

Case No.: KSC-BC-2020-04
Specialist Prosecutor v. Pjetër Shala

Before: Pre-Trial Judge
Judge Nicolas Guillou

Registrar: Dr Fidelma Donlon

Date: 2 March 2022

Filing Party: Specialist Defence Counsel

Original Language: English

Classification: Confidential

THE SPECIALIST PROSECUTOR
v.
PJETËR SHALA

**Defence Response to 'Prosecution notice of Rule 102(1)(b) disclosure and
request to amend its exhibit list'**

Specialist Prosecutor's Office:
Jack Smith

Specialist Counsel for the Accused:
Jean-Louis Gilissen
Hédi Aouini

Counsel for Victims
Simon Laws QC

1. The Defence does not oppose the 'Prosecution notice of Rule 102(1)(b) disclosure and request to amend its exhibit list', which was filed by the Specialist Prosecutor's Office ('SPO') on 17 February 2022.¹
2. However, the Defence recalls that the Pre-Trial Judge instructed the SPO to disclose Rule 102(1)(b) material by 30 July 2021.² Subsequently, the Defence requested *inter partes* the disclosure of specific material and information it had identified. On 4 November 2021, the Pre-Trial Judge granted the request of the SPO for authorisation to disclose additional Rule 102(1)(b) material consisting in its vast majority of material requested by the Defence.³
3. The Defence notes that the delayed disclosure of the material forming the subject of the Request, namely '*a handwritten note taken by an SITF staff member during [the] meeting [between the SITF and W04734]*'⁴ has had an adverse impact on the preparation of the Defence case and violates the disclosure obligations of the SPO. As a result of the delayed disclosure, the Defence has to re-assess the material it has already processed related to W04734 which causes delay in the preparation of its case. The Defence notes its right to have adequate time and facilities at its disposal to prepare its case and reserves its right to seek an appropriate remedy for the prejudice suffered as a result of the delayed disclosure.

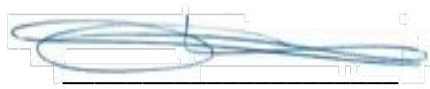
¹ KSC-BC-2020-04, F00149, Prosecution notice of Rule 102(1)(b) disclosure and request to amend its exhibit list, 17 February 2022 (confidential) ('Request').

² KSC-BC-2020-04, F00033, Framework Decision on Disclosure and Related Matters, 30 April 2021, para. 92(c).

³ KSC-BC-2020-04, F00100, Decision on Request for Authorisation to Disclose Additional Material under Rule 102(1)(b) of the Rules, 4 November 2021, para. 15(a).

⁴ Request, paras. 2 and 3.

Respectfully submitted,



Jean-Louis Gilissen
Specialist Defence Counsel



Hédi Aouini
Defence Co-Counsel

The Hague, 2 March 2022

Word Count: 293