced stage of the case and considering the above-mentioned reasons, the continued detention of the Accused remains proportionate.

III. CLASSIFICATION

12. This filing is confidential, as it references sensitive information. A public redacted version will be filed.

IV. RELIEF REQUESTED


13. For the foregoing reasons, the SPO requests the Panel to order that the Accused remain in detention.

¹⁶ See, in this regard, Prosecution submissions for the sixteenth review of detention, KSC-BC-2020-04/F00805, 5 March 2024, confidential, para.9.

¹⁷ Sixteenth Detention Decision, KSC-BC-2020-04/F00812, paras 36-37.

¹⁸ Sixteenth Detention Decision, KSC-BC-2020-04/F00812, paras 39-41.

Word Count: 878



Kimberly P. West
Specialist Prosecutor

Friday, 3 May 2024

At The Hague, the Netherlands.