

**BEFORE THE PRE-TRIAL JUDGE**  
**KOSOVO SPECIALIST CHAMBERS**

Case No.: KSC-BC-2020-04

Before: Judge Nicolas Guillou, Pre-Trial Judge

Registrar: Dr Fidelma Donlon, Registrar

Date: 22 April 2021

Filing Party: Defence Counsel

Original Language: English

Classification: Public

**THE SPECIALIST PROSECUTOR**  
**v.**  
**PJETËR SHALA**

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**Submissions Pursuant to the Pre-Trial Judge's Order Dated 20 April 2021**

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**Specialist Prosecutor:**  
Mr Jack Smith

**Counsel for the Accused:**  
Mr Jean-Louis Gillissen

1. The Defence for Mr Pjetër Shala (“Defence” and “Accused”, respectively) files the following observations pursuant to the Order by the Pre-Trial Judge issued on 20 April 2021.

## I. SUBMISSIONS

2. At the outset, the Defence notes that these submissions are made without prejudice to the rights of the Accused and that it reserves the right to file further submissions once it has had the opportunity to review the evidence supporting the Indictment and other disclosed material and has received further instructions from the Accused on these issues.

### A. THE AGENDA FOR THE NEXT STATUS CONFERENCE

3. On 20 April 2021, the Pre-Trial Judge decided to convene a status conference in the presence of the Specialist Prosecutor (“Prosecution”) and the Defence on Friday 23 April 2021.
4. On the same date, the Defence was instructed to submit written submissions on the Agenda for the Status Conference, which was prepared by the Pre-Trial Judge.
5. The Defence confirms, without prejudice to the rights of the Accused, that it intends to carry out investigations for the purposes of the presentation of its case. At present, the Defence is unable to provide any information on the anticipated duration of its investigative activities.
6. The Defence is unable to indicate at the present stage whether it will provide notice of an alibi and/or any other grounds excluding criminal responsibility.

7. The Defence confirms its intention to apply the case-specific categorization in Legal Workflow for any disclosure to the Prosecution.
8. The Defence accepts the proposed adoption of the case-specific sub-categorisation in Legal Workflow that would include (i) contextual elements: "war crimes"; (ii) underlying crimes: "count 1", "count 2", "count 3", "count 4", "all"; (iii) location: "Kukes"; (iv) alleged conduct of the accused: "direct commission", "JCEI", "JCEII", "JCEIII", "aiding and abetting", "all"; (v) Accused: "Pjetër Shala". The Defence would propose the following additional sub-categories: (i) contextual elements: "background"; (iii) location: "other".
9. The Defence requests to be provided with a consolidated disclosure chart as soon as possible and, in any event, well in advance of the filing of the Prosecution's Pre-Trial Brief so that it can properly prepare for trial.

#### B. THE PROPOSED REDACTIONS REGIME

10. The Defence tentatively agrees with the redaction regime that was set out in the "Framework Decision on Disclosure of Evidence and Related Matters" in KSC-BC-2020-07.

#### C. THE PROPOSED DISCLOSURE REGIME

11. Disclosure of Material Supporting the Indictment (Rule 102(1)(a) evidence): The Defence requests that evidence supporting the Indictment be disclosed as soon as possible and at the very latest within 30 days of the initial appearance of the Accused.
12. Disclosure of Additional Material Intended for Use at Trial (Rule 102(1)(b) evidence): The Defence requests that such material be disclosed as soon as possible in both English and Albanian. It respectfully submits that disclosure

of such material 30 days prior to the opening of the Prosecution's case would be inadequate.

13. Disclosure of Evidence Material to the Preparation of the Defence and Other Exculpatory Evidence (Rule 102(3) and Rule 103 evidence): The Defence requests that exculpatory evidence and evidence material to the preparation of its case be disclosed immediately or as soon as possible and in any event by 22 May 2021. This is without prejudice to the Prosecution's continuous disclosure obligations.
14. Disclosure of Evidence by the Defence (Rule 104 material): The Defence tentatively agrees to the disclosure regime set out in this respect in the "Framework Decision on Disclosure of Evidence and Related Matters" in KSC-BC-2020-07.<sup>1</sup>

Respectfully submitted,



Jean-Louis Gilissen  
Counsel for Pjetër Shala

Dated this 22th day of April 2021

At The Hague, the Netherlands

Word count: 595

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<sup>1</sup> KSB-BS-2020-07, F00104, Framework Decision on Disclosure of Evidence and Related Matters, 22 January 2021, paras. 58-60.