

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

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

**Registrar:** Dr Fidelma Donlon

**Filing Participant:** Victims' Counsel

**Date:** 24 July 2023

**Language:** English

**Classification:** Confidential

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**Victims' Counsel's Submissions on the modalities of expert testimony**

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**Acting Specialist Prosecutor**  
Alex Whiting

**Counsel for the Accused**  
Jean-Louis Gilissen

**Counsel for Victims**  
Simon Laws

## I. INTRODUCTION

1. Victims' Counsel makes these submissions pursuant to Article 22(6) of the Law on Specialist Chambers and Specialist Prosecutor's Office ("Law"), Rules 114(4)(a) and (5), 138(1), 143(4) and 149 of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), and in relation to Victims' Counsel's request of 30 June 2023<sup>1</sup> and the Trial Panel's Decision on Victims' Counsel's request to call expert witnesses to testify.<sup>2</sup>
2. Victims' Counsel makes these submissions on the modalities of the testimony of two experts from the *instituut voor Mensenrechten en Medisch Onderzoek* ("iMMO"), who authored the iMMO report, and requests that they testify at the same time, and together.

## II. CLASSIFICATION

3. This submission is classified as confidential pursuant to Rule 82(4) of the Rules as it responds to a filing with that classification. Victims' Counsel does not object to it being reclassified as public.

## III. PROCEDURAL HISTORY

4. On 9 February 2023, Trial Panel I decided that the reparation proceedings in this case would be conducted concurrently with the trial.<sup>3</sup>
5. On 4 May 2023, Trial Panel I directed Victims' Counsel to submit by 30 June 2023: a list of witnesses he proposes to call, all expert reports, his proposal for assessment of the harm suffered by VPPs and for calculation of compensation for their harm, information as to whether any of the VPPs intend to present their views

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<sup>1</sup> *Specialist Prosecutor v. Pjetër Shala*, KSC-BC-2020-04/F00558, confidential, Victims' Counsel's Submissions pursuant to the Order of 4 May 2023 setting further procedural steps for the presentation of evidence by Victims' Counsel, 30 June 2023, with six confidential Annexes ("Victims' Counsel's Request").

<sup>2</sup> KSC-BC-2020-04/F000598, confidential, Decision on Victims' Counsel's request to call expert witnesses to testify, 21 July 2023 ("Decision on Victims' Counsel's request").

<sup>3</sup> KSC-BC-2020-04/F00421, Decision on reparation proceedings, 9 February 2023, para. 25.

and concerns in person, any applications for redactions, variations of protective measures, and submissions on the timing and content of any request for reparations.<sup>4</sup>

6. On 30 June 2023, Victims' Counsel filed his Submissions pursuant to the Order of 4 May 2023 setting out further procedural steps for the presentation of evidence by Victims' Counsel, which – in relevant part – requested the testimony of Karin Duhne-Prinsen and Dr Chayèn Lozano Parra (“the Experts”) of the *instituut voor Mensenrechten en Medisch Onderzoek* (“iMMO”).<sup>5</sup> The Experts, a psychologist and a psychiatrist, respectively, authored a report that was submitted to the Panel and the Parties by the same submission.<sup>6</sup>
7. On 12 July 2023, the Defence responded to Victims' Counsel's submissions, in which it did not challenge the expertise of the Experts, but gave notice of its intention to challenge the content of the expert report and cross-examine the expert witnesses.<sup>7</sup>
8. On 21 July 2023, the Panel issued its Decision on Victims' Counsel's request to call expert witnesses to testify, in which it decided that the Experts should be called to testify, starting on Monday, 21 August 2023.<sup>8</sup>

#### IV. SUBMISSIONS

9. Rule 143(4)(a) grants the Trial Panel the discretion to control the mode of testimony and the presentation of evidence “to make the questioning and presentation effective for the ascertainment of truth.”

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<sup>4</sup> KSC-BC-2020-04, In-court oral order, Transcript of 4 May 2023, Public, 1356:11 – 1361:6 (“Oral Order”).

<sup>5</sup> Victims' Counsel's Request, paras 10, 58(b).

<sup>6</sup> *Ibid.*, paras 10-14, 58(a)(i).

<sup>7</sup> KSC-BC-2020-04/F00585, Defence Response to the Victims' Counsel's Submissions pursuant to the Order of 4 May 2023 setting further procedural steps for the presentation of evidence by Victims' Counsel with six confidential annexes (“Defence Response”), 12 July 2023; KSC-BC-2020-04/F00585, Public Redacted Version of Defence Response to the Victims' Counsel's Submissions pursuant to the Order of 4 May 2023 setting further procedural steps for the presentation of evidence by Victims' Counsel with six confidential annexes, 14 July 2023.

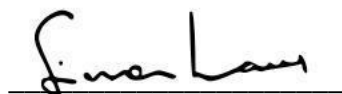
<sup>8</sup> Decision on Victims' Counsel's request, para 12(a).

10. Having consulted with the Experts, Karin Duhne-Prinsen and Dr Chayèn Lozano Parra, Victims' Counsel hereby requests that these two experts testify at the same time, and together.
11. Victims' Counsel submits that there are a number of reasons that support this request. A joint mode of testimony has been suggested to Victims' Counsel by the Experts themselves. The clinical examination of TW4-01 and preparation of the report was done by both of them acting together, with one expert contributing expertise in the area of psychology and the other in the field of psychiatry.
12. The proposed modality of the Experts' testimony would allow them to explain their opinion with their respective complementing expertise, and if required, to supplement it orally, in a way that is consistent with the methodology applied in preparation of the report and which respects the joint character of their expertise presented therein. Finally, the proposed modality of the Experts' testimony will allow them to offer to the Panel as clear and as complete/comprehensive understanding of their joint opinion as possible.

## V. RELIEF

13. For the foregoing reasons, Victims' Counsel, pursuant to Rule 114(5) and 149 of the Rules requests that the authors of the iMMO report, Karin Duhne-Prinsen and Dr Chayèn Lozano Parra testify at the same time, and together.

**Word count: 843**



**Simon Laws KC**

**Counsel for Victims**

24 July 2023

At The Hague, the Netherlands.



**Maria Radziejowska**

**Co-Counsel for Victims**