



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: 3 September 2021

Language: English

Classification: Public

Decision on SPO Request for Extension of Word Limit

Specialist Prosecutor

Jack Smith

Counsel for Pjetër Shala

Jean-Louis Gilissen

THE PRE-TRIAL JUDGE,¹ pursuant to Article 39(1) of the Law on Specialist Chambers and Specialist Prosecutor's Office, Rule 97 of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), and Articles 36(1) and (2) and 42 of the Practice Direction on Files and Filings ("Practice Direction"),² hereby renders this decision.

I. PROCEDURAL BACKGROUND AND SUBMISSIONS

1. On 19 June 2020, further to the decision of the Pre-Trial Judge confirming the indictment,³ the Specialist Prosecutor submitted the Confirmed Indictment.⁴
2. On 16 March 2021, Pjetër Shala ("Mr Shala") was arrested in the Kingdom of Belgium ("Belgium").⁵
3. 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.⁶
4. On 12 July 2021, further to an oral order issued by the Pre-Trial Judge,⁷ the Defence for Mr Shala ("Defence") filed a preliminary motion challenging the jurisdiction of the SC ("Jurisdiction Motion").⁸ The Defence also filed a preliminary

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

² Registry Practice Direction on Files and Filings before the Kosovo Specialist Chambers (KSC-BD-15), 17 May 2019.

³ KSC-BC-2020-04, F00007, Pre-Trial Judge, *Decision on the Confirmation of the Indictment Against Pjetër Shala*, 12 June 2020, strictly confidential and *ex parte*. A public redacted version was issued on 6 May 2021, F00007/RED.

⁴ KSC-BC-2020-04, F00010, Specialist Prosecutor, *Submission of Confirmed Indictment*, 19 June 2020, public, with Annex 1, strictly confidential and *ex parte*, and Annex 2, confidential. A public, lesser redacted version of the Confirmed Indictment was submitted on 31 March 2021, F00016/A02.

⁵ KSC-BC-2020-04, F00013, Registrar, *Notification of Arrest Pursuant to Rule 55(4)*, 16 March 2021, public.

⁶ 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.

⁷ KSC-BC-2020-04, Transcript, 21 June 2021, p. 62, lines 12-19, public.

⁸ KSC-BC-2020-04, F00054, Specialist Counsel, *Preliminary Motion of the Defence of Pjetër Shala to Challenge the Jurisdiction of the KSC*, 12 July 2021, public.

motion challenging the form of the Confirmed Indictment (“Indictment Motion”) on 13 July 2021.⁹

5. On 1 September 2021, the Specialist Prosecutor’s Office (“SPO”) filed a request under Article 36 of the Practice Direction to extend the word limits for its impending Responses to the Jurisdiction Motion and the Indictment Motion (“Response” or “Responses”) to 15,000 and 12,000 words, respectively (“Request”).¹⁰ According to the SPO, detailed and lengthy submissions are required as both the Jurisdiction Motion and the Indictment Motion are close to the prescribed word limit and the Defence endorses the submissions of Defence teams in other cases.¹¹ The SPO adds that no prejudice would be caused to the Defence as it will have the opportunity to reply to any new issues arising from the Responses.¹²

II. APPLICABLE LAW

6. Pursuant to Rule 97(1) of the Rules, the Accused may file preliminary motions, which challenge the jurisdiction of the SC, allege defects in the form of the indictment and seek the severance of indictments pursuant to Rule 89(2) of the Rules.

7. Pursuant to Article 36(1) of the Practice Direction, a participant may seek, sufficiently in advance, an extension of the word limit upon showing that good cause exists constituting exceptional circumstances.

8. Pursuant to Article 36(2) of the Practice Direction, where no prejudice is caused to the opposing Party or Victims’ Counsel, a motion for variation of the word limit may be disposed of without giving them the opportunity to be heard.

⁹ KSC-BC-2020-04, F00055, Specialist Counsel, *Preliminary Motion by the Defence of Pjetër Shala Challenging the Form of the Indictment*, 13 July 2021, confidential. A corrected version was submitted on 15 July 2021, F00055/COR.

¹⁰ KSC-BC-2020-04, F00063, Specialist Prosecutor, *Prosecution Request for Extension of Word Limit on Responses to Preliminary Motions*, 1 September 2021, confidential, para. 3.

¹¹ Request, para. 2.

¹² Request, para. 3.

9. Pursuant to Article 42 of the Practice Direction, any preliminary motion submitted pursuant to Rule 97 of the Rules and response thereto shall each not exceed 9,000 words. Any reply to such response shall not exceed 3,000 words.

III. DISCUSSION

A. REQUEST

10. The Pre-Trial Judge considers that good cause, constituting exceptional circumstances, to justify a variation of the word limits for the Responses has been established, given the number and importance of the issues the SPO intends to respond to. In addition, the Request has been filed sufficiently in advance, namely five days prior to the time limit for filing the Responses. Accordingly, the Pre-Trial Judge authorises the SPO to file a Response to the Jurisdiction Motion not exceeding 15,000 words and a Response to the Indictment Motion not exceeding 12,000 words.

11. Considering that the requested variation is rather limited and noting the impending deadline for the Responses, no prejudice has been caused to the Defence in issuing the present decision prior to receiving its response to the Request in accordance with Article 36(2) of the Practice Direction.

B. CLASSIFICATION

12. The SPO indicates that it does not object to the Request being reclassified as public.¹³ Accordingly, the Pre-Trial Judge orders the Registrar to reclassify the Request as public pursuant to Rule 82(5) of the Rules.

13. Furthermore, the Pre-Trial Judge notes that the Defence has indicated that it will file a public redacted version of the Indictment Motion in due course.¹⁴ With a view to

¹³ Request, footnote 1.

¹⁴ Indictment Motion, para. 4.

maintaining the publicity of the proceedings¹⁵ and issuing a public decision, the Pre-Trial Judge orders the Defence to submit a public redacted version of the Indictment Motion by no later than Friday, 10 September 2021.

IV. DISPOSITION

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

- (a) **GRANTS** the Request;
- (b) **ORDERS** the Registrar to reclassify the Request as public; and
- (c) **ORDERS** the Defence to submit a public redacted version of the Indictment Motion by no later than **Friday, 10 September 2021**.



Judge Nicolas Guillou
Pre-Trial Judge

Dated this Friday, 3 September 2021

At the Hague, the Netherlands.

¹⁵ Article 21(2) of the Law.