



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:** Specialist Prosecutor's Office

**Date:** 5 March 2024

**Language:** English

**Classification:** Public

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**Public redacted version of**

**'Prosecution submissions for the sixteenth review of detention'**

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## I. INTRODUCTION

1. The continued detention of Pjetër SHALA ('Accused') is warranted in the absence of new circumstances capable of changing the Trial Panel's ('Panel') findings on the existence of a risk of obstruction and commission of further crimes.<sup>1</sup> At this stage of the proceedings, each of the Article 41(6)(b)<sup>2</sup> risks remain high and are further heightened by the approaching end of the trial. The continued detention of the Accused is the only measure capable of sufficiently mitigating these risks.

2. The continued detention of the Accused is also reasonable and proportionate at this stage, in light of the specific circumstances of the case, and the forthcoming end of the trial.

## II. SUBMISSIONS

3. For purposes of a detention review under Rule 57(2),<sup>3</sup> the reasons underpinning detention must be reviewed every two months in order to determine whether they continue to exist under Article 41(6) of the Law.<sup>4</sup> The Specialist Prosecutor's Office ('SPO') bears the burden of establishing that the detention of the Accused remains necessary at the time of the review.<sup>5</sup>

### A. EXISTENCE OF A GROUNDED SUSPICION

4. The Pre-Trial Judge found in the Confirmation Decision that there is a well-grounded suspicion that the Accused committed multiple crimes within the

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<sup>1</sup> See Decision on the Fifteenth Review of Detention of Pjetër Shala, KSC-BC-2020-04/F00776, 19 January 2024, confidential ('Fifteenth Detention Decision').

<sup>2</sup> Unless otherwise specified, all references to 'Article' or 'Articles' are to Law No.05/L-053 on Specialist Chambers and Specialist Prosecutor's Office, 3 August 2015 ('Law').

<sup>3</sup> Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 ('Rules'). All references to 'Rule' or 'Rules' herein are to the Rules, unless otherwise specified.

<sup>4</sup> *Prosecutor v. Gucati and Haradinaj*, Decision on Nasim Haradinaj's Appeal Against Decision Reviewing Detention, KSC-BC-2020-07/IA002/F00005, 9 February 2021, public, para.55.

<sup>5</sup> Decision on Pjetër Shala's Appeal Against Decision on Provisional Release, KSC-BC-2020-04/IA005/F00005, 20 August 2021, para.18; Decision on the Twelfth Review of Detention of Pjetër Shala, KSC-BC-2020-04/F00596, 20 July 2023, para.12.

jurisdiction of the KSC.<sup>6</sup> This finding was made on the basis of a standard exceeding that required by Article 41(6)(a).

5. Furthermore, in its Rule 130 Decision,<sup>7</sup> the Panel established that the evidence presented during the SPO case, if accepted, is capable of supporting a conviction of the Accused for the charge of murder, under one or more of the modes of liability with which he is charged.<sup>8</sup>

6. In its Fifteenth Detention Decision, the Panel confirmed that grounded suspicion continued to exist.<sup>9</sup> No circumstances capable of changing this determination have intervened since 19 January 2024.

#### B. EXISTENCE OF RISKS WARRANTING CONTINUED DETENTION PURSUANT TO ARTICLE 41(6)(B)

7. The existence of risks of obstruction and commission of further crimes by the Accused was confirmed in the Fifteenth Detention Decision.<sup>10</sup> Circumstances considered by the Panel in reaching that finding include: (i) the Accused's threatening statements [REDACTED];<sup>11</sup> (ii) the Accused's knowledge of the evidence against him and of the identity of protected witnesses;<sup>12</sup> (iii) the well-established and ongoing climate of intimidation against witnesses in Kosovo;<sup>13</sup> (iv) [REDACTED].<sup>14</sup> No circumstances have intervened capable of changing these findings.

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<sup>6</sup> Confidential Redacted Version of the Decision on the Confirmation of the Indictment Against Pjetër Shala, KSC-BC-2020-04/F00007/CONF/RED, 6 May 2021, confidential ('Confirmation Decision'), para.140(a).

<sup>7</sup> Decision on the Defence Rule 130 Motion to Dismiss the Charge of Murder in the Indictment, KSC-BC-2020-04/F00652, 15 September 2023, confidential ('Rule 130 Decision'). A public redacted version was filed on 21 September 2023 (KSC-BC-2020-04/F00640/RED).

<sup>8</sup> Rule 130 Decision, KSC-BC-2020-04/F00652, para.34.

<sup>9</sup> Fifteenth Detention Decision, KSC-BC-2020-04/F00776, para.21.

<sup>10</sup> Fifteenth Detention Decision, KSC-BC-2020-04/F00776, paras 24-35.

<sup>11</sup> Fifteenth Detention Decision, KSC-BC-2020-04/F00776, paras 24, 32

<sup>12</sup> Fifteenth Detention Decision, KSC-BC-2020-04/F00776, paras 24, 32.

<sup>13</sup> Fifteenth Detention Decision, KSC-BC-2020-04/F00776, paras 24, 29.

<sup>14</sup> Fifteenth Detention Decision, KSC-BC-2020-04/F00776, paras 26, 32.

8. The close of the evidentiary proceedings, as set out in the Scheduling Decision,<sup>15</sup> does not undermine the existence of these risks, considering that the Accused could still approach witnesses, whose identities are now known to him, in retaliation against the incriminating evidence they provided at trial.

9. Furthermore, the SPO maintains its position as to the existence of a concrete risk that, if released, the Accused will abscond.<sup>16</sup> This risk is grounded in the Accused's knowledge of the evidence against him, the partial admissions made in his own statements, which implicate him in multiple crimes, and the Panel's findings in the Rule 130 Decision,<sup>17</sup> which despite no findings of guilt, did put the Accused on notice that a conviction for murder is a possibility. If convicted for one or more of the crimes alleged in the Indictment, the Accused could face a lengthy sentence. Should the Accused decide to flee, he would have the means to do so, including [REDACTED].<sup>18</sup>

10. The imminent end of this case, and the forthcoming judgment render the current time window until the announcement of the judgment the last possibility to abscond. This circumstance further increases the risk of flight as set out above.

11. In light of these circumstances, all three risks enumerated in Article 41(6)(b) continue to exist. They can only be mitigated by the Accused's continued detention at the KSC Detention Facilities, where his communications can be effectively monitored and his freedom of movement effectively restricted.<sup>19</sup> The Accused's detention is the only suitable and effective measure to mitigate these risks.

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<sup>15</sup> Decision on the Defence motion for a crime site visit, closing the evidentiary proceedings and giving directions on final briefs, request for reparations and closing statements, KSC-BC-2020-04/F00795, 9 February 2024, confidential ('Scheduling Decision'), para.52 (b)-(j).

<sup>16</sup> See, in this regard, Fifteenth detention review submissions, KSC-BC-2020-04/F00757, para.7.

<sup>17</sup> Rule 130 Decision, KSC-BC-2020-04/F00652, para.34.

<sup>18</sup> See, in this regard, Prosecution submissions for the twelfth review of detention, KSC-BC-2020-04/F00566, 6 July 2023, confidential, paras 10-11.

<sup>19</sup> Fifteenth Detention Decision, KSC-BC-2020-04/F00776, paras 37-38.

### C. PROPORTIONALITY OF THE CONTINUED DETENTION

12. For the reasons considered by the Panel in the Fifteenth Detention Decision, including the gravity of the charges, the existence of risks under Article 41(6)(b)(ii) and (iii), the impossibility to mitigate such risks with conditions alternative to detention on remand, the reasonable pace at which the proceedings have progressed in this case,<sup>20</sup> as well as the upcoming conclusion of the trial,<sup>21</sup> the Accused's detention remains reasonable and proportionate.

13. Given the advanced stage of the proceedings and considering the above-mentioned reasons, the continued detention of the Accused remains proportionate.


### III. CLASSIFICATION

14. This filing is confidential, as it references sensitive information. A public redacted version will be filed.

### IV. RELIEF REQUESTED

15. For the foregoing reasons, the SPO requests the Panel to order that the Accused remain in detention.

**Word Count: 1,166**



**Kimberly P. West**

**Specialist Prosecutor**

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<sup>20</sup> Fifteenth Detention Decision, KSC-BC-2020-04/F00776, paras 40-42.

<sup>21</sup> Scheduling Decision, KSC-BC-2020-04/F00795, para.52. Even if the Defence's suspension request in KSC-BC-2020-04/F00803 were to be granted [REDACTED] any adjustment to the schedule would be minimal (KSC-BC-2020-04/F00803, para.37).

Tuesday, 5 March 2024

At The Hague, the Netherlands.