



KOSOVO SPECIALIST CHAMBERS  
DHOMAT E SPECIALIZUARA TË KOSOVËS  
SPECIJALIZOVANA VEĆA KOSOVA

**In:** **KSC-BC-2023-11**  
**The Specialist Prosecutor v. Haxhi Shala**

**Before:** **Pre-Trial Judge**  
Judge Nicolas Guillou

**Registrar:** Dr Fidelma Donlon

**Filed by:** Registrar

**Date:** 13 December 2023

**Language:** English

**Classification:** **Public**

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**Public Redacted Version of**

**“Report on the Arrest and Transfer of Haxhi Shala to the Detention Facilities, with strictly confidential redacted and *ex parte* Annexes 1 – 3” (F00015)**

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**Specialist Prosecutor**

Kimberly P. West

**Counsel for Sabit Januzi**

Jonathan Rees

**Counsel for Ismet Bahtijari**

Felicity Gerry

**Counsel for Haxhi Shala**

Toby Cadman

## I. INTRODUCTION

1. Pursuant to the Decision on Request for Warrant of Arrest and Transfer Order,<sup>1</sup> the Registrar hereby reports to the Pre-Trial Judge on the arrest and transfer of Mr Haxhi Shala ('Mr Shala') to the Detention Facilities of the Specialist Chambers ('Detention Facilities') in The Hague, the Netherlands ('Host State').

## II. PROCEDURAL HISTORY

2. On 4 December 2023, the Pre-Trial Judge issued the Confirmation Decision, confirming the charges against Mr Shala for intimidation during criminal proceedings; attempting to obstruct by serious threat official persons, including Specialist Prosecutor's Office ('SPO') prosecutors and investigators in performing official duties; and attempting to obstruct, by common action of a group, official persons, including SPO prosecutors and investigators in performing official duties.<sup>2</sup>

3. On 4 December 2023, the Pre-Trial Judge also issued an arrest warrant for Mr Shala and ordered his transfer to the Detention Facilities of the Specialist Chambers in The Hague, the Netherlands.<sup>3</sup>

4. On 6 December 2023, the SPO filed a revised version of the indictment ('Confirmed Indictment'),<sup>4</sup> reflecting the Confirmation Decision.

5. On 11 December, in accordance with Rule 55(4) of the Rules,<sup>5</sup> the Registrar notified the Pre-Trial Judge of Mr Haxhi's arrest.<sup>6</sup>

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<sup>1</sup> KSC-BC-2023-11, F00006, Decision on Request for Warrant of Arrest and Transfer Order, 4 December 2023, strictly confidential and *ex parte* ('Decision on Arrest and Transfer'), with two strictly confidential Annexes, paras 28, 29(g).

<sup>2</sup> F00005, Decision on the Confirmation of the Indictment, 4 December 2023, strictly confidential and *ex parte* ('Confirmation Decision').

<sup>3</sup> Decision on Arrest and Transfer, para. 29; *see also* F00006/A01, Arrest Warrant for Haxhi Shala, 4 December 2023, strictly confidential (*see also* F00006/A01/sqi); F00006/A02, Order for Transfer to Detention Facilities of the Specialist Chambers, 4 December 2023, strictly confidential (*see also* F00006/A02/sqi).

<sup>4</sup> F00007/A01, Annex 1 to Submission of Confirmed Indictment, 6 December 2023, confidential.

<sup>5</sup> Rules of Procedure and Evidence Before the Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 ('Rules').

<sup>6</sup> F00008, Notification of Arrest of Haxhi Shala Pursuant to Rule 55(4), 11 December 2023, strictly confidential and *ex parte*.

6. On 12 December 2023, following the notification to the Pre-Trial Judge of the reception of Mr Shala in the Detention Facilities,<sup>7</sup> the SPO filed a public redacted version of the Confirmed Indictment.<sup>8</sup>

7. On that same day, the Registrar informed the Pre-Trial Judge of the assignment of Duty Counsel to Mr Shala.<sup>9</sup>

### III. REPORT

8. The Pre-Trial Judge directed the Registrar to submit a report on the arrest and transfer of Mr Shala, including any relevant details and information provided by the SPO.

#### A. ARREST

9. At 7:47 on 11 December 2023, Mr Shala was placed under arrest by the SPO Operational Security Officer, accompanied by other SPO staff members and an interpreter.<sup>10</sup> The location of arrest was at a house in [REDACTED].

10. The SPO Operational Security Officer, with the assistance of an interpreter, confirmed Mr Shala's identity and informed him that a warrant had been issued for his arrest by the Specialist Chambers. Mr Shala was also informed of his right to silence. A security search was conducted at 7:49.<sup>11</sup>

11. Between 07:53 and 08:51, Mr Shala was transported to [REDACTED], located at [REDACTED], where the SPO Operational Security Officer served Mr Shala with certified copies (in both English and Albanian) of the Arrest Warrant and Transfer

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<sup>7</sup> F00011, Notification of Reception of Haxhi Shala in the Detention Facilities of the Specialist Chambers, 12 December 2023, strictly confidential and *ex parte*, with one strictly confidential and *ex parte* Annex.

<sup>8</sup> F00013, Submission of Public Redacted Version of Confirmed Indictment, 12 December 2023, public, with public Annex 1.

<sup>9</sup> F00012, Notification of Assignment of Duty Counsel to Haxhi Shala, 12 December 2023, strictly confidential and *ex parte*, with one confidential Annex.

<sup>10</sup> Annex 2, SPO Report (Arrest).

<sup>11</sup> Annex 3, Registry Report (Transfer of Custody).

Order at 09:10.<sup>12</sup> Mr Shala confirmed with his signature that he had received certified copies of the Arrest Warrant and Transfer Order.<sup>13</sup>

12. At that time, the SPO Operational Security Officer, in the presence of two other SPO staff members, informed Mr Shala of the reason for his arrest and of his rights, which were stated out loud to him in English and translated into Albanian by the interpreter.<sup>14</sup>

13. The SPO Operational Security Officer informed Mr Shala, *inter alia*, that he has: the right to legal assistance of Specialist Counsel of his choice and to have Specialist Counsel assigned free of charge if he does not have sufficient means to pay for it; the right to notify or have notified a family member or another appropriate person of his choice about his arrest; and the right to remain silent and that any statement he makes shall be recorded and may be used in evidence. The SPO Operational Security Officer also provided Mr Shala with a hardcopy of Articles 21 and 41(4) of the Law,<sup>15</sup> which were additionally read aloud to him. At 09:17, Mr Shala confirmed with his signature that he had been provided with information about his rights.<sup>16</sup>

14. At 10:05, on request of the Specialist Chambers ('KSC'), the SPO delivered a letter (in English and Albanian) from the Head of the Defence Office to [REDACTED] of Mr Shala, [REDACTED]. The letter provides information on Mr Shala's transfer, as well as information on his right to counsel and information on contacting Mr Shala at the Detention Facilities.<sup>17</sup>

15. At 17:02, Mr Shala was asked to confirm which of his personal belongings are to be handed over to his family. [REDACTED]. [REDACTED].

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<sup>12</sup> Annex 1, Memorandum of Service (Arrest Warrant and Transfer Order); Annex 2, SPO Report (Information About Rights); Annex 2, SPO Report (Record of Custody). *See also* F00006/A01 and F00006/A02, fn. 3 above.

<sup>13</sup> Annex 1, Memorandum of Service (Arrest Warrant and Transfer Order).

<sup>14</sup> Annex 2, SPO Report (Information About Rights).

<sup>15</sup> Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office, 3 August 2015 ('Law').

<sup>16</sup> Annex 2, SPO Report (Information About Rights).

<sup>17</sup> Annex 3, Registry Report (Letter "To Whom It May Concern" from the Head of the Defence Office, KSC/REG/DEF/258).

16. [REDACTED].<sup>18</sup>
17. Dinner was provided to Mr Shala at 17:50.<sup>19</sup>
18. At 18:55, the SPO Operational Security Officer arranged for Mr Shala, at his request, to have access to fresh air in an enclosed outside area [REDACTED], for approximately twenty minutes.<sup>20</sup>
19. [REDACTED].<sup>21</sup>
20. Mr Shala was secured in the transfer facility's holding cell for the evening. At all times while Mr Shala was in the SPO's custody his wellbeing was monitored, [REDACTED].
21. The next morning, on 12 December 2023, Mr Shala was provided with breakfast at 08:30, followed by further refreshments at 09:36.<sup>22</sup>
22. [REDACTED].<sup>23</sup>
23. [REDACTED], the SPO Operational Security Officer arranged for Mr Shala, at his request, to have access to fresh air in the enclosed outside area [REDACTED].<sup>24</sup>
24. [REDACTED].
25. At 11:25, Mr Shala was taken by vehicle to [REDACTED], where he was transferred into the custody of the KSC.<sup>25</sup>
26. TRANSFER
27. On 12 December 2023, the transfer of Mr Shala into the custody of the KSC was executed by the Registry's mission security coordinator ('MSC') and the Registry's escort team, accompanied by an interpreter.

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<sup>18</sup> Annex 2, SPO Report (Record of Custody).

<sup>19</sup> Annex 2, SPO Report (Record of Custody).

<sup>20</sup> Annex 2, SPO Report (Record of Custody).

<sup>21</sup> Annex 2, SPO Report (Record of Custody).

<sup>22</sup> Annex 2, SPO Report (Record of Custody).

<sup>23</sup> Annex 2, SPO Report [REDACTED]; Annex 2, SPO Report (Record of Custody).

<sup>24</sup> Annex 2, SPO Report (Record of Custody).

<sup>25</sup> Annex 2, SPO Report (Record of Custody).

28. At 11:50, [REDACTED], the MSC signed for the transfer of custody of Mr Shala from the SPO to the KSC after confirming Mr Shala's identity.<sup>26</sup> The MSC also signed for the transfer of Mr Shala's personal property.<sup>27</sup>

29. At 11:56, the MSC explained the transfer process to Mr Shala, with the assistance of an interpreter.<sup>28</sup>

30. At 11:58, the MSC served Mr Shala with a certified copy of the Confirmed Indictment (in both English and Albanian), with the assistance of an interpreter.<sup>29</sup> Mr Shala signed to acknowledge service.<sup>30</sup>

31. The MSC also provided Mr Shala with a copy of the Letter from the Head of the Defence Office that had also been provided to his family, which outlines information on Mr Shala's transfer, his right to counsel, and how his family can contact him in the Detention Facilities.<sup>31</sup>

32. [REDACTED].<sup>32</sup> [REDACTED].<sup>33</sup> Mr Shala was moved by vehicle to the aircraft.<sup>34</sup>

33. At 12:32, the airplane departed [REDACTED] with destination [REDACTED]. During the flight, Mr Shala was served lunch and refreshment.<sup>35</sup>

34. At 15:27, the airplane landed at [REDACTED].

35. At 15:35, the MSC transferred Mr Shala into the custody of the Transport and Support Service of the Dutch Prison Administration ('DV&O').<sup>36</sup> The personal property of Mr Shala was handed over to the DV&O by the MSC, and thereafter

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<sup>26</sup> Annex 3, Registry Report (Transfer of Custody).

<sup>27</sup> Annex 3, Registry Report (Transfer of Custody).

<sup>28</sup> Annex 3, Registry Report (Transfer of Custody).

<sup>29</sup> Annex 1, Memorandum of Service (Indictment); Annex 3, Registry Report (Transport Log).

<sup>30</sup> Annex 1, Memorandum of Service (Indictment).

<sup>31</sup> See para. 14 above; Annex 3, Registry Report (Letter "To Whom It May Concern" from the Head of the Defence Office, KSC/REG/DEF/258).

<sup>32</sup> Annex 3, Registry Report (Transport Log); Annex 3, Registry Report [REDACTED].

<sup>33</sup> Annex 3, Registry Report (Transport Log).

<sup>34</sup> Annex 3, Registry Report (Transport Log).

<sup>35</sup> Annex 3, Registry Report (Transport Log).

<sup>36</sup> Annex 3, Registry Report (Transport Log).

delivered by DV&O to the Chief Detention Officer of the Detention Management Unit ('DMU') of the Registry.<sup>37</sup>

36. At 16:06, DV&O transferred Mr Shala into the custody of the Chief Detention Officer, who received Mr Shala into the Detention Facilities.<sup>38</sup>

37. The Chief Detention Officer promptly notified the Registrar, who immediately informed the Pre-Trial Judge,<sup>39</sup> the President, and the Ombudsperson, as well as the Head of the Defence Office in accordance with Detention Rule 10.<sup>40</sup> The Registrar also informed the International Committee of the Red Cross.<sup>41</sup>

38. At 16:22, the Registrar informed the Embassy of the Republic of Kosovo in The Hague that Mr Shala had been transferred to the Detention Facilities in the Host State pursuant to an arrest warrant and transfer order.<sup>42</sup>

39. Upon arrival at the Detention Facilities, Mr Shala began the reception procedure in accordance with the Rules of Detention.

40. [REDACTED].<sup>43</sup>

41. At 17:35, Mr Shala was given the opportunity to make a telephone call to a family member, [REDACTED].

42. At approximately 18:10, the Head of the Defence Office spoke with Mr Shala in person, with the assistance of an interpreter. The Head of the Defence Office provided Mr Shala with information and documentation concerning the availability of legal assistance pursuant to Detention Rule 12(2), including information on Duty Counsel that had been assigned to him pending the appointment or assignment of chosen Counsel, as well as a letter explaining his right to counsel and legal aid, in both English

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<sup>37</sup> Annex 3, Registry Report (Transfer of Custody).

<sup>38</sup> Annex 3, Registry Report (Request for Transport).

<sup>39</sup> See para. 6, at fn. 7, above.

<sup>40</sup> Rules of Detention, KSC-BD-08-Rev1, 23 September 2020 ('Rules of Detention' or 'Detention Rules').

<sup>41</sup> See Agreement between the Kosovo Specialist Chambers and the International Committee of the Red Cross on Visits to Persons Deprived of Liberty Pursuant to the Jurisdiction of the Kosovo Specialist Chambers, 28 January 2019, para. 12(2).

<sup>42</sup> Note Verbale, Ref. KSC/NV2023/0069, 12 December 2023.

<sup>43</sup> Annex 3, Registry Report [REDACTED].

and Albanian.<sup>44</sup> The Head of the Defence Office confirmed that he would return to meet with Mr Shala in the Detention Facilities, if so requested, to answer any further questions that he might have.

43. Mr Shala was provided with the opportunity to meet with Duty Counsel right after his meeting with the Head of the Defence Office, [REDACTED]. The Defence Office and Court Management Unit also liaised with Duty Counsel to ensure that all relevant information was in his possession ahead of the initial appearance.

44. The Chief Detention Officer then conducted an arrival interview with Mr Shala, with the assistance of an interpreter. During the arrival interview, Mr Shala was provided with the information and documentation referenced in Detention Rule 12(3), as well as information concerning the consular representation available to him. Mr Shala was given the opportunity to call his consular representative, [REDACTED]. The Chief Detention Officer confirmed that Mr Shala had in his possession certified copies of the Arrest Warrant, Transfer Order, and the Confirmed Indictment.

45. [REDACTED].

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<sup>44</sup> Annex 3, Registry Report (Letter to the Accused from the Head of the Defence Office, KSC/REG/DEF/258).



#### IV. CLASSIFICATION

46. This report and its Annexes are submitted as strictly confidential and *ex parte* pursuant to Rule 82(4) of the Rules. The Registrar has no objection to this report (core filing) being reclassified as confidential in order to make it available to Mr Shala's (Duty) Counsel, but requests the opportunity to review the Annexes for redactions before they are reclassified.

**Word count: 2411**

A handwritten signature in cursive script, appearing to read 'Fidelma Donlon', written over a horizontal line.

**Dr Fidelma Donlon**

**Registrar**

Wednesday, 13 December 2023  
At The Hague, the Netherlands