



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA KOSOVA

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

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

Registrar: Dr Fidelma Donlon

Date: 15 April 2021

Language: English

Classification: **Public**

Decision Setting the Date for the Initial Appearance of Pjetër Shala and Related Matters

Specialist Prosecutor
Jack Smith

Counsel for the Accused
Jean-Louis Gilissen

THE PRE-TRIAL JUDGE,¹ pursuant to Article 20 and Article 39(4) of the Law on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rules 8(3)(a), 87(6), 92(1) and 96 of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), hereby renders this decision.

I. PROCEDURAL BACKGROUND

1. On 14 February 2020, the Specialist Prosecutor's Office ("SPO") submitted for confirmation a strictly confidential and *ex parte* indictment together with evidentiary material supporting the facts underpinning the charges and a detailed outline demonstrating the relevance of each item of evidentiary material to each allegation.²

2. On 12 June 2020, the Pre-Trial Judge issued the "Decision on the Confirmation of the Indictment Against Pjetër Shala" ("Confirmation Decision"),³ the "Arrest Warrant for Mr Pjetër Shala"⁴ and the "Order for Transfer to Detention Facilities of the Specialist Chambers".⁵

3. On 19 June 2020, the SPO submitted the indictment, as confirmed ("Confirmed Indictment"),⁶ with redactions as authorised by the Pre-Trial Judge.⁷

4. On 16 March 2021, Pjetër Shala ("Mr Shala" or "Accused") was arrested in the Kingdom of Belgium ("Belgium") by the Belgian Police in the presence of representatives of the SPO.⁸

¹ KSC-BC-2020-04, F00001, President, Decision Assigning a Pre-Trial Judge, 14 February 2020, public.

² KSC-BC-2020-04, F00002, Specialist Prosecutor, *Submission of Indictment for Confirmation and related requests*, 14 February 2020, strictly confidential and *ex parte*, with Annexes 1-3, strictly confidential and *ex parte*.

³ KSC-BC-2020-04, F00007, Pre-Trial Judge, *Decision on the Confirmation of the Indictment Against Pjetër Shala* ("Confirmation Decision"), 12 June 2020, strictly confidential and *ex parte*.

⁴ KSC-BC-2020-04, F00008/A01, Pre-Trial Judge, *Arrest Warrant for Mr Pjetër Shala*, 12 June 2020, strictly confidential and *ex parte*.

⁵ KSC-BC-2020-04, F00008/A02, Pre-Trial Judge, *Order for Transfer to Detention Facilities of the Specialist Chambers*, 12 June 2020, strictly confidential and *ex parte*.

⁶ KSC-BC-2020-04, F00010, Specialist Prosecutor, *Submission of Confirmed Indictment*, 19 June 2020, strictly confidential and *ex parte*, with Annexes 1-2, strictly confidential and *ex parte*.

⁷ Confirmation Decision, para. 140(c).

5. On 31 March 2021, the SPO filed the “Submission of Lesser Redacted and Public Redacted Versions of Confirmed Indictment and Related Requests”.⁹

6. On 15 April 2021, upon conclusion of the judicial proceedings in Belgium, Mr Shala was transferred to the detention facilities of the Specialist Chambers (“SC”) in The Hague, the Netherlands.¹⁰

7. On 15 April 2021, pending completion of the indigence assessment, the Registrar conditionally assigned Jean-Louis Gilissen (“Mr Gilissen”) as Counsel for Mr Shala, in accordance with Section 14(3) of the Directive on Counsel and Regulation 11 of the Legal Aid Regulations.¹¹

II. APPLICABLE LAW

A. INITIAL APPEARANCE

8. Pursuant to Article 39(4) of the Law, a person against whom an indictment has been confirmed shall, pursuant to an order or an arrest warrant of the SC, be taken into custody, immediately informed of the charges against him or her and transferred to the SC.

9. Pursuant to Rules 87(6) and 92(1) of the Rules, the Accused shall be brought before the Pre-Trial Judge without undue delay for his or her initial appearance.

⁸ KSC-BC-2020-04, F00013, Registrar, *Notification of Arrest Pursuant to Rule 55(4)*, 16 March 2021, strictly confidential and *ex parte*.

⁹ KSC-BC-2020-04, F00016, Specialist Prosecutor, *Submission of lesser redacted and public redacted versions of confirmed indictment and related requests*, 31 March 2021, strictly confidential and *ex parte*, with Annexes 1-2, strictly confidential and *ex parte*.

¹⁰ KSC-BC-2020-04, F00019, Registrar, *Notification of Reception of Pjetër Shala in the Detention Facilities of the Specialist Chambers and Conditional Assignment of Counsel*, 15 April 2021, strictly confidential and *ex parte*, with Annexes 1-2, strictly confidential and *ex parte*, para. 2.

¹¹ KSC-BC-2020-04, F00019, Registrar, *Notification of Reception of Pjetër Shala in the Detention Facilities of the Specialist Chambers and Conditional Assignment of Counsel*, 15 April 2021, strictly confidential and *ex parte*, with Annexes 1-2, strictly confidential and *ex parte*, para. 3.

10. Pursuant to Articles 21(2) and 39(6) of the Law, hearings, including the hearing on the initial appearance of the Accused, shall be public, unless the Pre-Trial Judge decides otherwise in accordance with the Rules.

B. WORKING LANGUAGES

11. Pursuant to Article 20 of the Law, the official languages of the SC and SPO are Albanian, Serbian and English, and in any given proceedings, a Panel may decide the working languages for those proceedings, as appropriate and with full respect of the rights of the accused, as stipulated under Article 21 of the Law.

12. Pursuant to Rule 8(3)(a) of the Rules, subject to Article 20 of the Law, as early in the proceedings as possible, the Panel, after hearing the Parties and, where applicable, Victims' Counsel, shall decide which working language(s) shall be used in the proceedings.

C. STATUS CONFERENCES

13. Pursuant to Rule 96(1) of the Rules the Pre-Trial Judge shall convene a status conference as soon as possible after the initial appearance of the Accused in order to: (i) organise exchanges between the Parties and, where applicable, Victims' Counsel so as to ensure expeditious preparation for trial; (ii) take steps to ensure that all necessary preparations are being conducted by the Parties in a timely and diligent fashion; and (iii) review the status of the case and allow the Parties and, where applicable, Victims' Counsel the opportunity to raise issues in relation thereto.

14. Pursuant to Rule 96(2) of the Rules, a status conference may be conducted: (i) in the presence of the Accused, with his or her Counsel participating via video-conference; (ii) in the presence of Counsel, with the Accused participating via video-

conference; or (iii) in the absence of the Accused, with Counsel present or participating via video-conference.

III. DISCUSSION

A. INITIAL APPEARANCE

15. Considering that the arrest of Mr Shala and his transfer to the detention facilities of the SC took place on 16 March 2021 and 15 April 2021, respectively, the Pre-Trial Judge finds it appropriate to schedule a hearing on the initial appearance of the Accused as soon as practicable, taking into account the constraints of COVID-19, with a view to ensuring that his rights under the Law are respected.

16. Furthermore, noting that the publicity of hearings may extend beyond the courtroom, the Pre-Trial Judge authorises the taking of photographs at the start of the hearing on the initial appearance.

B. WORKING LANGUAGES

17. In light of the arrest and transfer of Mr Shala, and in conformity with the rights of the accused under Article 21 of the Law, it is necessary to determine the working language in the present proceedings in order to ensure their fair, efficient and expeditious conduct. Towards this end, the Pre-Trial Judge orders the Parties to provide their observations, orally, on the working language of proceedings at the initial appearance.

18. Pre-Trial Judge notes that, to date, the working language of the proceedings has been English, as all filings by the SPO and the Registrar, and all decisions and orders of the Pre-Trial Judge have been issued in English. Thus, after receiving the Parties' observations, the Pre-Trial Judge will determine whether there are compelling reasons to depart from the use of English as the working language.

19. The Pre-Trial Judge emphasises that the determination of the working language of proceedings leaves unaffected the language and/or translation of evidence and other necessary documentation for the benefit of the Accused.¹²

C. DATE OF STATUS CONFERENCE

20. The Pre-Trial Judge invites the Parties to make submissions at the initial appearance indicating their availability for a status conference on Friday, 23 April 2021. The Defence is invited to indicate in its submission whether Counsel and/or Mr Shala intend to participate in the status conference in person or via video-conference as prescribed by Rule 96(2) of the Rules.

D. REDACTED VERSION OF CONFIRMATION DECISION

21. With a view to expeditiously making available the Confirmation Decision to the Accused and the public, the Pre-Trial Judge orders the SPO to provide by Monday, 26 April 2021 written submissions, if any, as to the proposed redactions to be applied therein.

IV. DISPOSITION

22. For the above-mentioned reasons, the Pre-Trial Judge hereby:

- a) **DECIDES** to convene the hearing on the initial appearance of Mr Shala on **Monday, 19 April 2021, at 15:00 hours;**
- b) **AUTHORISES** the Registrar to organise, at the start of the hearing on the initial appearance, the taking of photographs for one minute and a half;

¹² Articles 21(4)(a) and 39(5) of the Law; Rules 86(8), 87(1), 92(2)(b) and 102(1) of the Rules.

- c) **ORDERS** the Parties to provide, at the initial appearance, their oral submissions as to the working language to be adopted in the present proceedings;
- d) **INVITES** the Parties to provide, at the initial appearance, their oral submissions as indicated in paragraph 20 above, regarding their availability for a status conference on Friday, 23 April 2021; and
- e) **ORDERS** the SPO to provide by Monday, 26 April 2021, separate strictly confidential and *ex parte* written submissions, if any, as to the proposed redactions to be applied to the Confirmation Decision, in order to make it available to the Defence and the public.



Judge Nicolas Guillou
Pre-Trial Judge

Dated this Thursday, 15 April 2021
At The Hague, the Netherlands.