

**In:** KSC-BC-2023-10

**Specialist Prosecutor v. Sabit Januzi, Ismet Bahtijari and  
Haxhi 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

**Filing Participant:** Specialist Counsel for Haxhi Shala

**Date:** 19 February 2025

**Language:** English

**Classification:** Confidential and *Ex Parte*

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**Submissions on F00518 and F00563**

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**Counsel for Haxhi Shala**

Toby Cadman

## I. INTRODUCTION

1. The Defence for Mr. Haxhi Shala ("Defence") hereby makes a submission in regard to the Order of the Trial Panel in paragraph 37(b) of Decision on the Request for Review of the Decision of the Registrar on the Legal Aid Fee (F00518)<sup>1</sup> ("F00680").

## II. PROCEDURAL HISTORY

2. On 9 October 2024, in Request for Review of Decision of the Registrar on the Legal Aid Fee ("F00518"),<sup>2</sup> the Defence requested that the Trial Panel find that the case at the Trial Stage should be ranked as Complexity Level 3 and that a monthly lump sum of €14,850 should be allocated.<sup>3</sup>
3. On 18 October 2024 the Registrar filed Submissions Concerning F00518 ("F00541").<sup>4</sup>
4. On 26 October 2024 the Defence submitted its Reply to Registrar's Submissions concerning F00518 ("F00563").<sup>5</sup>
5. On 13 February 2025 the Trial Panel ordered Specialist Counsel, in consultation with the Registrar, to submit public redacted versions of F00518 without annexes and of F00563 by no later than Tuesday, 18 February 2025.

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<sup>1</sup> KSC/BC-2023/F00680, 13 February 2025.

<sup>2</sup> KSC-BC-2023-10/F00518.

<sup>3</sup> F00518, para. 13.

<sup>4</sup> KSC-BC-2023-10/F00541, confidential and *ex parte*.

<sup>5</sup> KSC-BC-2023-10/F00563, confidential and *ex parte*.

6. On 15 February 2025 the Defence informed the Registry that it had reviewed the two filings and was of the view that they should be made public without any redactions and asked whether the Registrar shared that opinion.
7. On 18 February at 10:39 the Defence Office informed the Defence that having reviewed the two filings the Registry requested that some limited redactions be made to F00518 and F00563 in order to create public versions thereof. Specifically, the Defence Office sought the following redactions:
  - F00518, paragraph 2: the redaction of "2" after "Complexity Level" and "11,675" after "€";
  - F00518, paragraph 3: the redaction of "3" after "Complexity Level";
  - F00518, paragraph 7: the redaction of "2" after "Complexity Level";
  - F00518, paragraph 11: the redaction of "3" after "Complexity Level" in the second sentence and twice in the third sentence and "14,850" after "€" in the third sentence;
  - F00518, paragraph 13: the redaction of "3" after "Complexity Level" and "14,850" after "€";
  - F00563, paragraph 2: the redaction of "2" after "Complexity Level" and "11,675" after "€";
  - F00563, paragraph 3: the redaction of "3" after "Complexity Level";
  - F00563, paragraph 5: the redaction of "3" after "Complexity Level" and "14,850" after "€";
  - F00563, paragraph 11: the redaction of "2" after "Complexity Level" in the final sentence.

8. On 18 February at 12:01 the Registrar filed Submissions Pursuant to F00680 ("F00682"),<sup>6</sup> in which it submitted that the *ex parte* marking of filing F00518 should not be lifted.

### III. SUBMISSIONS

9. The Defence submits that there is no basis for the redactions that the Registry is seeking.
10. The Defence is most directly affected by the information in the redactions in F00518 and F00563.<sup>7</sup> In these circumstances if the Defence accepts that the filings can be made public without redactions there should be no impediment to them having this classification.
11. Moreover, making public the Complexity Level and Legal Aid Fee in the instant case does not damage the interests of any individuals. Indeed, it is in the public interest for this information not to remain confidential.<sup>8</sup>
12. The Registrar submits that the *ex parte* marking of F00518 should not be lifted, "as it contains information concerning the specifics of the Registrar's decision on legal aid in an individual Accused's case, which should remain between the Registrar and that Accused's Defence team"<sup>9</sup> and that the public redacted version of F00518 "containing very limited redactions" on which the Registry had consulted the Defence "should serve to adequately inform the other

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<sup>6</sup> F00682, confidential and *ex parte*.

<sup>7</sup> Email sent to the Defence Office on 18 February 2025 at 15:53.

<sup>8</sup> Email sent to the Defence Office on 18 February 2025 at 15:53.

<sup>9</sup> F00682, para.1.

parties in this case of the content of this filing.” No justification or explanation of any sort is given for these vague assertions. There is no legal basis for a Legal Aid Fee assigned to a Specialist Counsel being kept secret. The implication of the Registrar’s position is that Specialist Counsel should not have the right to make public the Legal Aid Fee that he has been granted. This would be a gross infringement of his right to freedom of expression as well as not being in the public interest.

#### IV. CONCLUSION

13. For the foregoing reasons the Defence requests that the Trial Panel order that the classification of F00518 without the annexes and F00563 be changed from “confidential and *ex parte*” to “public”.

#### V. QUALIFICATION

14. The present filing has been classified as confidential and *ex parte* pursuant to Rule 82(4) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers.<sup>10</sup> However, the Defence has no objection to its being classified as public.

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<sup>10</sup> KSC-BD-03/Rev3/2020, 2 June 2020.

**Word Count: [808 words]**



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**Toby Cadman**

**Specialist Counsel**

**19 February 2025**

**At Dubai, United Arab Emirates**