



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

**In:** KSC-BC-2020-04  
**Specialist Prosecutor v. Pjetër Shala**

**Before:** **Trial Panel I**  
Judge Mappie Veldt-Foglia, Presiding  
Judge Roland Dekkers  
Judge Gilbert Bitti  
Judge Vladimir Mikula, Reserve

**Registrar:** Dr Fidelma Donlon

**Filing Party:** Acting Specialist Prosecutor

**Date:** 10 May 2023

**Language:** English

**Classification:** Public

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**Prosecution request for admission of exhibits from the SPO's examination of  
TW4-10 and TW4-11  
with Confidential Annex 1**

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**Specialist Prosecutor's Office**

Alex Whiting

**Counsel for the Accused**

Jean-Louis Gilissen

**Counsel for Victims**

Simon Laws

## I. INTRODUCTION

1. Pursuant to the Decision on Non-Oral Evidence<sup>1</sup> and Rule 138(1) of the Rules,<sup>2</sup> the Specialist Prosecutor's Office ('SPO') hereby requests the admission of the items listed in Annex 1 to this request ('Documents'). The Documents include material shown to and marked by TW4-10 and TW4-11 during their examinations in court on 1 and 2 May 2023.

2. The Documents are relevant, authentic, have probative value, and their admission would cause no undue prejudice for the Accused.<sup>3</sup>

## II. SUBMISSIONS

### a. Exhibits marked by TW4-10

3. The SPO tenders a sketch by TW4-10, which the witness marked during direct examination.<sup>4</sup> Together with the marked sketch, the SPO tenders the original, in accordance with the Decision on Non-Oral Evidence.<sup>5</sup>

4. The SPO also tenders three photographs marked by TW4-10 in direct examination.<sup>6</sup> In accordance with the Decision on Non-Oral Evidence, the SPO only tenders the original of item 4 in Annex 1 in addition to the marked photograph,<sup>7</sup> as for items 2-3, the original photographs are considered to be available to the Panel for the purpose of its judgment.<sup>8</sup>

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<sup>1</sup> Decision on the submission and admissibility of non-oral evidence, KSC-BC-2020-04/F00461, 17 March 2023, public ('Decision on Non-Oral Evidence'), paras 55-65.

<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 are to the Rules, unless otherwise specified.

<sup>3</sup> See Rule 138. Unless challenged or *proprio motu* excluded, evidence submitted to the Panel shall be admitted if it is relevant, authentic, has probative value and its probative value is not outweighed by its prejudicial effect.

<sup>4</sup> Annex 1, item 1.

<sup>5</sup> In the Decision on Non-Oral Evidence, KSC-BC-2020-04/F00461, para.63, the Panel requested that exhibits marked in court be submitted together with the original versions.

<sup>6</sup> Annex 1, items 2-4.

<sup>7</sup> See Decision on Non-Oral Evidence, KSC-BC-2020-04/F00461, para.63.

<sup>8</sup> See Decision on the Specialist Prosecutor's motion for admission of documentary evidence, KSC-BC-2020-04/F00491, 20 April 2023, confidential, para. 36; and Decision on Non-Oral Evidence, KSC-BC-

b. Exhibits shown to and marked by TW4-11

5. The SPO tenders the Photo Board Identification Procedure Report used in the direct examination of TW4-11.<sup>9</sup> Although only pages 3, 16 and 20 were discussed with the witness, the document as a whole is relevant as it shows which photographs/person the witness recognized and which he did not.

6. The SPO further tenders the photographs shown to and discussed with TW4-11 on pages 2, 8, 9 and 10 of item 6 in Annex 1.<sup>10</sup>

7. Finally, TW4-11 marked a photograph, which the SPO also tenders into evidence.<sup>11</sup> The SPO requests admission of both the marked photograph and its original version.<sup>12</sup>

III. CLASSIFICATION

8. Annex 1 is confidential to give effect to existing protective measures, as it contains information on the witnesses and references to evidence that is not public.

IV. RELIEF REQUESTED

9. For the foregoing reasons, the SPO requests admission of the exhibits listed in Annex 1 to this request.

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2020-04/F00461, para. 64, asking the Parties and the Victims' Counsel to ensure that they do not submit items that have already been submitted in previous requests and/or are considered to be available to the Panel for its deliberations and judgment.

<sup>9</sup> Annex 1, item 5.

<sup>10</sup> Annex 1, item 6.

<sup>11</sup> Annex 1, item 7.

<sup>12</sup> The original version of the photograph marked by TW4-11 is the same as that tendered in item 4 of Annex 1.



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**Alex Whiting**

**Acting Specialist Prosecutor**

Thursday, 10 May 2023

At The Hague, the Netherlands.