



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEÇA KOSOVA

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

Before: Pre-Trial Judge
Judge Nicolas Guillou

Registrar: Dr Fidelma Donlon

Date: 14 February 2022

Language: English

Classification: Public

**Order to the Registrar to Provide Information on the Detention Regime and
for Submissions on the Review of Detention of Pjetër Shala**

Specialist Prosecutor

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Counsel for Victims

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THE PRE-TRIAL JUDGE,¹ pursuant to Articles 39(1) and (13) and 41(10) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office ("Law") and Rule 57(2) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), hereby renders this Order.

I. PROCEDURAL BACKGROUND

1. On 19 June 2020, further to a decision by the Pre-Trial Judge,² the Specialist Prosecutor submitted the Confirmed Indictment.³
2. On 16 March 2021, further to a decision and an arrest warrant issued by the Pre-Trial Judge,⁴ Pjetër Shala ("Mr Shala") was arrested in the Kingdom of Belgium ("Belgium").⁵
3. On 15 April 2021, upon conclusion of the judicial proceedings in Belgium, Mr Shala was transferred to the Detention Facilities of the Specialist Chambers in the Hague, the Netherlands.⁶

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

² 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 confidential redacted version and a public redacted version were issued on 6 May 2021, F00007/CONF/RED and F00007/RED.

³ 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 confidential, lesser redacted version and a public, further redacted version of the Confirmed Indictment were submitted on 31 March 2021, F00016/A01, confidential, F00016/A02, public. A further lesser redacted, confidential version of the Confirmed Indictment was submitted on 25 May 2021, F00038/A01. Following the Pre-Trial Judge's decision on the Defence's motion challenging the form of the Confirmed Indictment, a corrected indictment was submitted on 1 November 2021, F00098/A01, confidential, and 16 November 2021, F00107/A01, public.

⁴ KSC-BC-2020-04, F00008, Pre-Trial Judge, *Decision on Request for Arrest Warrant and Transfer Order*, 12 June 2020, confidential (a public redacted version was issued on 6 May 2021, F00008/RED); F00008/A01, Pre-Trial Judge, *Arrest Warrant for Mr Pjetër Shala*, 12 June 2020, strictly confidential and *ex parte* (a public redacted version was issued on 15 April 2021, F00008/A01/RED).

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, Registrar, *Notification of Reception of Pjetër Shala in the Detention Facilities of the Specialist Chambers and Conditional Assignment of Counsel*, 15 April 2021, confidential, para. 2, with Annexes 1-2, confidential. A public redacted version was issued on 26 April 2021, F00019/RED.

4. On 15 June 2021, the Pre-Trial Judge rejected a request for provisional release submitted by the Defence for Mr Shala (“Defence”).⁷ The Court of Appeals upheld this decision on 20 August 2021.⁸
5. On 10 September 2021,⁹ 10 November 2021 (“Third Detention Decision”),¹⁰ and 28 January 2022 (“Fourth Detention Decision”),¹¹ the Pre-Trial Judge reviewed the detention of Mr Shala and ordered his continued detention.
6. On 11 February 2022, the Court of Appeals issued its decision on the Defence’s appeal against the Third Detention Decision (“Court of Appeals Decision”).¹² It, *inter alia*, remanded the Third Detention Decision to the Pre-Trial Judge for further consideration in order to request further submissions from the Registrar on the detention regime at the Specialist Chambers’ Detention Facilities, and to invite the Defence to inquire into Belgium’s willingness and capacity to implement any conditions of release proposed by Mr Shala or any additional conditions.¹³

II. APPLICABLE LAW

7. Pursuant to Article 39(1) and (13) of the Law, the Pre-Trial Judge shall have the power to, *inter alia*, make any necessary orders or decisions to ensure the case is prepared properly and expeditiously for trial.

⁷ 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.

⁸ KSC-BC-2020-04, IA001/F00005, Court of Appeals, *Decision on Pjetër Shala’s Appeal Against Decision on Provisional Release*, 20 August 2021, confidential. A public redacted version was filed on the same day, IA001/F00005/RED.

⁹ KSC-BC-2020-04, F00075, Pre-Trial Judge, *Decision on Review of Detention of Pjetër Shala*, 10 September 2021, confidential. A public redacted version was issued on the same day, F00075/RED.

¹⁰ KSC-BC-2020-04, F00105, *Decision on Review of Detention of Pjetër Shala*, 10 November 2021, confidential. A public redacted version was issued on the same day, F00105/RED.

¹¹ KSC-BC-2020-04, F00133, *Decision on Review of Detention of Pjetër Shala*, 28 January 2022, confidential. A public redacted version was issued on the same day, F00133/RED.

¹² KSC-BC-2020-04, IA003/F00005, Court of Appeals, *Decision on Pjetër Shala’s Appeal Against Decision on Review of Detention*, 11 February 2022, confidential. A public redacted version was issued on the same day, IA003/F00005/RED.

¹³ Court of Appeals Decision, paras 54, 56-57, 60, 61.

8. Article 41(10) of the Law provides that, until a judgment is final or until release, upon the 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. This also follows from Rule 57(2) of the Rules.

III. DISCUSSION

9. Considering that the Court of Appeals instructed the Pre-Trial Judge to request further submissions from the Registrar on the detention regime at the Specialist Chambers' Detention Facilities, the Pre-Trial Judge, without prejudice to any determination to be made in relation to the decision remanded by the Court of Appeals, orders the Registrar to provide the information detailed in the annex to the present order by no later than Tuesday, 22 February 2022.¹⁴

10. Furthermore, the Pre-Trial Judge, in line with the Court of Appeals Decision, invites the Defence to inquire into Belgium's willingness and capacity to implement any conditions of release it has proposed and/or any additional conditions. The Pre-Trial Judge further considers it necessary to amend the calendar for submissions for the next review of Mr Shala's detention, as set out in the Fourth Detention Decision,¹⁵ so as to adopt a timely decision on the Third Detention Decision, to the extent that it was remanded by the Court of Appeals, together with the next review of Mr Shala's detention. Accordingly, the Defence shall provide its submissions on the next review of detention of Mr Shala by no later than Wednesday, 2 March 2022 and, in these submissions, it shall also address any response received from Belgium and the Registry's submissions. The Specialist Prosecutor's Office's response and the

¹⁴ The Registrar shall, if necessary, simultaneously file a public redacted version of the requested information or indicate that it cannot be revealed.


¹⁵ Fourth Detention Decision, para. 50(b) and (c).

Defence's reply shall be submitted in accordance with the timeline set out in Rule 76 of the Rules.¹⁶

IV. DISPOSITION

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

- (a) **ORDERS** the Registrar to provide the submissions detailed in the annex to the present Order by no later than **Tuesday, 22 February 2022**; and
- (b) **ORDERS** the Defence to provide its submissions on the next review of detention of Mr Shala by no later than **Wednesday, 2 March 2022** and, in the same submissions, to address any response received from Belgium and the aforementioned submissions to be provided by the Registry, with responses and replies following the timeline set out in Rule 76 of the Rules.



Judge Nicolas Guillou
Pre-Trial Judge

Dated this Monday, 14 February 2022

At The Hague, the Netherlands.

¹⁶ The Parties shall, if necessary, simultaneously file a public redacted version of, as the case may be, the submissions, response, and/or reply.