



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: 10 August 2021

Language: English

Classification: Public

Decision on the Defence Request for Variation of Time

Specialist Prosecutor

Jack Smith

Counsel for the Accused

Jean-Louis Gilissen

THE PRE-TRIAL JUDGE,¹ pursuant to Article 41(10) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rules 9, 57(2), 76 and 82 of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), hereby renders this decision.

I. PROCEDURAL BACKGROUND AND SUBMISSIONS

1. On 15 June 2021, the Pre-Trial Judge rejected a request for provisional release submitted by the Defence for Mr Shala ("Defence" or "Mr Shala") and ordered the continued detention of Mr Shala ("First Detention Decision").² In said decision, the Defence was ordered to make submissions on the review of detention, if it so wishes, either on 23 July 2021, with responses and replies following the timeline set out in Rule 76 of the Rules, or, by 9 August 2021, in response to the submissions of the Specialist Prosecutor's Office ("SPO") to be lodged on 2 August 2021.³

2. On 28 June 2021, the Defence appealed the First Detention Decision.⁴

3. On 2 August 2021, the SPO filed submissions on the review of detention ("SPO Submissions").⁵

4. On 9 August 2021, the Defence requested a variation of time to make submissions in response to the SPO Submissions, namely 10 days of receipt of the decision to be issued by the Court of Appeals Panel ("Request").⁶ It submitted that good cause exists for the requested extension, as its submissions on review of detention, if necessary,

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

² KSC-BC-2020-04, F00045, Pre-Trial Judge, *Decision on Pjetër Shala's Request for Provisional Release*, 15 June 2021, confidential. A public redacted version was issued on 23 June 2021, F00045/RED.

³ First Detention Decision, para. 50(d) and (e).

⁴ KSC-BC-2020-04, IA001/F00001, Defence for Mr Shala, *Defence Appeal against the "Decision on Pjetër Shala's Request for Provisional Release"*, confidential.

⁵ KSC-BC-2020-04, F00058, Specialist Prosecutor, *Prosecution Submissions for First Review of Detention*, 2 August 2021, public; First Detention Decision, para. 50(e).

⁶ KSC-BC-2020-04, F00059, Defence for Mr Shala, *Defence Request for an Extension of Time for its Response to the Prosecution Submissions for First Review of Detention*, 9 August 2021, confidential, paras 5, 8.

would benefit significantly from consideration of the decision of the Court of Appeal.⁷ Mr Shala also indicated to waive his right to have his detention reviewed by the Pre-Trial Judge pending determination by the Court of Appeals Panel of his appeal.⁸

II. APPLICABLE LAW

5. Pursuant to Rule 9(5)(a) of the Rules, the Pre-Trial Judge may *proprio motu* reduce any time limit prescribed by the Rules or set by the Panel.

6. Pursuant to Rule 9(6) of the Rules, where no prejudice is caused to the opposing Party, a motion for variation of time may be disposed of without giving the opposing Party the opportunity to be heard.

7. Pursuant to Rule 76 of the Rules, applications for extension of time shall be filed sufficiently in advance to enable the Panel to rule on the application before the expiry of the relevant time limit.

8. Pursuant to Rule 82(5) of the Rules, the Panel may reclassify a filing *proprio motu*, where the basis for the reclassification no longer exists.

9. Article 41(10) of the Law and Rule 57(2) of the Rules provide that, upon expiry of two (2) months from the last ruling on detention on remand, the Pre-Trial Judge or Panel seized with the case shall examine whether reasons for detention on remand still exist and render a ruling by which detention on remand is extended or terminated.

III. DISCUSSION

10. Despite the Request being validly made, the Pre-Trial Judge notes that as it was filed on the last day of the time limit set in the First Detention Decision, thus making

⁷ Request, paras 6, 8.

⁸ Request, para. 7.

it difficult to render a decision prior to the expiry of the time limit. The Defence is reminded to submit future requests for extension of time sufficiently in advance, as stipulated in Rule 76 of the Rules.

11. Having considered the reasons put forward by the Defence, in particular the fact that its submissions on the review of detention, if necessary, would benefit from considering the impending decision of the Court of Appeals Panel, the Pre-Trial Judge finds that good cause has been shown, warranting the requested extension of time. In this context, the Pre-Trial Judge notes that Mr Shala has waived his right to have his detention reviewed before the expiry of the two-month time limit set out in Article 41(10) of the Law and Rule 57(2) of the Rules.

12. With a view to giving both Parties the opportunity to take into account, for the purposes of the review of detention, the determinations of the Court of Appeals Panel on the impending appeal against the First Detention Decision, and considering that the SPO Submissions have already been received, the Pre-Trial Judge will allow the SPO to make further submissions, if it deems necessary.

13. Lastly, noting that the Defence has not stated the reasons for the classification of its Request as confidential and considering, upon careful review, that the Request does not reveal any confidential information, the Pre-Trial Judge reclassifies the Request as public, pursuant to Rule 82(5) of the Rules.

IV. DISPOSITION

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

- (a) **GRANTS** the Request and **ORDERS** the Defence to make submissions in response to the SPO Submissions by no later than **ten days after notification of the decision of the Court of Appeals Panel** on his pending appeal against the First Detention Decision;

(b) **ORDERS** the SPO, if it so wishes, to supplement its SPO Submissions by no later than **five days after notification of the decision of the Court of Appeals Panel**; and

(c) **ORDERS** the Registrar to reclassify the Request (F00059) as public.



Judge Nicolas Guillou
Pre-Trial Judge

Dated this Tuesday, 10 August 2021

At The Hague, the Netherlands.