



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

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

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

**Registrar:** Dr Fidelma Donlon

**Filing Participant:** Specialist Prosecutor's Office

**Date:** 7 May 2024

**Language:** English

**Classification:** Confidential

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**Prosecution response to F00263 and F00276**

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**Specialist Prosecutor's Office**

Kimberly P. West

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Jonathan Elystan Rees

**Counsel for Ismet Bahtijari**

Felicity Gerry

**Counsel for Haxhi Shala**

Toby Cadman

1. Haxhi Shala has made Requests<sup>1</sup> for the disclosure of such audio and/or video recordings as were made of interviews and other communications with Witness 1 and W04891 related to his case (the 'Requested Materials').
2. The Specialist Prosecutor's Office ('SPO') does not oppose the Requests and is prepared to disclose the Requested Materials subject to further processing and preparation, including the application of any necessary redactions.
3. In this regard, the SPO notes that, contrary to the appropriate procedure under Rule 102(3) of the Rules,<sup>2</sup> Shala has failed to raise this request *inter partes* with the SPO, thereby generating unnecessary litigation and expending unnecessary resources.
4. Consistent with prior jurisprudence,<sup>3</sup> audio and video recordings of an interview are not in principle subject to disclosure where verbatim transcripts have been disclosed, absent specific justification – which Shala has not provided.
5. However, the SPO previously provided similar available audio and/or video recordings,<sup>4</sup> as a courtesy, when requested.
6. The SPO is thus, exceptionally, and as a courtesy, willing to disclose the Requested Materials to the Defence.
7. This filing is submitted as confidential in accordance with Rule 82(4).

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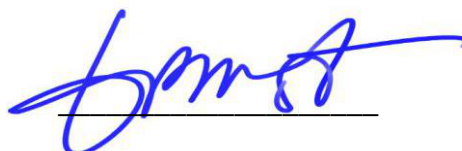
<sup>1</sup> Haxhi Shala Request for Disclosure of Audio-Visual Recordings, KSC-BC-2023-10/F00263, 24 April 2024, Confidential; Clarification of Haxhi Shala Request for Disclosure of Audio-Visual Recordings, KSC-BC-2023-10/F00276, 1 May 2024, Confidential (collectively 'Requests').

<sup>2</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 refer to the Rules, unless otherwise specified.

<sup>3</sup> See *Specialist Prosecutor v. Thaçi et al.*, KSC-BC-2020-06, Transcript (Status Conference, In Court – Oral Order), 24 March 2021, p.388, line 12 to p.390, line 1.

<sup>4</sup> See Disclosure Packages 8 and 11 in KSC-BC-2023-10; Disclosure Packages 5 and 7 in KSC-BC-2023-11.

**Word count: 286**



**Kimberly P. West**

**Specialist Prosecutor**

Tuesday, 7 May 2024

At The Hague, the Netherlands