

Case No.: 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 Judge

Registrar: Dr Fidelma Donlon

Date: 21 October 2024

Filing Party: Specialist Defence Counsel

Original Language: English

Classification: Public with Confidential Annexes 1 and 2

THE SPECIALIST PROSECUTOR

v.

PJETËR SHALA

**Joint Submission of the Proposal for Public Redacted Versions of the Defence
Final Trial Brief and the Defence Response to Victims' Counsel's Request for
Reparations with Confidential Annexes 1 and 2**

Specialist Prosecutor's Office

Kimberly P. West

Counsel for Victims

Simon Laws

Maria Radziejowska

Specialist Defence Counsel

Jean-Louis Gilissen

Hédi Aouini

Leto Cariolou

1. Pursuant to the Order of the Trial Panel dated 7 October 2024,¹ the Defence for Mr Pjetër Shala hereby submits the joint proposal of the Parties, Victims' Counsel, and the Registry for the Public Redacted Versions of the Defence Final Trial Brief and the Defence Response to Victims Counsel's Request for Reparations to Address the Physical, Mental, and Material Harm Suffered by Victims Participating in the Proceedings.² In addition, the Defence sets out its proposals for lifting certain redactions in Annex 2.³

A. Victims' Counsel and SPO position

2. Victims' Counsel and the SPO note that the redactions proposed by the Defence to date often jeopardize the protective measures in force with regard to some of the witnesses who provided evidence in this case. Public redacted versions of confidential filings must comply with the protective measures in place. This means that any information that allows for identification of a witness who has been granted protective measures should be redacted from a public redacted version of the filings.
3. Victims' Counsel emphasizes that filing of a public redacted version of a confidential filing is not a procedural avenue through which a party may question the protective measures in force and/or attempt to vary those measures. Rule 81 of the Rules provides for the appropriate process through which this can be done; a process which allows all parties and participants to adequately litigate the matter before the appropriate judicial authority.

¹ Email from CMU Filings to the Parties and Victims' Counsel, 7 October 2024, 15:28.

² KSC-BC-2020-04, F00821, Defence Final Trial Brief with Annex 1, 25 March 2024 (confidential); KSC-BC-2020-04, F00819, Defence Response to Victims' Counsel's Request for Reparations to Address the Physical, Mental, and Material Harm Suffered by Victims Participating in the Proceedings, 25 March 2024 (confidential).

³ Email from the Defence to Trial Panel I, the Parties and Victims' Counsel, 4 October 2024, 14:06.

4. As to the Defence's proposal to lift some of the redactions it had previously applied, a few of those were unnecessary and Victims' Counsel and the SPO agree that they can be lifted. However, the majority of the redactions that the Defence lists in Annex 2 are necessary, and if lifted, would lead to the violation of protective measures in force and potentially put witnesses in danger.
5. Finally, Victims Counsel and the SPO submit that the primary responsibility to file a public redacted version of a confidential filing lies with the party who submitted the filing in question. It appears that due to the Defence's failure to apply the necessary redactions, in the case of Defence filings F00819 and F00821, this responsibility has been at least partially shifted to Victims' Counsel and the SPO. This situation should not set a precedent for the future.

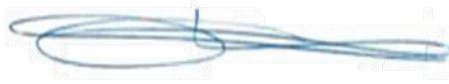
B. Defence position

6. The Defence respectfully disagrees with the above position. In the view of the Defence, publicity must be the rule and redactions the exception, imposed only where strictly required by a competing interest. In the view of the Defence, thorough judicial review of the proposed redactions is required to ensure that the right of Mr Shala to a public trial as well as the right of the public to follow these proceedings are respected. To date, the Defence has carefully considered all protective measures in force and its proposals do not exceed what is strictly necessary. The Defence invites the Panel to carefully consider the position of the parties and participants in assessing whether is an actual and genuine need to redact the words discussed in the attached annexes and strike a fair balance between the various competing rights and interests.
7. This submission is filed as public pursuant to Rule 82(3) of the Rules of Procedure and Evidence before the Kosovo Specialist Chambers as it does not contain any confidential information. The joint proposals are attached as

Annexes 1 and 2 and are filed as confidential as they contain confidential information.

Word count: 653

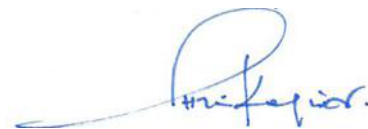
Respectfully submitted,



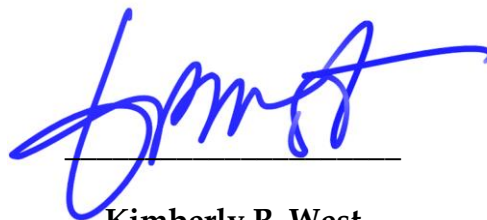
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Monday, 21 October 2024,
The Hague, the Netherlands