



KOSOVO SPECIALIST CHAMBERS
DHOMAT E SPECIALIZUARA TË KOSOVËS
SPECIJALIZOVANA VEĆA KOSOVA

In: **KSC-BC-2023-11**
The Specialist Prosecutor v. Haxhi Shala

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

Registrar: Dr Fidelma Donlon

Date: 12 December 2023

Language: English

Classification: **Public**

**Decision Setting the Date for the Initial Appearance of Haxhi Shala
and Related Matters**

Specialist Prosecutor
Kimberly P. West

(Duty) Counsel for Haxhi Shala

Registry
Fidelma Donlon

THE PRE-TRIAL JUDGE,¹ pursuant to Articles 20, 21(2) and 39(4) and (6) of Law No. 05/L-053 on Specialist Chambers and Specialist Prosecutor's Office ("Law"), as well as Rules 8(3)(a), 82(5), 87(6), 92(1) and 96 of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), hereby renders this decision.

I. PROCEDURAL BACKGROUND

1. On 20 November 2023, the Specialist Prosecutor's Office ("SPO") submitted for confirmation a strictly confidential and *ex parte* indictment together with evidentiary material supporting the facts underpinning the charges and a detailed outline demonstrating the relevance of each item of evidentiary material to each allegation.²

2. On 4 December 2023, the Pre-Trial Judge issued a decision confirming the charges against Haxhi Shala ("Mr Shala" or "Accused") for offences under Article 15(2) of the Law ("Confirmation Decision"),³ the arrest warrant for Mr Shala, as well as the order for transfer to the Specialist Chambers' ("SC") Detention Facilities.⁴

3. On 6 December 2023, the SPO submitted the indictment, as confirmed by the Pre-Trial Judge ("Confirmed Indictment").⁵

4. On 11 December 2023, Mr Shala was arrested by the SPO in Kosovo.⁶

¹ KSC-BC-2023-11, F00001, President, *Decision Assigning a Pre-Trial Judge*, 20 November 2023, confidential.

² KSC-BC-2023-11, F00002, Specialist Prosecutor, *Submission of Indictment for Confirmation and Related Requests*, 20 November 2023, strictly confidential and *ex parte*, with Annexes 1-3, strictly confidential and *ex parte*.

³ KSC-BC-2023-11, F00005, Pre-Trial Judge, *Decision on the Confirmation of the Indictment*, 4 December 2023, strictly confidential and *ex parte*.

⁴ KSC-BC-2023-11, F00006, Pre-Trial Judge, *Decision on Request for Warrant of Arrest and Transfer Order*, 4 December 2023, strictly confidential and *ex parte*, with Annexes 1-2, strictly confidential.

⁵ KSC-BC-2023-11, F00007, Specialist Prosecutor, *Submission of Confirmed Indictment*, 6 December 2023, strictly confidential and *ex parte*, with Annex 1, confidential.

⁶ KSC-BC-2023-11, F00008, Registrar, *Notification of Arrest of Haxhi Shala Pursuant to Rule 55(4)*, 11 December 2023, strictly confidential and *ex parte*.

5. On 12 December 2023, the Accused was transferred to the SC Detention Facilities in The Hague, the Netherlands.

II. APPLICABLE LAW

A. INITIAL APPEARANCE

6. Pursuant to Article 39(4) of the Law, a person against whom an indictment has been confirmed shall, pursuant to an order or an arrest warrant of the SC, be taken into custody, immediately informed of the charges against him or her and transferred to the SC.

7. Pursuant to Rules 87(6) and 92(1) of the Rules, the accused shall be brought before the Pre-Trial Judge without undue delay for his or her initial appearance.

8. Pursuant to Articles 21(2) and 39(6) of the Law, hearings, including the hearing on the initial appearance of the accused, shall be public, unless the Pre-Trial Judge decides otherwise in accordance with the Rules.

B. WORKING LANGUAGES

9. Pursuant to Article 20 of the Law, the official languages of the SC and SPO are Albanian, Serbian and English, and in any given proceedings, a Panel may decide the working languages for those proceedings, as appropriate and with full respect of the rights of the accused, as stipulated under Article 21 of the Law.

10. Pursuant to Rule 8(3)(a) of the Rules, subject to Article 20 of the Law, as early in the proceedings as possible, the Panel, after hearing the Parties and, where applicable, Victims' Counsel, shall decide which working language(s) shall be used in the proceedings.

C. STATUS CONFERENCE

11. Pursuant to Rule 96(1) of the Rules the Pre-Trial Judge shall convene a status conference as soon as possible after the initial appearance of the accused 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.

12. Pursuant to Rule 96(2) of the Rules, a status conference may be conducted: (i) in the presence of the accused, with his or her Counsel participating via videoconference; (ii) in the presence of Counsel, with the accused participating via video-conference; or (iii) in the absence of the accused, with Counsel present or participating via video-conference.

D. RECLASSIFICATION

13. Pursuant to Rule 82(5) of the Rules, where the basis for reclassification no longer exists, whoever submitted the original filing shall apply to the Panel for reclassification. A Panel may also reclassify a filing upon request by any other participant or *proprio motu*.

III. DISCUSSION

A. INITIAL APPEARANCE

14. Considering that the arrest of Mr Shala took place on 11 December 2023, and that his transfer to the SC Detention Facilities took place on 12 December 2023, the Pre-Trial Judge finds it appropriate to schedule a hearing on the initial appearance of

the Accused as soon as practicable, with a view to ensuring that his rights under the Law are respected.

15. Furthermore, noting that the publicity of hearings may extend beyond the courtroom, the Pre-Trial Judge authorises the taking of photographs at the start of the hearing on the initial appearance.

B. WORKING LANGUAGES

16. In light of the arrest and transfer of the Accused, and in conformity with the rights of the Accused under Article 21 of the Law, it is necessary to determine the working language in the present proceedings in order to ensure their fair, efficient and expeditious conduct. Towards this end, the Pre-Trial Judge orders the Parties to provide their observations, orally, on the working language of proceedings at the initial appearance.

17. The Pre-Trial Judge notes that, to date, the working language of the proceedings has been English, as all filings by the SPO and the Registrar, and all decisions and orders of the Pre-Trial Judge have been issued in English. Thus, after receiving the Parties' observations, the Pre-Trial Judge will determine whether there are compelling reasons to depart from the use of English as the working language.

18. The Pre-Trial Judge emphasises that the determination of the working language of proceedings leaves unaffected the language and/or translation of evidence and other necessary documentation for the benefit of the Accused.⁷

C. DATE OF STATUS CONFERENCE

19. The Pre-Trial Judge informs the Parties that he intends to schedule a status conference on **Friday, 15 December 2023, at 09:30 hours**. The Defence is invited to

⁷ Articles 21(4)(a) and 39(5) of the Law; Rules 86(8), 87(1), 92(2)(b) and 102(1) of the Rules.

provide oral submissions at the initial appearance on whether Counsel and/or the Accused intend to participate in the status conference in person or via video-conference as prescribed by Rule 96(2) of the Rules.

D. ORDER ON RECLASSIFICATION

20. The Pre-Trial Judge notes that the Accused has the right to be informed fully of the basis of his detention. With a view to expeditiously making available the “Decision on Request for Arrest Warrant and Transfer Order” (F00006) to the Accused and the public, the Pre-Trial Judge orders the SPO to file by **Thursday, 14 December 2023**, a confidential redacted version and a public redacted version of the “Submission of Indictment for confirmation and related requests” (F00002, without Annexes), or to indicate whether this filing can be reclassified as confidential or public.

E. ORDER ON TRANSFER OF FILINGS

21. The Pre-Trial Judge finds it necessary to make available to the Accused relevant filings and decisions in the file KSC-BC-2018-01 that have been issued prior to the Confirmation Decision in relation to him, as they may be material for the preparation of his defence. The Pre-Trial Judge notes in this regard that relevant filings have been transferred to the case file KSC-BC-2023-10 and that confidential redacted versions of these filings have already been submitted in that case file. As a result, the Pre-Trial Judge finds it appropriate to order the SPO to file written submissions with a list of proposed filings related to the Accused, to be copied and transferred from the case file KSC-BC-2023-10 and, if not already transferred to the case file KSC-BC-2023-10, from the file KSC-BC-2018-01, into the present case file, by **Friday, 15 December 2023**. The SPO is instructed to file the above-mentioned submissions in the present case file, and, simultaneously, in the file KSC-BC-2018-01 and case file KSC-BC-2023-10, under the

classification strictly confidential and *ex parte*, only available to the SPO, Registrar, and Single Judge or Pre-Trial Judge, as the case may be.

IV. DISPOSITION

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

- a) **DECIDES** to convene the hearing on the initial appearance of Mr Shala on **Wednesday, 13 December 2023, at 14:00 hours;**
- b) **AUTHORISES** the Registrar to organise, at the start of the hearing on the initial appearance, the taking of photographs for one minute and a half;
- c) **ORDERS** the Parties to provide, at the hearing on the initial appearance, their oral submissions as to the working language to be adopted in the present proceedings;
- d) **INFORMS** the Parties that a status conference will be held on **Friday, 15 December 2023, at 09:30 hours**, as set forth in paragraph 19 of this decision;
- e) **ORDERS** the SPO to file by **Thursday, 14 December 2023** a confidential redacted version and a public redacted version of the “Submission of Indictment for confirmation and related requests” (F00002, without Annexes), or to indicate whether said filing can be reclassified as confidential or public, as set forth in paragraph 20 of this decision; and
- f) **ORDERS** the SPO to file by **Friday, 15 December 2023** written submissions with a list of proposed filings related to the Accused to be copied and

transferred in the case file KSC-BC-2023-11, as set out in paragraph 21 of this decision.



Judge Nicolas Guillou

Pre-Trial Judge

Dated this Tuesday, 12 December 2023

At The Hague, the Netherlands.