



SPECIALIST PROSECUTOR'S OFFICE
ZYRA E PROKURORIT TË SPECIALIZUAR
SPECIJALIZOVANO TUŽILAŠTVO

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

Before: **Trial Panel I**
Judge Mappie Veldt-Foglia, Presiding Judge
Judge Roland Dekkers
Judge Gilbert Bitti
Judge Vladimir Mikula, Reserve

Registrar: Dr Fidelma Donlon

Filing Party: Acting Specialist Prosecutor

Date: 5 June 2023

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Public Redacted Version of

Prosecution reply to 'Defence Submissions for the Eleventh Review of Detention'

Specialist Prosecutor's Office

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I. INTRODUCTION

1. The Specialist Prosecutor's Office ('SPO') here replies¹ to a number of issues raised in the Defence Submissions.²

II. SUBMISSIONS

A. RISK OF FLIGHT

2. The Appeal Decision on Prior Statements³ does increase the risk of flight of the Accused, and SPO maintains its request for reconsideration of the Trial Panel's previous findings in this regard.⁴ The Defence Submissions only quote a portion of the Appeal Decision on Prior Statements,⁵ without acknowledging that the Appeals Chamber found 'no indicia of unreliability or possible damage to the integrity of the proceedings if the [2016] interview is admitted,' and upheld the Trial Panel's decision to consider the 2016 Belgian Interview as 'not inadmissible pursuant to Rule 138(2) of the Rules.'⁶

3. In any event, the violation of human rights standards found by the Appeals Chamber only concerns the 2016 Belgian Interview, and not also the 2019 interview, where the Accused essentially made the same admissions.⁷ Contrary to Defence submissions,⁸ the relevance of the Appeal Decision on Prior Statements to the risk of flight is not confined to the threatening statements the Accused previously made

¹ This reply is made pursuant to Rule 76 of the Rules of Procedure and Evidence before the Kosovo Specialist Chambers, KSC-BD-04/Rev3/2020, 20 June 2020 ('Rules'). All references to 'Rule' or 'Rules' herein refer to the Rules, unless otherwise specified.

² Defence Submissions for the Eleventh Review of Detention, KSC-BC-2020-04/F00524, 26 May 2023, confidential ('Defence Submissions').

³ Decision on Shala's Appeal Against Decision Concerning Prior Statements, KSC-BC-2020-04/IA0006/F00007, 5 May 2023, public ('Appeal Decision on Prior Statements').

⁴ Prosecution submissions for the eleventh review of detention, KSC-BC-2020-04/F00517, 19 May 2023, confidential ('Prosecution Submissions'), paras 10-12.

⁵ Defence Submissions, KSC-BC-2020-04/F00524, para.15.

⁶ Appeal Decision on Prior Statements, KSC-BC-2020-04/IA0006/F00007, para.81.

⁷ Public redacted version of Corrected version of Decision concerning prior statements given by Pjetër Shala, KSC-BC-2020-04/F00364COR, 6 December 2022, para.78.

⁸ Defence Submissions, KSC-BC-2020-04/F00524, para.16.

therein, but to the increasing volume of incriminating evidence in the evidential record.

4. The Defence's submission that the Accused has not demonstrated the 'slightest indication of absconding'⁹ ignores the new circumstance on which the SPO's request for reconsideration with regard to the risk of flight is grounded. The Appeal Decision on Prior Statements provides the Accused with a strong incentive to abscond. In this regard, the Accused would not need any substantial financial resources to do so. He could travel and live with relative ease within the territory of Schengen by working on construction sites or by doing other types of manual labour.¹⁰

B.OBSTRUCTION OF JUSTICE

5. Although present in this case,¹¹ it is not a necessary requirement that 'new' factors be considered for every detention review. Rather, the relevant assessment is simply whether the Article 41 risks continue to exist. In ordering the continued detention of the Accused, the Panel has recently re-affirmed that the threatening statements made in 2016 and 2019 by the Accused [REDACTED] demonstrate the Accused's readiness to resort to violence against them.¹² The Defence claim that such statements do not substantiate a risk which is 'real at the present moment'.¹³ However, they are in fact of particular significance given the currently ongoing testimony of TW4-01.

6. During the testimony of TW4-01 on 30 May 2023,[REDACTED]. Asked by the Presiding Judge if he could 'hear' TW4-01,¹⁴ the Accused responded, on two distinct

⁹ Defence Submissions, KSC-BC-2020-04/F00524, para.16.

¹⁰ At the end of the 1980s, the Accused stayed as an illegal resident in the former Yugoslavia, working in construction, a work that he did also in Kosovo. In the 1990s, he worked in construction in Albania, see 066843-066855-ET Revised RED, pp.5-7.

¹¹ Prosecution Submissions, KSC-BC-2020-04/F00517, paras 5-9.

¹² See Decision on Tenth Review of Detention on Pjetër SHALA, KSC-BC-2020-04/F00480, 6 April 2023, confidential, para.25.

¹³ Defence Submissions, KSC-BC-2020-04/F00524, para.23.

¹⁴ The Accused participated in the proceedings remotely, via a video-conference link.

occasions, that he could hear him and 'see him' very well.¹⁵ At the end of the second morning session, the Presiding Judge directed the witness not to repeat that he could 'see [TW4-01]' very well, and that confirming that he could hear him would suffice.¹⁶

7. These statements are particularly notable because [REDACTED].¹⁷ [REDACTED].

III. RELIEF REQUESTED¹⁸

8. For the reasons set out above and in the Prosecution Submissions, the SPO requests the Panel to order the continued detention of the Accused.

Word Count: 751



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Monday, 5 June 2023

At The Hague, the Netherlands.

¹⁵ Transcript (TW4-01), 30 May 2023, p.1381 and 1405-1406.

¹⁶ Transcript (TW4-01), 30 May 2023, p.1441.

¹⁷ TW4-01 [REDACTED], *see* Decision on Pjetër Shala's Request for Provisional Release, KSC-BC-2020-04/F00045, 15 June 2021, para.33.

¹⁸ This filing is confidential in accordance with Rule 82(4).