



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

**In:** KSC-BC-2020-06  
**Specialist Prosecutor v. Hashim Thaçi, Kadri Veseli, Rexhep Selimi and Jakup Krasniqi**

**Before:** Trial Panel II  
Judge Charles L. Smith, III, Presiding Judge  
Judge Christoph Barthe  
Judge Guénaél Mettraux  
Judge Fergal Gaynor, Reserve Judge

**Registrar:** Dr Fidelma Donlon

**Filing Participant:** Specialist Prosecutor's Office

**Date:** 8 April 2024

**Language:** English

**Classification:** Public

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**Public redacted version of**

**Prosecution submission on admissibility of items used with W04739**

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## I. INTRODUCTION

1. The SPO tenders four items used during the judges' questioning of W04739 ('Items').<sup>1</sup> Each of the Items meets the test for admissibility<sup>2</sup> and should be admitted.

## II. SUBMISSIONS

2. The Items are clearly relevant, and with indicia of reliability such that they could be admitted through the bar table without any witness. W04739 has further contextualised them in a manner bolstering their reliability. As done previously,<sup>3</sup> and in the interest of efficiency, their admissibility should be resolved now.

### A. [REDACTED]

3. This item is seized from Jakup Krasniqi and is entitled 'The Formation of the General Staff of the KLA'. Krasniqi's name appears on the header of the first page, and its contents concern KLA General Staff matters which Krasniqi would be particularly well placed to know. The item contains significant information about the positions of the Accused in the General Staff in the summer of 1998, along with General Staff initiatives like the provisional regulations on the life in the army<sup>4</sup> and of intelligence sub-units. The SPO has been clear and consistent in relying on the information

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<sup>1</sup> [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED] (all tendered in Albanian and English). [REDACTED], and all other items used are already admitted or will be admitted through future witnesses.

<sup>2</sup> Article 40(6)(h) of Law No.05/L-053 on Specialist Chambers and Specialist Prosecutor's Office, 3 August 2015 ('Law'); Rule 138 of Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 ('Rules'); Decision on Specialist Prosecutor's Bar Table Motion, KSC-BC-2020-06/F01409, 31 March 2023, Confidential, paras 8-13. All references to 'Article' or 'Articles' herein refer to articles of the Law and all references to 'Rule' or 'Rules' herein refer to the Rules, unless otherwise specified.

<sup>3</sup> Decision on Admission of Documents Shown to W04769, KSC-BC-2020-06/F01963, 27 November 2023.

<sup>4</sup> The military oath quoted [REDACTED] can be found within these provisional regulations. P00008, p.U000-0445-U000-0446; P00008.1, p.SPOE002325569.

provided by Jakup Krasniqi on such matters, featuring it prominently in its opening statement.<sup>5</sup>

4. That Jakup Krasniqi is the author of this item is demonstrated by how its contents substantially overlap with information provided in Krasniqi's published book 'The Big Turn' (aka 'The Great Turning Point'), excerpts of which are already admitted into evidence in this case.<sup>6</sup> Certain footnotes in the tendered item cite to this book,<sup>7</sup> as well as to other admitted items.<sup>8</sup> W04739 was able to confirm certain details from this document about the organisation of [REDACTED],<sup>9</sup> the functioning of the General Staff,<sup>10</sup> and he was not aware of any reason to dispute its accuracy concerning the General Staff's composition/structure.<sup>11</sup>

B. [REDACTED]

5. This item is also seized from Jakup Krasniqi. It contains a General Staff [REDACTED] plan<sup>12</sup> and a history [REDACTED]. The item has 'Top Secret' markings on certain pages, in line with the secrecy [REDACTED] required. [REDACTED].<sup>13</sup>

6. W04739 – who gave detailed evidence about this [REDACTED] – added further context to the contents of this item.<sup>14</sup> What discrepancies there are between this item and W04739's [REDACTED] account are matters of weight, not *prima facie* admissibility.<sup>15</sup>

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<sup>5</sup> See SPO Opening Statement, 3 April 2023, T.2183-85.

<sup>6</sup> P00189. As an example, [REDACTED] of the tendered item can be found in (yet to be admitted) page U000-8833 of 'The Big Turn'.

<sup>7</sup> [REDACTED] of the tendered item all refer to this same book as the source.

<sup>8</sup> [REDACTED]. [REDACTED].

<sup>9</sup> Transcript of Hearing, 4 April 2024, T.11459-11461.

<sup>10</sup> Transcript of Hearing, 4 April 2024, T.11471-11473.

<sup>11</sup> Transcript of Hearing, 4 April 2024, T.11468-11471.

<sup>12</sup> That there was a General Staff document with [REDACTED] is corroborated by its reference in footnote 42 of tendered item [REDACTED].

<sup>13</sup> Compare [REDACTED] with P01101.

<sup>14</sup> Transcript of Hearing, 4 April 2024, T.11461-11464.

<sup>15</sup> E.g., compare Transcript of Hearing, T.14141-14142, with [REDACTED].

## C. [REDACTED]

7. This is a decision on the [REDACTED] seized from the workstation at Jakup Krasniqi's residence. [REDACTED]. The item mutually reinforces the [REDACTED] seized from Krasniqi which was already admitted through W04739.<sup>16</sup> These items included two other items also dated [REDACTED]: (i) [REDACTED]; and (ii) [REDACTED].<sup>17</sup>

8. W04739 confirmed the accuracy of the information contained within this document,<sup>18</sup> and the basis for his knowledge is set out clearly in his admitted evidence.<sup>19</sup>

## D. [REDACTED]

9. This is the appointment for [REDACTED] – [REDACTED]. The order is signed, dated, and contains an official KLA stamp.<sup>20</sup> This appointment is corroborated by [REDACTED].<sup>21</sup> [REDACTED].<sup>22</sup>

10. W04739 gave context as to [REDACTED] would report to from the nature of this appointment, adding meaningful context to the item.<sup>23</sup> The item also bears resemblance to other General Staff appointment orders already admitted in this case, including through W04739.<sup>24</sup>

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<sup>16</sup> [REDACTED]. [REDACTED].

<sup>17</sup> [REDACTED].

<sup>18</sup> Transcript of Hearing, 4 April 2024, T.11479-11480.

<sup>19</sup> See especially P01097.6, pp.1-15.

<sup>20</sup> The decision number in the tendered item – [REDACTED] - is repeated in another seized item about a work meeting where [REDACTED]. [REDACTED]. This item will be tendered in a future bar table motion.

<sup>21</sup> [REDACTED]. [REDACTED].

<sup>22</sup> [REDACTED].

<sup>23</sup> Transcript of Hearing, 4 April 2024, T.11484-11485.

<sup>24</sup> P01110. See also P00614; P00633 (also shown to W04739); P00634; P00636; P00637.

### III. CLASSIFICATION

11. This filing is classified confidentially in line with Rule 82(4). At this stage, noting in particular that the witness testified entirely in closed session and to give full effect to his existing protective measures, a meaningful public redacted version would unduly risk W04739's identification given the submissions concerning the items used and his related testimony.

### IV. CONCLUSION

12. The submissions above illustrate that the alleged novelty of the items used during the judges' questions was grossly overstated in the hearing of 4 April 2024.<sup>25</sup> Each of the Items was clearly noticed as SPO evidence by July 2021 at the latest. The SPO *always* intended to rely on them, irrespective of judicial questioning – they are tendered now only so that they can be given sequential evidence numbers corresponding to a witness who was asked about them in the courtroom. It has also been made abundantly clear to the Defence that the judges can use any items disclosed in their questioning.<sup>26</sup>


13. For the foregoing reasons, the SPO respectfully requests that the Items should be admitted.

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<sup>25</sup> Transcript of Hearing, 4 April 2024, T.14505-14508.

<sup>26</sup> Transcript of Hearing, 19 March 2024, T.11381-11382. *See also* Rule 127(3); Public Redacted Version of Decision on Thaçi, Selimi and Krasniqi Appeal against Oral Order on Trial Panel Questioning, KSC-BC-2020-06/IA028/F00011/RED, 4 July 2023, paras 34, 47, 49.

**Word count: 1302**



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**Kimberly P. West**

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Monday, 8 April 2024

At The Hague, the Netherlands.