



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: 18 June 2024

Language: English

Classification: Public

**Public Redacted Version of 'Prosecution motion for admission of evidence of
Witness W04501 pursuant to Rule 154
with confidential Annexes 1-2'**

Specialist Prosecutor's Office

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I. INTRODUCTION

1. Pursuant to Articles 37 and 40 of the Law,¹ and Rules 137-138 and 154 of the Rules,² the Specialist Prosecutor's Office ('SPO'): (i) submits the information required by paragraphs 73-74 of the Conduct of Proceedings Order;³ and (ii) requests the admission of the statement ('Rule 154 Statement'), together with the associated exhibits,⁴ of W04501 ('Witness'). If, *inter alia*, the examinations of scheduled witnesses proceed faster than expected, and given the adjusted sitting schedule for [REDACTED], the SPO anticipates that it may need to call W04501 – whose evidence and related materials are relatively limited in scope – as a reserve witness as early as 4 July 2024,⁵ and therefore requests an expedited briefing schedule.

2. Consistent with Rule 154, the Witness is anticipated to: (i) be present in court, (ii) be available for cross-examination and any questioning by the Panel, and (iii) attest that his Rule 154 Statement accurately reflects his declaration and what he would say if examined. As detailed below and in the accompanying annex for the Witness, the Proposed Evidence meets the requirements of the Rules, is relevant, authentic, and reliable, and has probative value, which – considering, in particular, that the Witness will be available for cross-examination – is not outweighed by any prejudice. Admission is therefore in the interests of justice.⁶

¹ Law No.05/L-053 on Specialist Chambers and Specialist Prosecutor's Office, 3 August 2015 ('Law').

² Rules of Procedure and Evidence Before the Kosovo Specialist Chambers, KSC-BD-03/Rev3/2020, 2 June 2020 ('Rules'). Unless otherwise indicated, all references to 'Rule' or 'Rules' are to the Rules.

³ See Annex 2. See also Order on the Conduct of Proceedings, KSC-BC-2020-06/F01226/A01, 25 January 2023 ('Conduct of Proceedings Order').

⁴ The Rule 154 Statement and associated exhibits are referred to herein as the 'Proposed Evidence'. Annex 1 contains a table identifying the Proposed Evidence for witness W04501.

⁵ See also Prosecution request for video-conference testimony for W04445 and W04501, KSC-BC-2020-06/F02378, 12 June 2024, Confidential.

⁶ The applicable law has been set out in previous submissions and decisions in this case. See e.g. Decision on Admission of Evidence of First Twelve SPO Witnesses Pursuant to Rule 154, KSC-BC-2020-06/F01380, 16 March 2023, Confidential, paras 26-35.

II. SUBMISSIONS

3. *Relevance.* In [REDACTED] 1998, W04501's [REDACTED] was abducted from his house by KLA soldiers. [REDACTED] after the abduction, W04501 went with [REDACTED] to find out where [REDACTED] had been taken. While making inquiries, W04501 was arrested by KLA soldiers. W04501 was taken to a [REDACTED] which housed the KLA's base. [REDACTED] were also arrested and taken to [REDACTED].

4. W04501 was held in inhumane conditions [REDACTED]. In a room close to his cell, W04501 saw another individual being detained. He could also hear [REDACTED] shouting and swearing from another room, as if they were being questioned and beaten. After the screaming from the adjacent room ceased, KLA members, [REDACTED], questioned W04501, including about [REDACTED]. After W04501's release, the KLA continued targeting his family, [REDACTED].

5. W04501's evidence is thus relevant to charged crimes in the Indictment.⁷

6. *Authenticity and reliability.* W04501's Rule 154 Statement – comprising his SPO interview⁸ – is *prima facie* authentic and reliable.⁹ During the interview, which is recorded in verbatim transcripts, W04501 was duly advised of his rights as a witness.¹⁰ He also confirmed that the contents of his recorded statement are true and accurate, that his statement was given voluntarily without any threats, force, or guarantees, and that he had no objections to the manner or process by which the statement was taken.¹¹

⁷ See, *inter alia*, Amended Indictment, KSC-BC-2020-06/F00999/A01, 30 September 2022, Confidential ('Indictment'), paras [REDACTED]; Lesser Redacted Version of 'Confidential Redacted Version of Corrected Version of Prosecution Pre-Trial Brief', KSC-BC-2020-06/F01594/A03, 9 June 2023 ('Pre-Trial Brief'), paras [REDACTED].

⁸ 068516-TR-ET Parts 1-4 RED2.

⁹ For an individualised assessment of reliability, see Annex 1.

¹⁰ 068516-TR-ET Part 1 RED2, pp.2-3.

¹¹ 068516-TR-ET Part 4 RED2, pp.28-29.

7. *The Associated Exhibits are admissible.* The associated exhibits forming part of the Proposed Evidence in Annex 1 — consisting of handwritten sketches — should be admitted as they are an inseparable and indispensable part of W04501's Rule 154 Statement. They are integral to the W04501 Rule 154 Statement as they were discussed therein, as detailed in Annex 1.

8. *Suitable for Rule 154 admission.* W04501's Proposed Evidence satisfies the requirements of Rule 154, and the probative value of the Proposed Evidence is not outweighed by any prejudice. Rule 154 admission for W04501's Proposed Evidence will significantly reduce the number of hours required for direct examination. The SPO intends to elicit brief oral testimony on essential matters, including to clarify or explain certain aspects of W04501's evidence for no more than one hour.


III. CLASSIFICATION

9. This submission and its Annex are confidential pursuant to Rule 82(4) and to give effect to existing protective measures.

IV. RELIEF REQUESTED

10. For the foregoing reasons, the SPO requests: (i) an expedited briefing schedule; and (ii) that the Panel admit the Proposed Evidence, subject to fulfilment of the Rule 154 conditions by the witness during his appearance in court.

Word Count: 878



Kimberly P. West

Specialist Prosecutor

Tuesday, 18 June 2024

At The Hague, the Netherlands.