

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

**Date:** 23 November 2023

**Filing Party:** Specialist Defence Counsel

**Original Language:** English

**Classification:** Public with Confidential Annex I

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

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**Public Redacted Version of Defence Request to Amend its Witness and  
Exhibit Lists  
with Confidential Annex I**

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<b>Specialist Prosecutor's Office:</b>	<b>Specialist Defence Counsel</b>
Kimberly P. West	Jean-Louis Gilissen
	Hédi Aouini
<b>Counsel for Victims</b>	Leto Cariolou
Simon Laws KC	
Maria Radziejowska	

## I. INTRODUCTION

1. Pursuant to Rules 119(2) and 119(5) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers (“Rules”), the Defence for Mr Pjetër Shala (“Defence”) hereby requests leave to amend its Witness and Exhibit Lists to include [REDACTED] as a witness and [REDACTED] expert report dated 13 November 2023 (“[REDACTED] Report”) as an exhibit.<sup>1</sup> The [REDACTED] Report is attached to this Request as Annex I.

## II. PROCEDURAL BACKGROUND

2. On 20 September 2023, the Defence indicated its intent to submit an expert report for the purposes of the reparations proceedings.<sup>2</sup>
3. On 31 October 2023, the Trial Panel directed the Defence to submit any expert reports for the purposes of the reparations proceedings by 8 November 2023.<sup>3</sup>
4. On 8 November 2023, the Panel granted the Defence request for a limited extension of time to file the report which was due on 13 November 2023.<sup>4</sup>
5. On 13 November 2023, the Defence filed the [REDACTED] Report and disclosed it in Disclosure Package 184,<sup>5</sup> and requested to call [REDACTED] as a witness.<sup>6</sup>

## III. APPLICABLE LAW

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<sup>1</sup> ERN DPS01621-DPS01723.

<sup>2</sup> T. 20 September 2023 p. 2457, line 1 to p. 2458, line 21.

<sup>3</sup> Email from Court Management Unit of the Registry to the parties, 31 October 2023, at 3:44 pm.

<sup>4</sup> Email from the Court Management Unit of the Registry to the parties, 8 November 2023, at 2:23 pm.

<sup>5</sup> ERN DPS01621-DPS01723.

<sup>6</sup> KSC-BC-2020-04, F00716, Defence Submission of an Expert Report for the Purposes of the Reparations Proceedings with Confidential Annex 1, 13 November 2023 (confidential), paras. 1, 11, 12. All further references to filings in this Request concern Case No. KSC-BC-2020-04 unless otherwise indicated.

6. Rule 119(5) of the Rules allows for the Panel to “permit, upon timely notice and a showing of good cause, the amendment of the lists of witnesses and exhibits filed pursuant to paragraph (2)”.

#### IV. SUBMISSIONS

7. The Defence submits that good cause exists to amend its Witness and Exhibit Lists to include [REDACTED] as an expert witness and [REDACTED] expert report as an exhibit. The Defence notes in this respect that the [REDACTED] Report was only finalised on 13 November 2023.
8. In addition, the Defence submits that [REDACTED]’s in-person testimony will serve to clarify several aspects of [REDACTED] report, which will benefit the Panel and all Parties, and thus good cause exists to amend its Witness List to reflect its intention to call [REDACTED]. The Defence recalls in this respect that according to Rule 141(1) of the Rules, the general rule is that a witness’s evidence be presented in court and admission of evidence in writing is the exception. Further, the Panel has previously highlighted that “witnesses must appear in open court, in person, and provide their evidence orally. The importance of in-court personal testimony is that the witness gives evidence under oath and under the observation and general oversight of the Panel. It allows the witness’s evidence to be fully tested by questioning, with the Panel being able to assess its accuracy and reliability”.<sup>7</sup> This principle applies equally to expert witnesses, subject to the procedure provided for in Rule 149 of the Rules and the Panel’s instructions to the parties on presenting expert evidence.<sup>8</sup>

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<sup>7</sup> F00461, Decision on the submission and the admissibility of evidence, 17 March 2023, para. 30.

<sup>8</sup> F00434, Decision on the conduct of the proceedings, 24 February 2023 (confidential), paras. 59-64.

9. With respect to the timeliness of the Request, the Defence submits, in light of the above-noted procedural history, it has acted efficiently to submit this Request.

V. CLASSIFICATION

10. Pursuant to Rule 82(3) and 82(4) of the Rules, this Request is filed as confidential as it relates to filings that at the current stage remain confidential. The Defence will file a public redacted version of this Request in due course.

VI. RELIEF REQUESTED

11. The Defence respectfully requests the Panel grant its request to amend the Exhibit List to add the [REDACTED] Report and its Witness List to add [REDACTED] as an expert witness.

**Word count: 671**

Respectfully submitted,



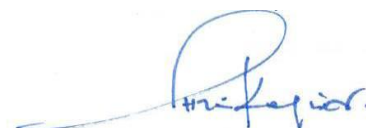
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**Jean-Louis Gilissen**  
**Specialist Defence Counsel**



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**Hédi Aouini**  
**Defence Co-Counsel**



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Thursday, 23 November 2023

The Hague, the Netherlands