

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: 6 December 2023

Filing Party: Specialist Defence Counsel

Original Language: English

Classification: Public

THE SPECIALIST PROSECUTOR

v.

PJETËR SHALA

**Public Redacted Version of Defence Request for Admission of Items Used with
W03887, DW4-03, and W04280 During Their In-Court Testimonies
with Confidential Annex 1**

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I. INTRODUCTION

1. Pursuant to the Trial Panel's "Decision on the submission and admissibility of non-oral evidence" and Rule 138(1) of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers ("Rules"), the Defence for Mr Pjetër Shala ("Defence") hereby files this request seeking the admission into evidence of material used during its direct examination and re-examination of witnesses Zijadin Hoxha (W03887), Andre De Villiers Horne (DW4-03), and [REDACTED] (W04280), during their in-court testimony, including material shown to and marked by the witnesses.¹

II. PROCEDURAL BACKGROUND

2. On 17 March 2023, the Panel issued the "Decision on the submission and admissibility of non-oral evidence", in which it, *inter alia*, set out the principles governing the admission of non-oral evidence and ordered the Parties and Victims' Counsel to submit, no later than one week after the completion of each evidentiary block, an application for the admission of any material used during their respective questioning of the witnesses whose testimonies were completed within that block and which had not already been submitted to the Panel.²
3. Between 20 to 22 November 2023, W03887 testified via video-conference before the Panel during the tenth evidentiary block.³

¹ KSC-BC-2020-04, F00461, Decision on the submission and admissibility of non-oral evidence, 17 March 2023, paras. 55-65. All further references to filings in this Request concern Case No. KSC-BC-2020-04 unless otherwise indicated.

² F00461, Decision on the submission and admissibility of non-oral evidence, 17 March 2023, paras. 55-65.

³ T. 20 November 2023 pp. 3167-3281; T. 21 November 2023 pp. 3287-3405; T. 22 November 2023 pp. 3416-3517.

4. On 27 November 2023, DW4-03 testified in person before the Panel during the tenth evidentiary block.⁴
5. On 28 and 29 November 2023, W04280 testified via video-conference before the Panel during the tenth evidentiary block.⁵

III. SUBMISSIONS

6. The Defence requests the admission of the following items used during its direct examination and re-examination of W03887 as listed in Annex 1 to the Request, namely:

- (i) Markings made by W03887 on ERN SPOE40010266 during Defence examination-in-chief on 20 November 2023 (underlying unmarked image at ERN SPOE40010264-40010559) (ERN REG00982-REG00982);
- (ii) Markings made by W03887 on ERN SPOE40010279 during Defence examination-in-chief on 20 November 2023 (underlying unmarked image at ERN SPOE40010264-40010559) (ERN REG00983-REG00983);
- (iii) Markings made by W03887 on ERN SPOE40010278 during Defence examination-in-chief on 20 November 2023 (underlying unmarked image at ERN SPOE40010264-40010559) (ERN REG00984-REG00984);
- (iv) Further markings made by W03887 on ERN SPOE40010279 during Defence examination-in-chief on 20 November 2023

⁴ T. 27 November 2023 pp. 3635-3720.

⁵ T. 28 November 2023 pp. 3733-3828; T. 29 November 2023 pp. 3833-3870.

(underlying unmarked image at ERN SPOE40010264-40010559)
(ERN REG00985-REG00985);

- (v) Markings made by W03887 on ERN SPOE40010276 during Defence examination-in-chief on 20 November 2023 (underlying unmarked image at ERN SPOE40010264-40010559) (ERN REG00986-REG00986);
- (vi) Markings made by W03887 on ERN SPOE40010275 during Defence examination-in-chief on 20 November 2023 (underlying unmarked image at ERN SPOE40010264-40010559) (ERN REG00987-REG00987);
- (vii) Markings made by W03887 on ERN SPOE40010274 during Defence examination-in-chief on 20 November 2023 (underlying unmarked image at ERN SPOE40010264-40010559) (ERN REG00988-REG00988);
- (viii) Markings made by W03887 on ERN SPOE40010282 during Defence examination-in-chief on 20 November 2023 (underlying unmarked image at ERN SPOE40010264-40010559) (ERN REG00989-REG00989);
- (ix) Photographs and videos found and copied from the Facebook profile of W03887 on 5 March 2020 (ERN 075138-01; excerpts at 00:00-00:24, 03:11-03:28, 06:19-07:27, 08:47-09:10, 09:12-09:17, 09:35-09:50, and 10:25-12:30; still images at 10:31 and 12:26) as well as the English and Albanian transcripts of the videos (ERN 075138-01-TR-ET and ERN 075138-01-TR);
- (x) Video downloaded from Facebook profile of Suhareka Express on 16 August 2023 (ERN DPS00879; excerpts at 02:43-04:07 and

07:33-08:49) as well as the English and Albanian transcripts of the video (ERN DPS00879-TR-ET and ERN DPS00879-TR-AT);

- (xi) Photographs and videos found and copied from the Facebook profile of W03887 on 5 March 2020 (ERN 075138-02; excerpts at 12:40-13:55 and 13:56-16:01; still images at 12:41, 13:14, 14:39, 15:18, and 15:50);
- (xii) Marking made by W03887 on video still at ERN 075138-02 (00:15:18) (ERN REG00990-REG00990);
- (xiii) Video downloaded from Facebook profile of W03887 on 15 August 2023 (ERN DPS00878; excerpts at 04:00-06:06 and 09:41-09:57; still image at 05:07) as well as the English and Albanian transcripts of the video (ERN DPS00878-TR-ET and ERN DPS00878-TR-AT);
- (xiv) Video downloaded from Facebook page of SPO Witness W03887 on 3 September 2020 (ERN 078252-01; excerpts at 00:08-02:30, 02:30-02:40, 06:09-06:46, 17:45-17:50, and 17-51-18:36; still images at 00:17, 00:30, 00:48, 01:01, 02:40, 06:09, and 06:22) as well as the English and Albanian transcripts of the video (ERN 078252-01-TR-ET and ERN 078252-01-TR-AT); and
- (xv) Photographs and videos found and copied from the Facebook profile of W03887 on 5 March 2020 (ERN 075138-03; excerpts at 00:00-00:06, 00:15-00:44, 01:12-02:51, and 07:42-07:46; still image at 01:41) as well as the English and Albanian transcripts of the videos (ERN 075138-03-TR-ET and ERN 075138-03-TR-AT).

7. The Defence requests the admission of the following items used during its direct examination of DW4-03 as listed in Annex 1 to the Request, namely:

- (i) Forensic report: Examination of documentation related to [REDACTED], prepared by Andre de V Horne, [REDACTED] (ERN DPS00864-DPS00875, pp. 8-11);
 - (ii) Video of DW4-03 at a shooting range (ERN DPS01727, time stamp: 00:00 - 00:08); and
 - (iii) Photo of a shooting target from DW4-03 (ERN DPS01728).
8. The Defence requests the admission of the following items used during its direct examination of W04280 as listed in Annex 1 to the Request, namely:
 - (i) Redacted page 10 (ERN 059122) of ERN 059113-059144 (ERN DPS01729);
 - (ii) Redacted version of [REDACTED], personal identification details of [REDACTED] and photographs (ERN SITF00372523-00372525 RED, pp. 2, 3); and
 - (iii) [REDACTED], ID form and photograph of W01448 from the [REDACTED] (ERN SITF00374418-00374419, p. 2).
9. The Defence submits that the requested items form an integral part of the oral testimony of W03887, DW4-03, and W04280 and will assist the Panel in evaluating their evidence. They also comply with the requirements of Rule 138(1) of the Rules as they are relevant, authentic, and have probative value. Their admission is in the interests of justice.

IV. CLASSIFICATION

10. Pursuant to Rule 82(3) of the Rules, the Request and Annex 1 are filed as confidential as they contain confidential information. The Defence will file a public redacted version of the Request in due course.

V. RELIEF REQUESTED

11. The Defence respectfully requests the Panel to admit into evidence the items listed in Annex 1 to the Request.

Word count: 1077

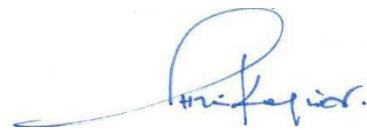
Respectfully submitted,



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Wednesday, 6 December 2023

The Hague, the Netherlands