



KOSOVO SPECIALIST CHAMBERS  
DHOMAT E SPECIALIZUARA TË KOSOVËS  
SPECIJALIZOVANA VEĆA KOSOVA

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

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

**Registrar:** Dr Fidelma Donlon

**Date:** 7 June 2021

**Language:** English

**Classification:** **Public**

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**Order Setting the Date for the Second Status Conference and for Submissions**

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**Specialist Prosecutor**  
Jack Smith

**Counsel for the Accused**  
Jean-Louis Gilissen

**THE PRE-TRIAL JUDGE**,<sup>1</sup> pursuant to Article 39(1) and (13) of the Law on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rule 96(1) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), hereby renders this order.

## I. PROCEDURAL BACKGROUND

1. On 16 March 2021, further to the confirmation of an indictment ("Confirmation Decision") against Pjetër Shala ("Mr Shala"),<sup>2</sup> he was arrested in the Kingdom of Belgium ("Belgium") by the Belgian Police in the presence of representatives of the Specialist Prosecutor's Office ("SPO"),<sup>3</sup> pursuant to a decision and an arrest warrant issued by the Pre-Trial Judge.<sup>4</sup>

2. On 15 April 2021, upon the 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.<sup>5</sup>

3. On 22 April 2021, following the initial appearance of Mr Shala on 19 April 2021,<sup>6</sup> the first status conference was held.<sup>7</sup>

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<sup>1</sup> KSC-BC-2020-04, F00001, President, *Decision Assigning a Pre-Trial Judge*, 14 February 2020, public.

<sup>2</sup> KSC-BC-2020-04, F00007/RED, Pre-Trial Judge, *Public Redacted Version of the Decision on the Confirmation of the Indictment Against Pjetër Shala*, 12 June 2020, public; KSC-BC-2020-04, F00010/A02, SPO, *Indictment*, 19 June 2020, confidential.

<sup>3</sup> KSC-BC-2020-04, F00013, Registrar, *Notification of Arrest Pursuant to Rule 55(4)*, 16 March 2021, public.

<sup>4</sup> KSC-BC-2020-04, F00008/RED, Pre-Trial Judge, *Public Redacted Version of Decision on Request for Arrest Warrant and Transfer Order*, 12 June 2020, public; KSC-BC-2020-04, F00008/A01/RED, Pre-Trial Judge, *Public Redacted Version of Arrest Warrant for Mr Pjetër Shala*, 15 April 2021, public.

<sup>5</sup> KSC-BC-2020-04, F00019/RED, Registrar, *Public Redacted Version of 'Notification of Reception of Pjetër Shala in the Detention Facilities of the Specialist Chambers and Conditional Assignment of Counsel'*, filing F00019 dated 15 April 2021, 26 April 2021, public, with Annexes 1-2, confidential.

<sup>6</sup> KSC-BC-2020-04, F00020, Pre-Trial Judge, *Decision Setting the Date for the Initial Appearance of Pjetër Shala and Related Matters*; 15 April 2021, public; KSC-BC-2020-04, Transcript, 19 April 2021, public.

<sup>7</sup> KSC-BC-2020-04, F00024, Pre-Trial Judge, *Order Setting the Date for the First Status Conference and for Submissions*, 20 April 2021, public; KSC-BC-2020-04, Transcript, 23 April 2021 ("23 April 2021 Transcript"), public.

4. On 30 April 2021, the Pre-Trial Judge issued the Framework Decision on Disclosure of Evidence and Related Matters (“Disclosure Decision”).<sup>8</sup>

## II. APPLICABLE LAW

5. Pursuant to Rule 96(1) of the Rules, following the first status conference after the initial appearance of the Accused, the Pre-Trial Judge shall subsequently convene status conferences as deemed necessary 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.

6. Pursuant to Rule 96(2) of the Rules, with the Accused’s written consent after receiving advice from Counsel, a status conference may be conducted: (i) in the Accused’s presence, with Counsel participating via video-conference; (ii) in Defence Counsel’s presence, with the Accused participating via video-conference; or (iii) in the Accused’s absence, with Counsel present or participating via video-conference.

7. Pursuant to Article 21(6) of the Law, all material and relevant evidence or facts in the possession of the SPO which are for or against the Accused shall be made available to the Accused before the beginning of and during the proceedings, subject only to restrictions which are strictly necessary and when any necessary counter balance protections are applied. Pursuant to Rule 102(3), the SPO shall provide detailed notice to the Defence of any material and evidence in its possession.

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<sup>8</sup> KSC-BC-2020-04, F00033, Pre-Trial Judge, *Framework Decision on Disclosure of Evidence and Related Matters*, 30 April 2021, public.

8. Pursuant to Rule 95(4) of the Rules, the Pre-Trial Judge shall order the SPO to file, within a set time limit: (i) its pre-trial brief, including any admissions by the Defence and a statement of matters which are not in dispute; (ii) a list of witnesses it intends to call; and (iii) a list of exhibits it intends to present, including, where possible, any Defence objections to authenticity.

9. Pursuant to Rule 95(5) of the Rules, after the submission of the items mentioned in Rule 95(4) of the Rules by the SPO, the Pre-Trial Judge shall invite the Defence to file a pre-trial brief within a set time limit. In addition, within a time limit set by the Pre-Trial Judge, the Defence shall notify the SPO of its intention to offer a defence of alibi or any other grounds excluding criminal responsibility, including that of diminished or lack of mental capacity, intoxication, necessity, duress, and mistake of fact or law.

### III. DISCUSSION

10. Having considered the views expressed by the Parties as to the date of the second status conference to be held in the present case,<sup>9</sup> the Pre-Trial Judge convenes the second status conference on Monday, 21 June 2021, at 11:00 hours.

11. The Pre-Trial Judge will ask the Parties to provide updates, if any, on the outstanding issues detailed in the agenda for the first status conference,<sup>10</sup> and their written and oral submissions in relation to those issues.<sup>11</sup> Specifically and additionally, the Pre-Trial Judge will request updates on the following matters:

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<sup>9</sup> 23 April 2021 Transcript, p. 41, line 14 – p. 42, line 7.

<sup>10</sup> KSC-BC-2020-04, F00024/A01, Pre-Trial Judge, *Annex 1 to Order Setting the Date for the First Status Conference and for Submissions*, 20 April 2021, public.

<sup>11</sup> KSC-BC-2020-04, F00026, Defence for Mr Shala, *Submissions Pursuant to the Pre-Trial Judge's Order Dated 20 April 2021*, 22 April 2021, public; KSC-BC-2020-04, F00027, SPO, *Prosecution submissions for first status conference with Strictly Confidential and Ex Parte Annex 1*, 22 April 2021, public, with Annex 1, strictly confidential and *ex parte*; 23 April 2021 Transcript.

- a) whether the Parties are facing any difficulties related to the disclosure of evidentiary material;
- b) whether the SPO has completed its outstanding investigations or when the SPO will complete its investigations;
- c) when the SPO will be able to file its pre-trial brief and related material pursuant to Rule 95(4)(a)-(c) of the Rules, in light of the disclosure calendar set out in the Disclosure Decision;<sup>12</sup> and
- d) based on the SPO's updates regarding the preceding matters and the ongoing disclosure of evidence process (scheduled to continue into October 2021), whether the Defence is – or when it expects to be - in a position to provide more information on: (i) the status of its investigations; (ii) any intention to give notice of an alibi or grounds for excluding responsibility pursuant to Rule 95(5) of the Rules and any associated disclosure pursuant to Rule 104(1) and (2) of the Rules; and (iii) any intention to make requests concerning unique investigative opportunities, pursuant to Rule 99(1) of the Rules.

12. Lastly, the Pre-Trial Judge will ask the Parties to share their views regarding the date for the third status conference in the present case.

13. The Pre-Trial Judge orders the SPO and the Defence for Mr Shala to file written submissions on any of the aforementioned matters, including the topics discussed during the first status conference, any other matter not covered in the agenda for the second status conference, or any difficulty related to the disclosure of evidentiary material, by no later than Wednesday, 16 June 2021 and Thursday, 17 June 2021, respectively.

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<sup>12</sup> KSC-BC-2020-04, F00033, Pre-Trial Judge, *Framework Decision on Disclosure of Evidence and Related Matters*, 30 April 2021, public.

## DISPOSITION

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

- a) **DECIDES** to convene the second status conference in the presence of the SPO and the Defence for Mr Shala on **Monday, 21 June 2021, at 11:00 hours**; and
- b) **ORDERS** the SPO and the Defence for Mr Shala to file written submissions on the matters set out in paragraph 11 of the present order by **Wednesday, 16 June 2021** and **Thursday, 17 June 2021**, respectively.



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**Judge Nicolas Guillou**  
**Pre-Trial Judge**

Dated this Monday, 7 June 2021

At The Hague, the Netherlands.