

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 Christoph Barthe
Judge Guénaël Mettraux
Judge Fergal Gaynor, Reserve Judge

Registrar: Dr. Fidelma Donlon

Filing Participant: Specialist Counsel for Jakup Krasniqi

Date: 15 April 2024

Language: English

Classification: Public

Public Redacted Version of 'Krasniqi Defence Request for Admission of Items Used during Cross-Examination of W04739'

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I. INTRODUCTION

1. Pursuant to the Trial Panel's direction,¹ the Defence for Jakup Krasniqi ("Krasniqi Defence") requests admission of five items used with witness W04739 during the Krasniqi Defence cross-examination on 3 April 2024.²

2. As demonstrated in the below submissions, the tendered material is relevant, authentic, and of probative value that is not outweighed by its prejudicial effect. The tendered material is therefore suitable for admission pursuant to Rule 138(1) of the Rules.³

II. SUBMISSIONS

i) [REDACTED]

3. [REDACTED].

4. As to relevance, the SPO alleges that Jakup Krasniqi was involved in the arrest and detention of [REDACTED], who, according to the SPO was part of the 'civilian population of opponents' targeted by the alleged joint criminal enterprise.⁴

5. The Krasniqi Defence notes that, in fact, [REDACTED] was neither a civilian nor an opponent, [REDACTED]. In any event, the circumstances and reasons for

¹ KSC-BC-2020-06, Transcript of Hearing, 4 April 2024, confidential, T. 14510.

² [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; and 019631-019632.

³ KSC-BD-03/Rev3/2020, Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, 2 June 2020 ("Rules").

⁴ KSC-BC-2020-06, F00999/A01, Specialist Prosecutor, *ANNEX 1 to Submission of confirmed amended Indictment*, 30 September 2022, confidential, para. 32.

[REDACTED] detention are in dispute, as is Mr. Krasniqi's involvement in the same. The Krasniqi Defence emphasises that the Prosecution has chosen not to include [REDACTED] on its witness list. In the circumstances, evidence of the relationship between [REDACTED] and Jakup Krasniqi has a particular relevance. During his testimony, W04739 confirmed that Jakup Krasniqi [REDACTED],⁵ and that Jakup Krasniqi was "[REDACTED]".⁶ There was no indication from the witness that Jakup Krasniqi had a hostile animus towards the [REDACTED] or was targeting them.

6. [REDACTED] provides a foundation upon which an inference can be drawn that [REDACTED] has a good relationship with Jakup Krasniqi, harbours no ill will against Jakup Krasniqi, respects Jakup Krasniqi and does not blame Jakup Krasniqi for his arrest and detention. In this regard it is pertinent to note that there is no prosecution evidence that [REDACTED] has himself ever accused Jakup Krasniqi of being involved in or responsible for his arrest and detention.

7. The Krasniqi Defence submits that the evidence sought to be tendered is relevant, and casts significant doubt on the SPO case. [REDACTED] clearly does not blame Jakup Krasniqi for what happened to him. [REDACTED] is authentic, coming from a publicly accessible [REDACTED]. It has probative value, as set out above. There is no prejudice to the SPO in its admission.

ii) [REDACTED]

8. The Document is a screenshot of a transcript of [REDACTED], which attests to its authenticity.⁷

⁵ KSC-BC-2020-06, Transcript of Hearing, 3 April 2024, confidential, T. 14376-T. 14377.

⁶ P01100, p. 2, para. 11.

⁷ See submissions in paras 3-7.

iii) [REDACTED]

9. [REDACTED]. [REDACTED] is relevant because it corroborates W04739's evidence of [REDACTED].⁸ The item was authenticated by W04739 during his testimony on 3 April 2024.⁹ The item has probative value because [REDACTED].

iv) [REDACTED]

10. [REDACTED].¹⁰ In accordance with W04739's statements [REDACTED], during his testimony, W04739 confirmed that during the war and still today, the Serbian State would manipulate evidence to falsely implicate individuals and tarnish the reputation of organisations. W04739 added that "[REDACTED]".¹¹

11. [REDACTED] confirms the Serbian State's interest in falsely implicating individuals and organisations, and ability to manipulate evidence. This is plainly relevant to the assessment of the admissibility and weight which should be attached to evidence tendered by the SPO which originates from Serbia.¹² As set out above, [REDACTED] was authenticated by W04739 during his testimony. Its probative value is not outweighed by any prejudice.

⁸ KSC-BC-2020-06, Transcript of Hearing, 2 April 2024, confidential, T. 14241; Transcript of Hearing, 3 April 2024, confidential, T. 14366-14367.

⁹ KSC-BC-2020-06, Transcript of Hearing, 3 April 2024, confidential, T. 14367.

¹⁰ KSC-BC-2020-06, Transcript of Hearing, 3 April 2024, confidential, T. 14364.

¹¹ *Idem*, T.14365-T.14366.

¹² *See also* KSC-BC-2020-06, Transcript of Hearing, 31 January 2024, confidential, T.12280-81; 6 September 2023, confidential, T.7460-7461.

v) 019631-019632 (AFP report entitled "Kosovo Albanian delegation leaves for Paris talks")

12. 019631-016932 is a report on the Kosovo Albanian delegation leaving for the negotiations in Paris, published on 13 March 1999, by the French news agency *Agence France-Presse*. W04739 was shown the Report during his testimony on 3 April 2024 and was able to confirm that Jakup Krasniqi attended the Conference in Paris, as reported in 019631-016932, and was not present in Kosovo between 13 and 19 March 1999.¹³

13. 019631-016932 is relevant *inter alia* because it establishes the movements of Jakup Krasniqi during the Indictment period and, specifically, his absence from Kosovo from 13 March 1999 onwards. The item is authentic, being publicly available from a reputable news agency. The item is listed in the SPO Exhibit List.¹⁴ Its probative value is not outweighed by any prejudicial effect.

III. CONCLUSION

14. In accordance with the fulfilled requirements of Rule 138(1) of the Rules, as demonstrated above, the Krasniqi Defence respectfully requests the Trial Panel II to:

ADMIT the above listed items into evidence with *public* classification.

¹³ KSC-BC-2020-06, Transcript of Hearing, 3 April 2024, confidential, T. 14357.

¹⁴ KSC-BC-2020-06, F02184/A02, Specialist Prosecutor, ANNEX 2 to Prosecution submission of amended exhibit list, 15 March 2024, confidential, p. 16, item no. 409.

Word count: 1,168



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