



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: Specialist Prosecutor's Office

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**Prosecution reply to 'Defence Consolidated Response to Prosecution and Victims'
Counsel's Requests for Admission of Material Used During the Examination of
W04405'**

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I. INTRODUCTION

1. Pursuant to the Trial Panel ('Panel')'s Oral Order,¹ the Decision on Non-Oral Evidence,² and Rule 76 of the Rules,³ the Specialist Prosecutor's Office ('SPO') hereby replies to a number of issues raised in the Response.⁴

2. Contrary to the Defence submissions,⁵ the additional pages of which the SPO seeks admission⁶ are necessary to assess the correct meaning and context of the parts put to W04405 in court, are relevant for the proper assessment of the witness's testimony, and their admission would cause no undue prejudice to the Accused. For the reasons set out in more detail below, and in the Request, the SPO requests the Panel to admit them.

II. SUBMISSIONS

A. THE ADDITIONAL PAGES ARE NECESSARY TO ASSESS THE INFORMATION PUT TO W04405, ARE RELEVANT AND HAVE PROBATIVE VALUE

3. P00214, p.7 concerns W04453's training in Albania,⁷ an issue that was put to W04405 when confronting him with the evidence of W04453.⁸ This additional part of W04453's statement is necessary to assess the context of the information put to W04405

¹ Oral order setting the next procedural steps regarding the closing of the Defence case, 29 November 2023 ('Oral Order').

² Decision on the submission and admissibility of non-oral evidence, KSC-BC-2020-04/F00461, 17 March 2023, public ('Decision on Non-Oral Evidence'), para.56 (establishing that '[u]nless otherwise ordered, the time limits for responses and, if necessary, replies follow Rule 76 of the Rules.')

³ 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.

⁴ Defence Consolidated Response to Prosecution and Victims' Counsel's Requests for Admission of Material Used During the Examination of W04405, KSC-BC-2020-04/F00779, 22 January 2024, confidential ('Response').

⁵ Response, KSC-BC-2020-04/F00779, paras 11, 13-15.

⁶ Prosecution request for admission of material used during the cross-examination of W04405 with confidential Annex 1, KSC-BC-2020-04/F00768, 15 January 2024, public ('Request'), para.5.

⁷ P00214, p.7, line 9 ('[w]e completed our training in Albania').

⁸ Transcript (W04405), 9 January 2024, p.3995, line 19 ('Idajet GASHI undertook training in Kalimash' [...]).

in court, because it clarifies that the training undertaken by W04453 was *completed* in Albania.

4. This passage is relevant to the assessment of W04405's initial claim that he only trained in Gorozhup,⁹ and his subsequent assertion that he trained both in Kalimash and in Gorozhup.¹⁰

5. At P00214, p.18, W04453 stated that, before going to Nashec, he was 'staying in the mountains' in Gorozhup. The fact that W04453 was in Gorozhup, at the frontlines, was put to W04405 when confronting the latter with the former's evidence.¹¹ This page provides additional context to the passage put to W04405 in court, by providing a clear description of the location where W04453 fought.

6. More generally, p.18 is relevant to W04405's testimony that he was stationed at Gorozhup,¹² and that after the end of the war, he moved to Nashec with the rest of Brigade 128.¹³

7. At P00214, pp.20-21, W04453 explained that he was involved in demining while fighting at the frontlines in Gorozhup, and that he first 'signed up' in Kukës. W04453's registration process, as well as the physical location where the registration took place, is also described at P00214, pp.23-24, where W04453 additionally discussed the presence of Ruzhdi SARAMATI, Sali SARAMATI and Valbon COLLAKU at the Kukës Metal Factory. W04453's activities at the frontlines and his joining the KLA were put to W04405 in court.¹⁴ These additional passages clarify the specific tasks undertaken by W04453's unit, and the precise location where W04453 joined the KLA.

⁹ Transcript (W04405), 9 January 2024, pp.3908-3910.

¹⁰ Transcript (W04405), 9 January 2024, pp.3960-3961; Transcript (W04405), 10 January 2024, p.4019.

¹¹ Transcript (W04405), 9 January 2024, p.3995, lines 10-12.

¹² See, for example, Transcript (W04405), 9 January 2024, pp.3905-3907, 3969-3973.

¹³ Transcript (W04405), 9 January 2024, p.3918; Transcript (W04405), 10 January 2024, pp.4062-4063.

¹⁴ Transcript (W04405), 9 January 2024, p.3995, lines 10-14 (when he was presented with the fact that W04453 was a member of Valbon COLLAKU's unit, whose responsibility was to clear the way at the frontlines for other units to proceed, and that he joined the KLA at the Kukës Metal Factory).

8. With regard to the relevance of the parts objected to,¹⁵ they are relevant to W04405's evidence that he was part of COLLAKU's engineers' unit¹⁶ when fighting at the frontlines in Gorozhup,¹⁷ and his evidence about registering with the KLA in Kukës.¹⁸ The information concerning the presence of several Brigade 128 members, including Ruzhdi SARAMATI and Valbon COLLAKU, with whom W04405 worked closely,¹⁹ at the Kukës Metal Factory is relevant to assess the credibility of W04405's claim that he never went to those premises.

9. Finally, the fact that W04453 went from Kukës to Gorozhup together with Ruzhdi SARAMATI, who was 'in charge at Gorozhup', is discussed at P00214, pp.31-32. This topic, while not raised with W04405 in the context of W04453's evidence, was put to the witness during the SPO cross-examination when he was presented with W04754's evidence that Ruzhdi SARAMATI went to Gorozhup sometime after 20 May 1999.²⁰ This information is relevant to assess W04405's evidence of his whereabouts during the war period.

10. As such, each of the topics in question were addressed with W04405, and the additional pages simply provide certain additional clarity, detail or context.

B. LACK OF PREJUDICE

11. Contrary to the Defence submissions,²¹ the admission of these additional pages will not cause undue prejudice to the Accused. As illustrated above, the additional pages provide clarifying details on the topics covered by the pages put to W04405, or issues more generally raised during cross-examination. Their admission is also not

¹⁵ Response, KSC-BC-2020-04/F00779, para.10.

¹⁶ Transcript (W04405), 9 January 2024, pp.3966-3967.

¹⁷ Transcript (W04405), 9 January 2024, pp.3905, 3910-3911.

¹⁸ Transcript (W04405), 9 January 2024, pp.3956-3960.

¹⁹ Transcript (W04405), 9 January 2024, p.3964.

²⁰ Transcript (W04405), 9 January 2024, p.3987.

²¹ Response, KSC-BC-2020-04/F00779, para.14.

unfair to the witness, who was presented with W04453's evidence, and other evidence on record,²² and was afforded an opportunity to comment on it.²³

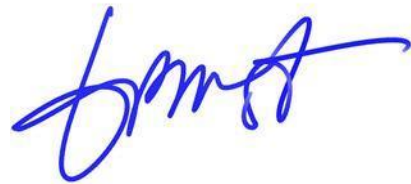
III. CLASSIFICATION

12. This filing is confidential pursuant to Rule 82(4). A public redacted version will be filed.

IV. RELIEF REQUESTED

13. For the foregoing reasons, the SPO requests the Panel to admit the Documents listed in Annex 1 to its Request, including all pages therein indicated.

Word count: 1,049



Kimberly P. West
Specialist Prosecutor

Thursday, 25 January 2024

At The Hague, the Netherlands.

²² Transcript (W04405), 9 January 2024, p.3987.

²³ Transcript (W04405), 9 January 2024, pp.3988, 3996.