

In: KSC-BC-2023-10
The Specialist Prosecutor v. Sabit Januzi, Ismet Bahtijari and
Haxhi Shala

Before: Pre-Trial Judge
Judge Nicolas Guillou

Registrar: Dr Fidelma Donlon

Filing Participant: Specialist Counsel for Haxhi Shala

Date: 19 March 2024

Language: English

Classification: Confidential

Haxhi Shala Urgent Request for Interim Funding

Specialist Prosecutor

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1. The Defence for Mr. Haxhi Shala (“Accused”) hereby urgently requests funding pending the outcome of an application for legal aid.
2. In written submissions of 13 February 2024 in advance of the Status Conference the Shala Defence pointed out that investigations were subject to funding being guaranteed by the Ministry of Justice¹ and indicated that outstanding issues of funding impacted its ability to determine when it would be ready for trial.²
3. On 27 February 2024, Specialist Counsel for the Accused (“Specialist Counsel”) informed the Defence Office that the Ministry of Justice of Kosovo had decided to provide 1,000 EUR per month to fund the Accused’s defence. He subsequently appealed this decision,³ but his appeal to the Minister of Justice was refused.⁴ It is anticipated that the Minister’s decision, considered to be unlawful, will be subject to further legal challenge.

¹ KSC-BC-2023-10/F00168, Submissions on Behalf of Haxhi Shala for Status Conference, 12 February 2024, para. 2(4)(a)(i).

² Ibid., para. 2(6)(b).

³ KSC-BC-2023-10/F00193 ‘Registrar’s Update on Defence Team Funding’, 1 March 2024, confidential (“1 March Update”), paragraph 3.

⁴ Ibid.

4. Legal aid forms are being prepared for Mr. Shala to sign during Specialist Counsel's visit to The Hague this week for the Status Conference on 22 March 2024.⁵

5. The sum of 1,000 EUR per month is evidently inadequate to cover legal fees and expenses for the entire defence team. Work on the defence of the Accused nevertheless continues. Specialist Counsel has made visits to Kosovo, for example during the course of this month in order to continue defence investigations, but he has assumed the cost for this himself at present.⁶ The Defence Team is working without remuneration and will continue to do so as far as possible. However, as well as causing hardship to members of the Team, the lack of funding limits the scope for engaging additional services and expertise necessary for the defence of the Accused, which has been unnecessary and improper stress on the Accused.

6. Legal Aid funding, even if approved, cannot be expected for some time. Pursuant to Article 6(1) and 6(3)(c) of the European Convention on Human

⁵ KSC-BC-2023-10/F00218, Registrar's Update on Defence Team Funding with six confidential and ex parte Annexes, 15 March 2024, confidential, para. 5.

⁶ KSC-BC-2023-10/F00200, Update on Defence Team Funding with four confidential and ex parte Annexes, 8 March 2024, confidential, Annex 4.

Rights⁷ (“ECHR”), the Accused is entitled to a fair trial and to adequate time and facilities for the preparation of his defence.

7. In order to prevent a violation of the Accused’s rights under the ECHR, as incorporated into Article 12 of the Law on Specialist Chambers and Specialist Prosecutor Office (“Law”),⁸ there is an urgent need for funding for his defence pending the decision on allocation of legal aid. The Shala Defence has requested interim emergency funding but since there has been no response, a formal request is now being made to the Pre-Trial Judge.⁹
8. For the foregoing reasons the Pre-Trial Judge is requested to order the Registrar to arrange as soon as possible an appropriate level of funding for the defence of the Accused pending the decision on an application for legal aid.

Word Count: [559 words]

⁷ European Convention for the Protection of Fundamental Rights and Freedoms, ratified 04 November 1950, in force 03 September 1953, 213 UNTS 221.

⁸ Law No. 05/L-053.

⁹ Cf. KSC-BC-2023-10/F00218, Annex 6, confidential and ex parte.



Toby Cadman

Specialist Counsel

19 March 2024

At Doha, the State of Qatar